# PERFORMANCE AUDIT REPORT

## State Prescription Drug Plan: Reviewing the Accuracy of Payments Made Under the Program

**A Report to the Legislative Post Audit Committee**
**By the Legislative Division of Post Audit**
**State of Kansas**
**April 2004**

04-10

# *Legislative Post Audit Committee*
# *Legislative Division of Post Audit*

**THE LEGISLATIVE POST** Audit Committee and its audit agency, the Legislative Division of Post Audit, are the audit arm of Kansas government. The programs and activities of State government now cost about $9 billion a year. As legislators and administrators try increasingly to allocate tax dollars effectively and make government work more efficiently, they need information to evaluate the work of governmental agencies. The audit work performed by Legislative Post Audit helps provide that information.

We conduct our audit work in accordance with applicable government auditing standards set forth by the U.S. General Accounting Office. These standards pertain to the auditor's professional qualifications, the quality of the audit work, and the characteristics of professional and meaningful reports. The standards also have been endorsed by the American Institute of Certified Public Accountants and adopted by the Legislative Post Audit Committee.

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*LEGISLATURE OF KANSAS*

# *LEGISLATIVE DIVISION OF POST AUDIT*

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April 20, 2004

To: Members, Legislative Post Audit Committee

| | |
|---|---|
| Senator Derek Schmidt, Chair | Representative John Edmonds, Vice-Chair |
| Senator Bill Bunten | Representative Tom Burroughs |
| Senator Anthony Hensley | Representative Bill McCreary |
| Senator Dave Kerr | Representative Frank Miller |
| Senator Chris Steineger | Representative Dan Thimesch |

This report contains the findings, conclusions, and recommendations from our completed performance audit, *State Prescription Drug Plan: Reviewing the Accuracy of Payments Made Under the Program*.

The report includes several recommendations: the State should routinely check samples of claims and payment data to verify costs and payments, and to better ensure claims aren't paid for people who aren't eligible; the State should ensure staff have the tools and training they need to do these checks; the State should encourage participants to request prescriptions for 60-day supplies of maintenance drugs; and the State should work with AdvancePCS to improve the transfer of eligibility information. We would be happy to discuss these recommendations or any other items in the report with any legislative committees, individual legislators, or other State officials.

These findings are supported by a wealth of data, not all of which could be included in this report because of space considerations. These data may allow us to answer additional questions about the audit findings or to further clarify the issues raised in the report.

Barbara J. Hinton
Legislative Post Auditor

# READER'S GUIDE

## Get the Big Picture

Read these Sections and Features:

1. **Executive Summary** - an overview of the questions we asked and the answers we found.

2. **Conclusion** and **Recommendations -** are referenced in the Executive Summary and appear in a box after each question in the report.

3. **Agency Response** - also referenced in the Executive Summary and is the last Appendix.

## *Helpful Tools for Getting to the Detail*

- In most cases, an "**At a Glance**" description of the agency or department appears within the first few pages of the main report.
- **Side Headings** point out key issues and findings.
- **Charts/Tables** may be found throughout the report, and help provide a picture of what we found.
- **Narrative text boxes** can highlight interesting information, or provide detailed examples of problems we found.
- **Appendices** may include additional supporting documentation, along with the audit **Scope Statement** and **Agency Response(s)**.

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# EXECUTIVE SUMMARY

LEGISLATIVE DIVISION OF POST AUDIT

## Overview



## Have Payments Made to AdvancePCS for Drugs Purchased Under the State Employees' Prescription Drug Program Been Accurate and in Accordance With the Terms of the Contract?

| Test Results Showing Payments and System Edits with No Problems<br>All Claims 1/1/03-10/31/03 | | |
|---|---|---|
| **Tests For Payment Accuracy** | **# of claims we tested** | **# of problem claims found** |
| **Allowable Charges** - The State was charged only for Ingredient cost + dispensing fee + sales tax (if applicable). | 1.2 million | none |
| **Ingredient Cost** - The price charged for the drug was the actual price of the drug on that day. | 25 drugs<br>819 claims | none |
| **Sales Tax** - Prescriptions were exempt from sales tax, except prescriptions filled in certain other states. | 1.2 million | none |
| **Copayment** - The State and the participant paid the appropriate share. | 18,293 | none |
| **Payments to Pharmacists -** Amounts paid to pharmacists matched amounts AdvancePCS billed the State. | 209 | 1 |
| **Tests for System Edits** | | |
| **Re-fill** prescriptions were limited to a 60-day supply | 741,795 | none |
| **Initial fill** limited to a 30-day supply, or 60-day supply if participant showed prior usage. | 481,931 | none |
| **Lifestyle drugs** such as Viagra and Propecia resulted in no cost to the State. The participant pays 100% of the cost. | 6,774 | 1 |
| **Pre-packaged drugs** - Quantities dispensed make sense for pre-packaged drugs (i.e. the State wasn't billed for 10 units of a drug that comes in packages of 7). | 3,161 | none |

*As noted below, we did find a few problems in 3 areas, one of which (paying claims for ineligible members) was also cited as a problem in the previous audit:*

| Test Results Showing Payment Inaccuracies | | | |
|---|---|---|---|
| | **# of claims we tested** | **# of problem claims found** | **$ amount of problem claims** |
| **The State paid for prescriptions for ineligible people.** Approximately $68,000 in claims appear to have been paid in error because AdvancePCS hadn't updated its eligibility files in a timely manner. Department staff continue to review the list we sent them, and based on the rate of claims that are turning out to be OK, estimate that about 0.2% of the claims shouldn't have been paid. | 1.2 million | 2,437 (0.19%) | $71,277 (0.16%) |
| **Some drugs were dispensed without the required prior authorization**. Such authorization is required because of high costs or risk of abuse. We found 53 claims for these drugs that went through with no approval, because AdvancePCS hadn't manually updated the list of specified drugs. This process is now automated. | 16,300 | 53 | $2,355 |
| **Incorrect dispensing fees were charged on a limited number of claims.** We noted errors associated with mail-order claims in early 2003, and again in early 2004. Apparently, with the change of the year AdvancePCS didn't update the price reduction for dispensing fees related to mail-order prescriptions. We also identified 3 claims where $10 dispensing fees were erroneously charged. | 1.2 million | 588 | $641 |

*Inaccuracies in some parts of the claims database, such as the "days supply" field and the "payable quantities" field, limit the State's ability to monitor the reasonableness of claims. Using those fields, we found several instances in which the State appeared to pay for excessive quantities of drugs, but with additional information, the claims appeared to be OK.*

*We also noted the State could have saved as much as $469,000, and participants collectively could have saved as much as $567,000, if the long-term medications that participants took had been filled only every 60 days rather than every 30 days. It's unlikely savings at the top of the range could be achieved, but even half would be significant.*



This audit was conducted by Chris Clarke, Molly Coplen, and Jill Shelley. Cindy Lash was the audit manager. If you need any additional information about the audit's findings, please contact Ms. Clarke at the Division's offices. Our address is: Legislative Division of Post Audit, 800 SW Jackson Street, Suite 1200, Topeka, Kansas 66612. You also may call us at (785) 296-3792, or contact us via the Internet at LPA@lpa.state.ks.us.

# State Prescription Drug Plan: Reviewing the Accuracy of Payments Made Under the Program

In September 2002, the Arkansas Division of Legislative Audit reported that AdvancePCS, the state's pharmacy benefits manager, had billed the Arkansas plan more than it should have under the contract. The biggest problem area found was that the state was being charged more for prescriptions for generic drugs than AdvancePCS was paying the pharmacies, in violation of the contract. As a result of the audit, Advance PCS refunded Arkansas approximately $480,000 for over-billings that occurred from December 1, 2001, to March 31, 2002.

Other states and governmental entities have brought lawsuits against pharmacy benefits managers. For example, Ohio alleges its pharmacy benefits manager, Medco Health Solutions, charged more in dispensing fees than agreed upon, regularly under-counted pills, and changed dates so that it appeared to meet contractual performance guarantees. West Virginia alleges Medco has "unjustly enriched" itself. The office of the U.S. attorney for the eastern district of Pennsylvania was investigating 2 pharmacy benefits managers (Medco and AdvancePCS) for steering clients to manufacturers' drugs to increase payments to the pharmacy benefits manager, not to save costs for their clients.

Kansas uses AdvancePCS as its pharmacy benefits manager. In 2001, the Kansas Health Care Commission authorized an audit of AdvancePCS for claims during 2000 and the first half of 2001. That report, issued in February 2002, identified several problems, including that the pharmacy benefits manager continued to pay for prescriptions for some people who were no longer eligible, allowed excessive quantities on initial fills of prescriptions, and incorrectly determined copayment percentages for some drugs.

Kansas legislators recently questioned whether Kansas has been accurately billed for drugs purchased under its State employee drug plan. This audit answers the following question:

> **Have payments made to Advance PCS for drugs purchased under the State employees' prescription drug program been accurate and in accordance with the terms of the contract?**

To answer this question we interviewed officials at the Department of Administration, pharmacy benefits auditors, and a representative of the Kansas Pharmacists Association. We reviewed documents including the Kansas and Arkansas audits mentioned above, Kansas' contract

with AdvancePCS, payment summaries, and literature on best practices for overseeing pharmacy benefits contracts.

We received from AdvancePCS its full file of claims data for all claims processed for the Kansas State Employee Prescription Drug Plan from January 1, 2003, through October 31, 2003. This file included detailed data on more than 1.2 million claims paid during that period. The data included prescription number, date, pricing, amount dispensed, coinsurance amount, drug name, name and identification number of the State employee or other cardholder, and additional information about the claim.

We also received an electronic file from the Department of Administration showing people eligible during that period and the dates of their eligibility. We analyzed and compared those 2 files to determine such things as amounts paid for specific drugs, copayment amounts, and whether claims were paid for people who weren't eligible. We also contacted Kansas pharmacists, some of whom voluntarily provided us with reimbursement information about specific randomly selected claims, which we then compared with reimbursement information in the AdvancePCS file.

In conducting this audit, we followed the applicable government auditing standards set forth by the U.S. General Accounting Office. We verified the accuracy of computer-processed data relevant to the audit objectives through direct tests of the data and through 3rd party sources. Our findings begin on page 7, after a brief overview.

***The State's Prescription Drug Program Paid $55 Million in 2003 For Employees' and Other Participants' Prescriptions***

The Kansas Health Care Commission oversees the benefits plan offered to State employees, which includes a prescription-drug benefit. This coverage is tied-in with medical coverage, and is available to active State employees, as well as employees of participating school districts and local units of government, retirees, COBRA participants (employees who have been terminated, laid off or had another change in employment status who elect to temporarily continue coverage), and dependents of these groups.

To help control costs, the Health Care Commission has designed a program that encourages participants to use either generic or "formulary" drugs by setting participant costs lower for those drugs, as shown in Table OV-1.

**Table OV-1**
**Variation in Participant Drug Costs, Plan Year 2003**

| | Type of Drug | Amount Participant Pays |
|---|---|---|
| Tier 1 | **Generic drugs** - a medication chemically equivalent to a brand-name drug on which the patent has expired. | 20% of cost |
| Tier 2 | **Formulary drugs** - drugs manufactured and marketed under a trademark, and on the State's list of preferred drugs for dispensing to participants. These are also known as preferred brand-name drugs. | 30% of cost |
| Tier 3 | **Special case medications** - a group of high-cost medications used to treat catastrophic conditions. | $70 co-pay per prescription |
| Tier 4 | **Other brand-name drugs** - drugs manufactured and marketed under a trademark, but not on the State's preferred drug list.<br>**Compound** medications - medications mixed for a specific patient and not available commercially. | 50% of cost |
| Tier 5 | **Lifestyle medications** - medications for weight loss, smoking cessation, infertility, dental preparations, and the like. | 100% of cost |

Source: Kansas State employees prescription drug benefit description for 2003 plan year.

**The State's prescription-drug program is self-insured, and is funded through premiums paid by participants and their employers.** Since 1998, the State has been self-insured in this area. Both employees and employers pay part of the monthly premiums. Retirees and COBRA participants pay the full premium themselves.

In addition to the monthly premium, the participant pays a portion of the cost for every prescription, as shown in the Table OV-1. The rest of the cost is paid by the State from the premium proceeds.

**In calendar year 2003, retail prescriptions cost the State prescription-drug program about $55 million.** These moneys came from participant premiums and employer premiums. The At-a-Glance box on the next page has additional information about participation and costs.

## State Employees Prescription Drug Benefit Program
### AT A GLANCE

**Authority:** Self-funded program authorized by K.S.A. 75-6504(a)(2)

**Staffing:** The Department of Administration's Division of Personnel Services is in charge of the program and has 1.0 FTE devoted to the prescription drug program. AdvancePCS has contracted with the State to provide general administrative, accounting, data processing, cost control, quality assurance, utilization review, marketing, claims processing, fiscal, and other services.

**Budget:** The State collects premiums from participanting employers, employees, and other participants for the prescription drug benefit. In addition to premiums, participants also are responsible for a portion of each prescription's cost (20%-50%). The State uses premium moneys to pay for the remainder of the costs. For calendar year 2003, the State spent about $55 million in premium revenues for 1.5 million prescriptions. See the chart below for more information.

**Participant and Financial Data For the Prescription Drug Benefit Program**
**Calendar Years 2001-2003**

| | 2001 | 2002 | 2003 | % change 2001-2003 |
|---|---|---|---|---|
| Total Participants (a) | 85,200 | 87,610 | 88,765 | 4.2% |
| # Who Used Benefit | 76,753 | 81,020 | 83,772 | 9.1% |
| Amount State Paid (b) | $48,571,465 | $50,637,292 | $55,313,805 | 13.9% |
| Number of Rx (c) | 1,432,026 | 1,464,477 | 1,501,880 | 4.9% |

a) Includes State employes, retirees, COBRA participants, employees of participating school districts and local units of government, and their dependents.
b) This money comes from employer and employee premiums.
c) Number of prescriptions may be slightly inflated because of voids and adjustments.

Source: *Unaudited data from Department of Administration, Division of Personnel Services.*

The profile box below highlights the most commonly filled prescriptions, and Appendix B provides additional information on the top drugs.

### Medications for Cholesterol, Pain and Allergies Top the List

**Most Frequently Filled Prescriptions and Prescriptions the State Spent the Most On 3rd Quarter, 2003**

| Drugs With the Most Claims | | | Drugs the State Paid the Most For | | |
|---|---|---|---|---|---|
| **Prescriptions Used to Treat...** | **# of Claims** | **% of Total Claims** | **Prescriptions Used to Treat...** | **$ Spent** | **% of Total $ Spent** |
| Hypertension | 21,307 | 5.7% | Cholesterol | $925,308 | 6.6% |
| Cholesterol | 15,906 | 4.3% | Digestive probs. | $895,637 | 6.4% |
| Thyroid | 8,961 | 2.4% | Pain | $553,170 | 4.0% |
| Allergies | 8,937 | 2.4% | Depression | $428,185 | 3.1% |
| Pain | 6,686 | 1.8% | Allergies | $345,788 | 2.5% |

*Source: Unaudited data provided by Division of Personnel Services, groupings by LPA.*

We asked the State plan administrator for a listing of the top formulary and non-formulary drugs, in terms of both number of claims and dollars paid. We then grouped the top drugs by the conditions they treat. This table summarizes the results for the 3rd quarter of plan year 2003.

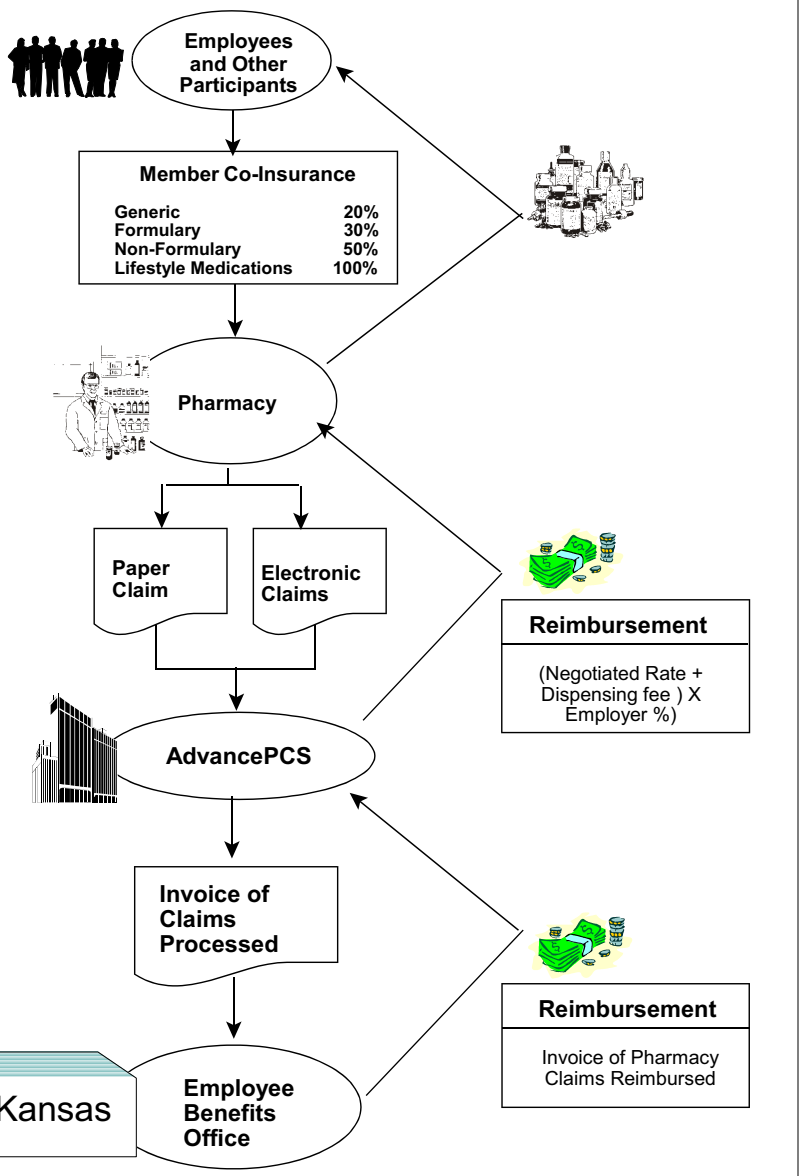
More information about these drugs, and other top drugs including the numbers of claims and the amounts the State paid for them for the 3rd quarter 2003, is included in Appendix B.

***Kansas Contracts with AdvancePCS To Administer the Pharmacy Benefits Program***

For the State's share of pharmacy claims expenses, AdvancePCS computes and verifies the pharmacy claims, pays the pharmacies directly, and reports claims activities to the State. The State reimburses AdvancePCS for the amounts it pays to the pharmacies. This process is detailed in Graphic OV-1.

In addition to claims processing, AdvancePCS advises on claims issues and procedures, and acts as a consultant regarding such things as utilization review and cost control measures.

**Graphic OV-1**
**Flow Chart of Claims and Claims Payment**
Plan Year 2003




Source: LPA review of claims processing system

**Although the State reimburses AdvancePCS for amounts paid to pharmacies, the State doesn't pay AdvancePCS for the administrative services it provides.** Instead, the contract allows AdvancePCS to retain all pharmaceutical rebates for drugs purchased by participants and other bonuses from the drug manufacturers. In lieu of the State receiving a portion of those rebates, AdvancePCS pays the State $3.83 per employee per month (changed to $5.00 in the 2004 contract).

**Several other entities assist the State with different types of reviews of the program.** These entities are listed below:

- The Segal Company provides actuary and consultation services in the areas of rate setting and plan design.
- The MEDSTAT Group provides software that enables the State to look for trends in usage, and to profile patients in all areas of coverage – medical, dental, and pharmacy.
- Pharmacy Advisory Committee provides information on pharmacy matters to the Health Care Commission. It includes medical and/or pharmacy directors from all medical plans.

## Have Payments Made to AdvancePCS for Drugs Purchased Under the State Employees' Prescription Drug Program Been Accurate and in Accordance With the Terms of the Contract?

For the most part, payments made to AdvancePCS appeared to be accurate and in accordance with the terms of the contract. We did identify a few problem payments in areas such as payments for claims for ineligible people, and inaccurate dispensing fees, which potentially violate the accuracy rates spelled out in the contract. Even though we found relatively few problems, the State should improve its routine oversight and monitoring of AdvancePCS and claims payments. These and other findings are discussed below.

### *Most of the Claims Payments We Reviewed Appeared To Be Accurate, Although We Noted a Few Problems*

The State contract sets high accuracy requirements for AdvancePCS:

- overall processing accuracy (financial and statistical)- 99%
- overall financial accuracy (based on dollars paid) - 99.9%

If AdvancePCS doesn't meet these performance standards, the company must refund the State and affected participants, and pay penalties ranging from $4,000 to $12,000.

The State's only audit of AdvancePCS to measure these performance standards was the 2001 audit by Heritage, Inc. According to that report, which reviewed claims filed between January 2000 and June 2001, in a limited number of cases, Advance PCS:

- paid claims for some ineligible members
- calculated co-payments incorrectly
- allowed more than a 30 day supply for new prescriptions
- paid claims for erroneous quantities - either excessive quantities or not a prepackaged size
- paid claims for lifestyle medications

AdvancePCS was given a chance to further research and explain the problems identified by Heritage in their audit report. The final result was AdvancePCS reimbursed the State about $8,000 for erroneous payments.

We focused on many of the same problems identified in the Heritage audit in our testing of the claims payment accuracy for claims paid January 1 - October 31, 2003. Most of the data elements we reviewed and processes we tested appeared to be accurate, although we noted a few problems, which potentially don't meet the accuracy rates spelled out in the contract.

| Table I-1<br>Test Results Showing Payments and System Edits with No Problems<br>All Claims 1/1/03-10/31/03 | | |
|---|---|---|
| **Tests For Payment Accuracy** | **# of claims we tested** | **# of problem claims found** |
| **Allowable Charges** - The State only is charged for Ingredient cost + dispensing fee + sales tax (if applicable). | 1.2 million | none |
| **Ingredient Cost** - The price charged for the drug was the actual price of the drug on that day. For non-generic drugs this price is called the Average Wholesale Price (AWP), which is published by a 3rd party. For generics, the price is the Maximum Allowable Cost (MAC), which is a price listing set by AdvancePCS. | 25 drugs<br>819 claims | none |
| **Sales tax** - Prescriptions are exempt from sales tax, except prescriptions filled in certain other states. | 1.2 million | none |
| **Copayment** - Based on the Tier, the appropriate portion was paid by the State and by the participant. | 18,293 | none |
| **Payments to Pharmacies.** According to the contract, AdvancePCS should bill the State only the exact amount it pays the pharmacies. We verified payments with 21 pharmacies across the State. Only one claim was off by a few cents. | 209 | 1 |
| **Tests for System Edits** | | |
| **Re-fill** prescriptions were limited to a 60-day supply | 741,795 | none |
| **Initial fill** limited to a 30-day supply, or 60-day supply if participant shows prior usage. | 481,931 | none |
| **Lifestyle drugs** such as Viagra and Propecia result in no cost to the State. The participant pays 100% of the cost. | 6,774 | 1 |
| **Pre-packaged drugs** - Quantities dispensed make sense for drugs that come in pre-packaged sizing. For example, making sure the State isn't billed for 10 units of a drug that comes in packages of 7. | 3,161 | none |
| Source: LPA review of claims data for 1/1/03 through 10/31/03 received from AdvancePCS | | |

Accurate claims are summarized in Table I-1, and the problems we noted are explained in Table I-2.

The problems we identified related to 3 areas, one of which (paying claims for ineligible members) was a problem in the previous audit. These are outlined in the table to the right.

**Inaccuracies in some parts of the claims database limit the State's ability to monitor the reasonableness of claims.** Some fields in the database are entered by the pharmacists, and AdvancePCS doesn't verify, check, or correct these fields. Two areas where we encountered problems with erroneous entries were the "days supply" field and the "payable quantities" field.

For example, we found numerous prescriptions for 30 pills written as a 1 day supply (instead of 10 days or 30 days). Errors of this type make it difficult for the State to check things such as whether prescriptions exceed the allowable dosage of a drug or are being refilled too early.

We asked AdvancePCS how they calculate the timing of refills to ensure they aren't refilled too early, for example a 60-day supply can't be refilled

**Table I-2**
**Test Results Showing Payment Inaccuracies**
**All Claims 1/1/03-10/31/03**

| | # of claims we tested | # of problem claims found | $ amount of problem claims |
|---|---|---|---|
| **The State paid for prescriptions for ineligible people.** Department staff told us it can take as long as 21-30 days after eligibility ends for the State to notify AdvancePCS and for AdvancePCS to update its files, and sometimes significantly longer. We identified claims paid more than 30 days after eligibility ended and claims paid for people who didn't appear to be in the Department's eligibility database, and sent a list of those claims to the Department for review. In some cases they found additional information that indicated the claim was OK, but approximately $68,000 in claims appear to have been paid in error because APCS hadn't updated its eligibility files in a timely manner, with some claims paid for participants whose eligibility ended in 1998-2001. Department staff continue to review the list we sent them, and based on the rate of claims that are turning out to be OK staff currently estimate less than 0.2% of the claims shouldn't have been paid. | 1.2 million | 2,437 (0.19%) | $71,277 (0.16%) |
| **Some drugs were dispensed without the required prior authorization**. Some specified drugs require prior authorization before being dispensed due to high cost or risk of abuse. Either the doctor or the pharmacist must get approval from AdvancePCS for claims. We found 53 claims for these drugs that went through with no approval. This happened because at the time AdvancePCS had to manually update the list of drugs and these claims processed before the updates were made. This process is now automated. | 16,300 | 53 | $2,354 |
| **Incorrect dispensing fees were charged on a limited number of claims.** Dispensing fees vary depending on whether the pharmacy is part of AdvancePCS' national network, its rural network, or its mail-order function. We noted errors associated with mail-order claims in early 2003, although the State already had discovered this error (based on a consumer complaint). Apparently, with the change of the year, AdvancePCS didn't update the price reduction for dispensing fees related to mail-order prescriptions. The same thing happened in early 2004, but this has been identified and fixed, as well. Affected participants and the State were refunded about $600 for the 2003 error, although we found a few refunds still owed to participants. Further, we identified 3 claims with $10 dispensing fees erroneously charged. | 1.2 million | 588 | $641 |

Source: LPA review of claims data received from AdvancePCS; Department of Administration review of information in the State employment database; claims information received from 21 Kansas pharmacies.

before day 45. AdvancePCS bases this refill analysis on the "days supply" and the "payable quantity". Because we saw instances where these fields had erroneous data, this refill analysis is subject to error as well.

In addition, we saw several prescriptions which showed a "payable quantity" of 4,000 - 20,000 pills. In processing claims, AdvancePCS reviews both the "payable quantity" submitted by the pharmacist and also the prescription price submitted by the pharmacist, and pays based on the lower price. For example, if a claim comes in with a "payable quantity" of 20,000 pills for a drug that costs $1 each pill, but the total prescription price submitted by the pharmacist is only $20,

AdvancePCS would only pay $20 and bill the State for $20. We concluded most of the claims with excessive "payable quantities" were not a problem because the State didn't pay for that many pills.

However, we identified 5 claims, all for one person, where the State paid for more than 1,000 pills in each 30-day refill. Based on the information in the data, the participant was taking between 40-57 pills a day, and the clinical maximum for that drug is 12 per day.

We reviewed these claims with AdvancePCS, and technically these claims were paid correctly. The system doesn't have an edit to catch excessive quantities of that particular drug. We don't know if the seemingly excessive quantities are appropriate, an error, or indicative of abuse by the prescribing doctor, the pharmacist or the participant. But the prescriptions were covered under the plan and paid for. (Officials from the Department of Administration have indicated they'll be reviewing this case.)

**We also noted an area unrelated to accuracy issues where the State and participants could save money.** If all long-term prescriptions that program participants took in 2003 had been refilled on a 60-day basis, rather than a 30-day basis, the State might have saved as much as $469,000 on dispensing fees, and participants (as a group) might have saved as much as $567,000. A dispensing fee is added to the cost of medication each time a prescription is filled or refilled (dispensing fees ranged from $1 to $3 in 2003).

The State plan limits new prescriptions to a 30-day supply to minimize the waste that occurs when people discover they can't tolerate a new drug, or that it isn't effective for them. However, if they continue on a medication, the pharmacy can dispense a 60-day supply IF the physician has written the prescription to allow that. In addition, the State has an agreement with AdvancePCS that people who've been getting 60-day amounts don't have to start again with a 30-day supply when a prescription is renewed.

Our potential savings are rough estimates. We identified a group of participants who had new prescriptions that were subsequently refilled every 30 days or so, and another group of participants who had 60-day supplies but dropped to 30-day supplies when the prescription was renewed. For these groups, we calculated annual cost saving if all of the prescriptions had been refilled at 60 days rather than some of them being refilled at 30 days. There are characteristics of the data itself and of our methodology that could cause the potential savings to be either higher or lower.

It's unlikely that savings at the top of the range can be achieved, for several reasons: some drugs may have supply limits, some people may not want or can't afford to buy 60-days' worth at a time, some people won't remember to ask their doctor to write the prescription for a 60-day supply, and some doctors may not choose to write 60-day prescriptions. But if even half of these refills could be changed from every 30 days to every 60 days, the potential savings on dispensing fees would be significant.

***The State Exercises Very Little Oversight of This $55 Million (and Growing) Program***

Even though we found few problems with claims payments in this audit, the prescription drug program is a complex, $55 million a year program that has numerous opportunities for errors or for deliberate misuse of State moneys. As a result, the Division of Personnel Services needs to be diligent in its efforts to verify and account for prescription drug payments.

**The State currently devotes few resources to oversight of this program.** The one employee assigned to the pharmacy program is responsible for such things as monitoring the contract, responding to all participant complaints, checking AdvancePCS invoices, reviewing reports, and ensuring that AdvancePCS has paid the correct administrative fee to the State ($3.83 per employee per month).

At the time of our audit, this employee was doing very little routine, pro-active checking of claims data. He indicated that much of his work was complaint-driven, and that most checking on the accuracy of claims or invoices was done only in response to participant complaints. Other oversight activities currently being performed include the following:

- Division of Personnel Services staff are responsible for checking discrepancies in eligibility data reported by AdvancePCS every quarter. Each quarter the State sends the full file of eligibility data to AdvancePCS not knowing which of these participants had claims, if any. AdvancePCS then matches this quarterly information against the eligibility data in their system, and reports any discrepancies to the State for further research. The State sends the results of its research back to AdvancePCS.

- As discussed earlier, the Division of Personnel Services has contracted for one outside audit of the prescription drug program—the one conducted in 2001 by Heritage Inc.

- According to the contract, AdvancePCS is supposed to conduct on-site audits at 3% of network pharmacies. In 2003, we saw evidence that AdvancePCS had audited 20 pharmacies, which is 3% of the approximately 650 network pharmacies.

**We identified a number of ad hoc or routine checks that would strengthen the State's oversight, some of which could be implemented with only limited changes.** Those checks are described below:

- **conducting periodic audits.** We spoke with people who are in the business of auditing pharmacy benefits managers, and reviewed literature, both of which indicated plan sponsors should hire an outside party to regularly audit claims payments. Division officials told us there were no plans for contracting for another audit of the program. Because of the limited number of problems we identified during this audit, a periodic audit might suffice, rather than an annual audit.

- **routinely checking the accuracy of claims data.** Recently, the State obtained a software program called WebResolve that will help staff conduct some routine and larger-scale checking of claims. With the WebResolve software, the entire universe of claims can be sorted, searched, and verified. Before that, the employee assigned to the program was limited to reviewing information for one claim at a time.

  WebResolve also should enable the State to reconcile the detailed invoices AdvancePCS sends the State with claims data for the same period, something that's currently not done. By conducting routine checks of the type listed below, the State could go a long way toward making sure its money was being used appropriately. These include checking for:

  - inconsistent co-payment amounts
  - State payments for lifestyle medications
  - outliers in the quantity of drugs dispensed
  - dispensing fee accuracy
  - claims being paid for ineligible people

- **contacting third parties to verify the accuracy of some of the data AdvancePCS submits.** For example, AdvancePCS is allowed to seek reimbursement from the State only for the exact amount it paid pharmacies. The only way to know whether that is happening would be for the State to contact pharmacies on a sample basis to verify the amounts paid to them for certain claims.

  Further, the drug prices AdvancePCS pays pharmacies are supposed to be based on national pricing rates for brand-name drugs. Access to the pricing data must be purchased and the pharmacy program doesn't currently use it to verify that AdvancePCS is paying pharmacies—and charging the State—the correct amounts. (In this audit, we used the Department of Social and Rehabilitation Services' access to the pricing data for our verification testwork.)

**Conclusion**

When full responsibility for claims payment and processing has been contracted to a private vendor, it's important for the State to exercise appropriate oversight of the accuracy of claims processing. A 2001 audit identified a number of problems with claims processing, yet the State didn't do much to change its oversight or monitoring of the claims process at that time. The current audit found that claims were being processed accurately for the most part, but there are still problems in the eligibility area, and there are additional types of potential problems (such as inaccuracies at pharmacies) that we didn't check. Better monitoring would further decrease the risk the State is paying inappropriately.

**Recommendations**

1. To help further ensure the accuracy of claims processing, the State should routinely check the data for items mentioned on page 12, such as verifying ingredient costs, checking co-payments when the formulary changes, and checking dispensing fees. It also should ensure its staff have the tools and training they need to do these checks.

2. To help reduce costs for both the participants and the State, the State should make efforts to encourage participants to request prescriptions be written for 60 days on maintenance drugs rather than 30 days. The longer supply would reduce the number of dispensing fees payable.

3. To better ensure claims aren't paid for people who aren't eligible for this benefit, the Division of Personnel Services should:

    a. explore with AdvancePCS additional ways to cross-check eligibility information, ensure updates are made on a timely basis and are made completely, and to check whether claims were paid for ineligible people, and

    b. continue to work through the list of claims that appear to be paid for ineligible people and collect penalties due, if any, from AdvancePCS.

## APPENDIX A

### Scope Statement

The Legislative Post Audit Committee approved an audit on the State's prescription drug program at its October 22, 2003 meeting. The audit was a staff-suggested topic.

### State Prescription Drug Plan: Reviewing the Accuracy of Payments Made Under the Program

In September 2002, the Arkansas Division of Legislative Audit issued a report on the State's prescription drug plan. The State of Arkansas had entered into a contract with Advance PCS to be its prescription drug benefits manager. This is the same firm used by the State of Kansas for its employee drug plan coverage.

The audit looked at a sample of drug billings and found that Advance PCS had billed the State plan more than it should have under the plan agreement. As a result of the audit, Advance PCS refunded a total of $479,454 to the State for over-billings that occurred from December 1, 2001 to March 31, 2002.

Recently, legislators have expressed concerns about whether Kansas has been accurately billed for drugs purchased under its State employee drug plan.

A performance audit of this topic would address the following question:

1. **Have payments made to Advance PCS for drugs purchased under the State employees' prescription drug program been accurate and in accordance with the terms of the contract?** To answer this question, we would review contracts and interview officials who administer the State's prescription drug plan to determine what the requirements are, and how the Company is paid for administering the program. We would determine what procedures the State's health benefits administrator has put in place to monitor the contract to ensure that the State isn't over-billed. Finally, we would review a sample of payments for individual drug claims to ensure that they are accurate and made in accordance with the contract terms.

**Estimated completion time:** 4-6 weeks

## Appendix B
## Top Drugs Used in the Third Quarter of 2003, Formulary and Non-Formulary

This appendix lists the prescription drugs that were purchased under Kansas State Employee Prescription Drug Plan in the third quarter of calendar year 2003. The table shows the top drugs in terms of the number of claims and also in terms of the dollars paid, for both formulary and non-formulary drugs.

| | | | |
|---|---|---|---|
| **total # of claims in the quarter** | **373,575** | **total dollars in the quarter** | **$13,970,658** |

**Formulary Drugs with the Most Claims:**

| Drug name | # of claims July-Sept. 2003 | used for… |
|---|---|---|
| Lipitor | 12,463 | cholesterol |
| Synthroid | 8,961 | thyroid |
| Premarin | 6,048 | estrogen |
| Allegra | 5,008 | allergies |
| hydrocodone w/ acetaminophen | 4,988 | pain |
| Hydrochlorothiazide | 4,979 | hypertension |
| Atenolol | 4,885 | hypertension |
| Lisinopril | 4,506 | hypertension |
| Furosemide | 4,231 | hypertension |
| Zoloft | 3,993 | depression |
| **Total** | **60,062** | |
| | **16.1%** | **of claims** |

**Formulary Drugs the State Paid the Most For:**

| Drug name | $ State paid July-Sept. 2003 | used for… |
|---|---|---|
| Lipitor | $754,637 | cholesterol |
| omeprazole | $337,226 | digestive |
| Nexium | $336,251 | digestive |
| Celebrex | $263,791 | pain; arthritis |
| Allegra | $237,735 | allergies |
| Zoloft | $232,582 | depression |
| Vioxx | $215,002 | pain; arthritis |
| Effexor XR | $195,604 | depression |
| Fosamax | $180,536 | osteoporosis |
| Advair Diskus | $172,634 | asthma |
| **Total** | **$2,925,999** | |
| | **20.9%** | **of total paid** |

**Non-Formulary Drugs with the Most Claims:**

| Drug name | # of claims July-Sept. 2003 | used for… |
|---|---|---|
| Zyrtec | 3,929 | allergies |
| Zocor | 2,347 | cholesterol |
| Bextra | 1,698 | pain; arthritis |
| Lotrel | 1,535 | hypertension |
| Prevacid | 1,477 | digestive |
| Diovan | 1,171 | hypertension |
| Tricor | 1,096 | cholesterol |
| Flomax | 1,037 | prostate |
| Actonel | 1,030 | osteoporosis |
| Protonix | 978 | digestive |
| **Total** | **16,298** | |
| | **4.4%** | **of claims** |

**Non-Formulary Drugs the State Paid the Most For:**

| Drug name | $ State paid July-Sept. 2003 | used for… |
|---|---|---|
| Zocor | $124,190 | cholesterol |
| Zyrtec | $108,062 | allergies |
| Prevacid | $101,336 | digestive |
| Enbrel | $83,890 | arthritis |
| Copaxone | $79,265 | MS |
| Bextra | $74,378 | pain; arthritis |
| Prilosec | $70,935 | digestive |
| Lotrel | $56,594 | hypertension |
| Protonix | $49,889 | digestive |
| Tricor | $46,482 | cholesterol |
| **Total** | **$795,020** | |
| | **5.7%** | **of total paid** |

Sources: Department of Administration analysis of most-used drugs, based on APCS data; LPA analysis of primary drug uses

## APPENDIX C

### Agency Responses

On April 8, 2004, we sent draft copies of the report to both AdvancePCS (now part of CaremarkPCS) and to the Department of Administration. Their responses to the audit are included in this appendix.

In its April 15th response, AdvancePCS/CaremarkPCS raised questions about our conclusion that about $70,000 in claims were paid for ineligible people because AdvancePCS hadn't updated eligibility files in a timely manner. They claimed that delays in updating eligibility information likely were due to the State not compiling its own information in a timely manner, and asked to see specific examples of claims that appeared to be in error.

The following clarifies our procedure for determining that claims shouldn't have been paid and for notifying AdvancePCS of problems we found.

- First, the "problem" claims we identified in this audit were for members for whom cancellation notices had been sent to AdvancePCS. We sent a list of claims we questioned to Department of Administration staff, who checked additional information in the State employee database. That information included the date a cancellation notice was sent to AdvancePCS. In addition, the "problem" claims mentioned in this report were paid after a "grace period" of 30 days after the end of eligibility or the notification date, whichever was later. We originally questioned more than 8,500 claims and reduced the "problem" number after that review and research by Department of Administration staff.
- Second, on April 12, we sent AdvancePCS a sample of 27 of the problem claims we had identified as being paid for ineligible participants for their information. When we received the company's original response to the draft report, we sent another batch of more than 200 of the problem claims.

On April 21, 2004, AdvancePCS sent a follow-up response suggesting that both AdvancePCS and the State shared the blame for the problem claims. As noted above however, Department records show cancellation notices had been sent to AdvancePCS for the problem claims we identified, and AdvancePCS should not have paid them. AdvancePCS also indicated that another recent eligibility analysis it had performed showed a 0.2% variance between their records and the State's.

Finally, in its original response, AdvancePCS referred to several Kansas pharmacies by name. As a courtesy to those pharmacies, we received approval from AdvancePCS to redact their names.

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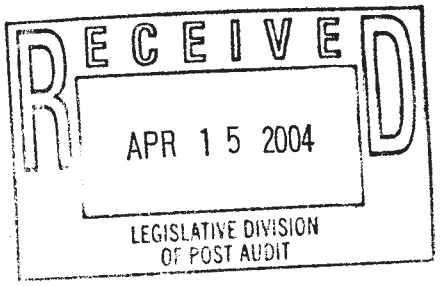


April 15, 2004

**Barbara J. Hinton**
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(785)296-3792

Dear Ms. Hinton:

I am writing to you in response to your draft audit report for the State of Kansas. I appreciate the opportunity you have given us to review and respond to this draft report. We have enjoyed working with you and your Legislative Division of Post Audit (LPA) team on this project. I believe we have a mutual interest in making sure that the State of Kansas receives an accurate and insightful audit report. To that end, we have reviewed the draft report and have the following comments and recommendations.

1. LPA Finding: The State paid for prescriptions for ineligible people on 4,046 claims for $123,000. Department staff told us that it can take as long as 21-30 days after eligibility ends for the State to notify AdvancePCS and for AdvancePCS to update its files, and sometime significantly longer. Approximately $70,000 in claims appear to be paid in error because AdvancePCS hadn't updated its eligibility files in a timely manner, with some claims paid for participants whose eligibility ended in 1998-2001.

   AdvancePCS: This finding implies that APCS does not load eligibility in a timely matter. To clarify, AdvancePCS receives a weekly eligibility transactional file and has a performance guarantee to load the eligibility file within seven days upon receipt. The contractual performance stipulation to load eligibility timely was met without exception throughout calendar year 2003. If you have found evidence to the contrary we would appreciate the opportunity to review and discuss.

   In addition to the weekly transactional file, a complete quarterly compare file is received by AdvancePCS. AdvancePCS then works with the State to identify those members who should be terminated and manual terminations are applied. A more automated compare process will be reviewed in-depth during an on-site meeting with the State and AdvancePCS on April 15, 2004. I strongly suspect there is another root cause, not addressed by the finding, which does not involve timely eligibility loads.

   AdvancePCS believes delays in eligibility are primarily due to the the delay the Department of Personnel Services experiences in receiving data from the field offices. However, AdvancePCS and the State are holding an eligibility meeting on April 15, 2004 to share best practices and provide additional recommendations. It should also be noted that AdvancePCS

has provided reports to the State listing claims paid on retro-terminated members and has offered to work with the State in developing a collection effort.

Again, our concern is that this finding may not accurately represent the proper causation for claims being paid for ineligible members. We strongly believe that AdvancePCS loaded eligibility timely and we have met our contractual obligations to the State of Kansas in this regard. We ask that the LPA re-examine this finding and present AdvancePCS with specific examples of claims that appear to be in error because we did not load eligibility files timely. We understand the difficulty and complexity in performing retrospective eligibility audits and AdvancePCS is willing to work closely with the LPA to research this issue further.

2. LPA Finding: In a small percentage of cases, AdvancePCS may have billed the State for more than it paid the pharmacies. According to the contract, AdvancePCS should bill the State only the exact amount it pay the pharmacies. For the 209 claims for which we received information, we did not see any systematic markup, but three payments did not match. The difference in the overall totals reported by AdvancePCS and by the pharmacies for these 209 claims was less than 1% but that could mean the State paid as much as $320,000 more than it should for 10 months of claims IF that difference were true for all claims.

   AdvancePCS: We strongly disagree with any assertion or implication that we are paying pharmacies a different amount than was billed to the State. As previously discussed with LPA, our records do not show any variance for these 3 claims in question. AdvancePCS provided a line item remittance that details the payments for each claim made to the pharmacies, check numbers and check dates. If applicable, we will also be willing to show a copy of the check to the pharmacy.

   We believe the three pharmacies, for these three claims, have given LPA erroneous information. For example, the [redacted] pharmacy actually supplied LPA with an amount billed and copay information for another prescription filled, on the same day, by the same member you were auditing. They supplied you with RxClaim# 032533765758014, DOF 09/10/2003, Rx# 1704724 for Lantus injectables instead of the requested prescription for insulin. The other claim in question, filled at the [redacted] pharmacy, is most likely a typo. The pharmacy is reporting a $0.03 variance, claiming we paid them $32.17 instead of the $32.14 billed; obviously indicating a negative "spread" which is counter to the finding's assumption. We also feel that the [redacted] pharmacy response is in error.

   We request that LPA use our pharmacy remittance advice and other documentation to clear this finding or recommend that LPA request corrected documentation from the pharmacies. AdvancePCS bills the State the same amount we pay the pharmacies and, in our view, it would not be accurate to conclude otherwise.

3. LPA Finding: AdvancePCS paid claims with excessive quantities. The system does not have an edit to catch excessive quantities of that particular drug. We don't know if the seemingly excessive quantities are appropriate, an error, or indicative of abuse by the prescribing doctor, the pharmacist or the participants.

   AdvancePCS: It should also be noted that, while the manufacturer recommended dose and day supply may be exceeded for some claims, the plan allows for the clinical discretion of the prescribing physician and the pharmacist in the ordering and filling of prescriptions. When high dosages are noted by the system's Drug Utilization Review (DUR) edit, a message will be transmitted to the Pharmacist. When this occurs, the pharmacist uses clinical judgment in filling the prescription. Upon receipt of these messages, the pharmacist may be aware of the patient's medical history and ignore the message. Or, the pharmacist can call the physician with questions when receiving the message to obtain more information about the member's clinical condition prior to filling the prescription. Our standard DUR system does not "hard reject" for dosage because there are certain circumstances and conditions that may warrant a

higher dose. When the benefit plan parameters dictated by State are not violated, the system is programmed to process the claim as "paid." If stricter quantity limits were desired, AdvancePCS would be pleased to discuss those options with the client.

Also, AdvancePCS has a Pharmacy Audit group that is dedicated to reviewing and auditing pharmacies. The current standard audit process involves three levels of review: the daily review of high dollar claims to identify erroneous billings; investigational audits to identify and receive information on typical outlier patterns regarding claims submissions and matching up inventory with submitted claims; and the more detailed on-site audit to confirm that claims were billed accurately—in accordance with the physician's directions and client plan guidelines, and that the billed drugs were provided to our clients' members. This proactive, top-down audit process ensures that all pharmacies are subject to daily review and additionally two tiers of potential problems can be identified and controlled at the appropriate level before they can have any significant adverse effects on AdvancePCS clients or their members. Pharmacies with an indication of noncompliance or suspected/alleged fraud may be subject to investigation or on-site audits.

4. LPA Finding: As a result of the Heritage Audit in 2002, AdvancePCS reimbursed the State about $8,000 for erroneous payments, and paid $20,000 in penalties.

   AdvancePCS: AdvancePCS did reimburse the State $8,000 but did not pay $20,000 in performance penalties, as the number of claims paid in error and the financial accuracy were well within the guarantee.

   - Entire number of claims paid during the audit period = 1,995,409
   - Entire number of claims with errors during the audit = 5,726
   - 99.7% accuracy for claims paid retail = No Penalty
     (5,726 / 1,995,409 = .0028695 = 0.286% error rate)

   OR

   - Entire dollar amount of claims paid during the audit period = $74,736,804.37
   - Entire dollar amount of claims with errors during the audit = $8,181.95
   - 99.99% financial accuracy for claims paid retail = No Penalty
     ($8,181.95 / $74,736,804.37 = .0001094 = .010% error rate).

It is my hope that the information above further clarifies or resolves issues raised in your findings. AdvancePCS, the account team, and my client audit team are genuinely committed to ensuring that this audit is completed accurately and on-time. Please let us know if there is any additional information or documentation that we can provide. Upon your request, I would be happy to schedule a conference call to discuss these items further.

As always, feel free to contact me with additional questions or concerns at (480) 391-4197.

Sincerely,

Shawn Smith CPA, MBA
Client Audit Manager

CAREMARK
*It all starts with care℠*

April 21, 2004

**Barbara J. Hinton**
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Dear Ms. Hinton:

This is a follow-up to my letter on April 14, 2004. It is my understanding that, upon receipt of a copy of the pharmacy check and remittance for two claims, your team will clear the finding concerning apparent variances in what AdvancePCS billed the State and reimbursed the pharmacy. You should receive a copy of these items, via FedEx by Friday April 23, 2004. We appreciate your consideration of our additional support and understanding in this matter.

Concerning prescriptions for ineligible people paid on 4,046 claims for $123,000 we have done a cursory review of the sample claims sent to us by your team. In our opinion, it is not feasible to accurately reconstruct these eligibility transactions and draw any concrete conclusions because we do not retain the weekly or quarterly eligibility files from the State. While we do feel strongly that we met our performance guarantee to load the eligibility files within a week of receipt, we do feel that it is a fair assessment that there were eligibility issues generated by both the State and AdvancePCS.

That said, we also believe that many of these problems have been corrected and AdvancePCS and the State are currently engaged in discussions to further automate and improve the process. AdvancePCS recently compared a full eligibility file from the State to our system file and noted that only 190 members out of 90,000 were different (0.2% variance). A more automated compare process is being developed by the State and AdvancePCS.

Please let us know if there is any additional information or documentation that we can provide. As always, feel free to contact me with additional questions or concerns at (480) 391-4197.

Sincerely,

Shawn Smith CPA, MBA
Client Audit Manager

HOWARD R. FRICKE, SECRETARY

KANSAS

DEPARTMENT OF ADMINISTRATION

KATHLEEN SEBELIUS, GOVERNOR



April 15, 2004

Ms. Barbara J. Hinton
Legislative Post Auditor
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Topeka, Kansas 66612-2212

Dear Ms. Hinton:

Thank you for the opportunity to respond to the Legislative Post Audit's report on *State Prescription Drug Plan: Reviewing the Accuracy of Payments Made Under the Program*. We are pleased to present the following official response. On behalf of our staff, we would like to thank you for your efforts during this audit. Your staff was courteous and receptive during all discussions, and it was greatly appreciated. Please note that the Department of Administration required the Legislative Post Audit to enter into a HIPAA business associate agreement prior to the audit so that the audit could be performed within the scope of federal law.

We were pleased to note your findings that from a review of the entire claim file of 1.2 million claims, there was a 100% payment accuracy rate, only one claim with an edit error, three tenths of one percent of claims were paid without the required prior authorization, three tenths of one percent of claims were paid for ineligible participants and a dispensing fee error rate of .049% or $641 out of $45,000,000 in paid claims. We were also pleased to note that you recognized that we had corrected the prior authorization and dispensing fee issues before the audit. Additionally, the State of Kansas's pass-though contract with APCS was implemented correctly, and no instances were found where APCS had billed the state a different amount than what it paid the pharmacies to fill prescriptions for plan participants.

In regards to your recommendations, we will continue to use WebResolve to ensure the accuracy of claims processing, we will continue to encourage those individuals with stable maintenance drug use to utilize the 60 day refill option and that we conducted a Data Summit with APCS on April 15, 2004 and developed a process to ensure a timely and accurate update of membership data.

Thank you again for your in depth review of the prescription drug component of the State of Kansas Health Benefits Program. It provided an additional opportunity to demonstrate the well-managed, cost effective program available to state employees and retirees.

Sincerely,

Howard Fricke
Secretary of Administration

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