

OVERSIGHT OF PHARMACY BENEFIT MANAGER

OFFICE OF GROUP BENEFITS



PERFORMANCE AUDIT SERVICES
ISSUED FEBRUARY 6, 2019

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LOUISIANA LEGISLATIVE AUDITOR
DARYL G. PURPERA, CPA, CFE

February 6, 2019

The Honorable John A. Alario, Jr.,
President of the Senate
The Honorable Taylor F. Barras,
Speaker of the House of Representatives

Dear Senator Alario and Representative Barras:

This report provides the results of our performance audit of the Office of Group Benefits' (OGB) oversight of MedImpact, its pharmacy benefit manager. The purpose of the audit was to evaluate whether OGB effectively monitors MedImpact to ensure the company complies with contract requirements.

Overall, we found OGB has not sufficiently monitored MedImpact, in part because of staffing decreases over the past decade. OGB staff levels have decreased by 90 percent, from 388 in fiscal year 2009 to 38 in 2018.

Specifically, we found OGB did not ensure MedImpact remitted rebate payments within the 60 days specified by its contract. As a result, OGB lost approximately \$119,257 in interest revenue and did not assess approximately \$85,000 in penalties for late rebate payments in calendar year 2017.

In addition, OGB did not ensure MedImpact complied with contract terms related to mail-order pricing. OGB overpaid \$89,553 for mail-order prescriptions filled from January 2017 through October 2018 because MedImpact charged a minimum price for them, which is prohibited by the contract. For example, we identified claims that had a minimum price of \$10.99 for Aspirin Enteric Coated filled by a prescription at MedImpact's mail-order pharmacy, while the average cost for Aspirin Enteric Coated filled by a prescription at walk-in pharmacies was \$1.49 for the same strength and dosage.

OGB also did not ensure MedImpact reported accurate patient adherence rates for specialty medications. Adherence to medications helps control costs and improve patient outcomes. We found as well that OGB only requires MedImpact to guarantee adherence rates for three (14 percent) of the 22 medical conditions that require specialty drugs. Expanding adherence rate requirements to include the additional conditions also could help control costs and improve patient outcomes.

OGB did not verify information supplied by MedImpact related to performance guarantees the company failed to meet and the penalties associated with that. As a result, OGB could not ensure MedImpact met all performance guarantees or paid the appropriate performance penalties. We found further that OGB did not ensure MedImpact charged OGB the same price it paid pharmacies for prescription drug claims, or complied with the formulary that outlines what drugs are covered.

While OGB signed a contract with an independent actuarial firm in April 2018 to audit MedImpact, this was the first monitoring activity OGB has implemented. The actuarial firm is evaluating contract terms related to rebates, mail-order pricing, spread pricing, the formulary, and financial guarantees. The audit was expected to be completed in January 2019, but OGB has not decided whether the results would be made public.

I hope this report will benefit you in your legislative decision-making process.

We would like to express our appreciation to the management and staff of OGB for their assistance during this audit.

Sincerely,

A handwritten signature in blue ink that reads "Thomas H. Cole". The signature is fluid and cursive, with the first name "Thomas" being the most prominent.

Thomas H. Cole, CPA
First Assistant Legislative Auditor

THC/ch

OGB

Louisiana Legislative Auditor

Daryl G. Purpera, CPA, CFE



Oversight of Pharmacy Benefit Manager Office of Group Benefits

February 2019

Audit Control # 40170001

Introduction

We evaluated whether the Office of Group Benefits (OGB) effectively monitored its Pharmacy Benefit Manager (PBM), MedImpact, to ensure compliance with contract requirements. As authorized by state law,¹ OGB provides health insurance coverage for state employees, retirees, and their dependents (OGB member). OGB contracts with MedImpact to administer the prescription drug benefits associated with its health plans.² MedImpact is responsible for processing and paying prescription drug claims, negotiating prices and rebates for medications with drug manufacturers, and contracting with pharmacies to fill prescriptions. MedImpact also provides additional services to assist OGB in managing the cost of the prescription plan and ensuring quality of care for plan members. According to OGB, from January 2015 through June 2018, MedImpact administered pharmacy benefits for an average of 212,035 plan members.

According to the contract, OGB is responsible for oversight of MedImpact's services to ensure quality, efficiency, and effectiveness in fulfilling the goals and objectives of OGB. Exhibit 1 summarizes MedImpact's responsibilities required by its contract with OGB.

Exhibit 1: MedImpact Contract Requirements

Area	Contract Criteria	Description
Rebates	MedImpact will pass through 100% of all rebates to OGB. Rebate payments are due within 60 days after the end of the quarter.	PBMs negotiate rebate agreements directly with drug manufacturers in order to lower the cost of specific brand medications.
Mail-Order	The OGB-MedImpact contract prohibits a minimum charge on mail order prescriptions.	Plan members have the option to purchase prescriptions from a mail-order pharmacy as an alternative to walk-in pharmacies.
Specialty Medications	MedImpact will implement a specialty pharmacy program that will provide cost-effective care and positive patient outcomes.	Specialty medications are high-cost prescription drugs that treat complex conditions or require special administration.
Performance Guarantees	The OGB-MedImpact contract includes minimum performance guarantees for various metrics and penalties if MedImpact fails to meet the minimum.	Performance guarantees are the minimum acceptable performance levels required of the PBM. The PBM will pay penalties if it fails to achieve a performance guarantee.
Spread Pricing	Spread pricing is not allowed. MedImpact shall pass through the amount paid to the pharmacy, which shall be the same amount that MedImpact will invoice OGB.	Spread pricing is a process where the PBMs charge the plan sponsor (i.e., OGB) more than it pays the pharmacy for a prescription drug claim; the PBM profits by keeping the difference.
Formulary	MedImpact provides formulary recommendations, but all changes are subject to OGB approval. MedImpact will not approve medications that are not on the formulary without approval from OGB.	The list of prescription drugs that are considered covered benefits. PBMs typically play a role in determining which drugs will be included on the formulary.

Source: Prepared by legislative auditor's staff using information provided by OGB.

¹ Louisiana Revised Statutes (R.S.) 42:801, *et al*

² OGB's initial contract with MedImpact became effective in January 2014. The current contract between OGB and MedImpact went into effect on January 1, 2017, and ends on December 31, 2019, with an option to extend for up to two additional years.

OGB pays MedImpact \$0.68 for each prescription (claim) and \$1.65 for each claim for OGB members who participate in an Employer Group Waiver Program (EGWP).³ OGB pays additional fees to MedImpact to handle prior authorizations, appeals, and to administer a variety of clinical management programs aimed at OGB members and physicians that promote the appropriate use of medications. From January 2015 through June 2018, OGB paid \$1.5 billion for prescriptions and \$27.8 million to administer its prescription drug benefit (prescription plan). Exhibit 2 summarizes OGB's expenditures for prescription drug benefits, drug rebates, and members covered for calendar years 2015 through June 2018.

Exhibit 2					
OGB Prescription Expenditures and Members					
Calendar Year 2015-2018*					
Expenditure	Prior Contract Terms		Current Contract Terms		Total
	CY15	CY16	CY17	January–June 2018	
Total OGB Expenditures for All Operations	\$1,399,799,890	\$1,390,586,361	\$1,379,429,402	\$666,700,954	\$4,836,516,607
Cost of Prescriptions Paid to MedImpact	\$410,223,139	\$442,764,659	\$435,575,764	\$223,693,935	\$1,512,257,497
Cost of Administrative Fees Paid to MedImpact**	\$9,048,145	\$7,887,947	\$6,850,909	\$3,973,526	\$27,760,527
Total Rebates Received from MedImpact	\$40,505,994	\$47,011,707	\$62,986,791***	\$46,586,127	\$197,090,619
MedImpact Plan Members (monthly average)	215,266	213,203	210,283	209,387	212,035 (average)
*The amounts represent two separate contractual agreement periods with varying terms in place. As a result, a trend cannot be determined based on these numbers.					
**Administrative fees include the per claim fee, clinical management program fees, prior authorizations fees, and appeals fees.					
***According to MedImpact, the increase in rebates is because of improved rebate negotiations and OGB moved to an exclusionary/high rebate yield formulary (effective 1/1/17).					
Source: Prepared by legislative auditor's staff using unaudited information provided by OGB.					

Our audit objective was:

To evaluate whether OGB effectively monitored its Pharmacy Benefit Manager to ensure compliance with contract requirements.

Our findings are discussed in detail in the report. Appendix A contains OGB's response to this report, and Appendix B details our scope and methodology.

³ EGWP plans are customized Medicare Advantage plans developed exclusively for employer and union groups. One reason EGWP claims are more expensive is because the fee includes the clinical management program fee.

Objective: To evaluate whether OGB effectively monitored its Pharmacy Benefit Manager to ensure compliance with contract requirements.

Overall, we found that OGB has not sufficiently monitored its PBM, MedImpact, to ensure that it complies with all contract requirements. According to OGB management, staffing decreases over the past decade have hindered the agency's ability to question or test information provided by MedImpact in order to monitor the contract. OGB staff levels have decreased by 90%, from 388 in fiscal year 2009 to 38 in 2018. Specifically, we found the following:

- **OGB has not ensured that MedImpact remits rebate payments timely, as required by the contract. As a result, OGB did not earn approximately \$119,257 in interest revenue and did not assess approximately \$85,000 in penalties to MedImpact for late payments for rebates earned during calendar year 2017.** According to the contract, rebate payments are due within 60 days after the end of the quarter.
- **OGB has not ensured that MedImpact complies with contract terms related to mail-order pricing. As a result, OGB overpaid \$89,553 for mail-order prescriptions filled from January 2017 through October 2018 because MedImpact charged a minimum price for them, which is prohibited by the contract.** For example, we identified claims that had a minimum price of \$10.99 for Aspirin Enteric Coated that is filled by a prescription at its mail-order pharmacy, while the average cost for Aspirin Enteric Coated that is filled by a prescription at walk-in pharmacies was only \$1.49 for the same strength and dosage.
- **OGB has not ensured that MedImpact reports accurate adherence rates for specialty medications. According to healthcare literature, adherence to medications helps control healthcare costs and improves patient outcomes.** In addition, OGB could expand adherence rate requirements to include additional medical conditions that require specialty drugs to further help control costs and improve patient outcomes. OGB only requires that MedImpact guarantee adherence rates for three (14%) of the 22 medical conditions that require specialty drugs.
- **OGB relies on MedImpact to self-report performance guarantees it does not meet and to pay any associated penalties, but OGB does not verify the accuracy of information reported by MedImpact.** As a result, OGB cannot ensure that MedImpact is meeting all performance guarantees and paying all performance penalties. For example, MedImpact guarantees that it will answer plan members' calls by a live voice within a minimum timeframe, but OGB does not monitor to ensure MedImpact achieves this guarantee.

- **OGB has not ensured that MedImpact charges OGB the same price it pays the pharmacy for prescription drug claims, as required by the contract, and does not ensure MedImpact complies with the formulary that outlines what drugs are covered.** Although we did not identify any issues in these areas, OGB should ensure it does not overpay for prescription drug claims.

OGB signed a contract with an independent actuarial firm in April 2018, which includes an audit of MedImpact for the 2016 plan year, to evaluate many of the contract requirements. This is the first monitoring activity OGB has implemented, even though the contact with MedImpact has been in place since January 2014. According to OGB, the actuarial firm is evaluating the contract terms related to rebates, mail-order pricing, spread pricing, formulary, and financial guarantees. The audit will be completed in January 2019 and will be conducted annually, but OGB has not decided if the results will be made public. Our findings, along with recommendations to assist OGB in improving its monitoring of MedImpact, are explained in more detail below.

OGB has not ensured that MedImpact remits rebate payments timely, as required by the contract. As a result, OGB did not earn approximately \$119,257 in interest revenue and did not assess approximately \$85,000 in penalties to MedImpact for late payments for rebates earned during calendar year 2017.

The contract between OGB and MedImpact requires that 100% of rebate payments pass through MedImpact to OGB and states that MedImpact will render payments to OGB for rebates earned during a quarter within 60 days following the end of the quarter. As shown in Exhibit 3, OGB received approximately \$197 million in rebates over the last four years. Rebates are negotiated by the PBM directly with drug manufacturers to help lower the cost of medications. In these arrangements, PBMs receive a payment from the manufacturer for the agreed-upon rebate amount for each prescription filled for a specific drug, effectively lowering the overall cost of that prescription.

Exhibit 3 Rebates Paid to OGB Calendar Years 2015-2018*		
Contract	Calendar Year	Amount
Prior Contract	2015	\$40,505,994
	2016	47,011,707
Current Contract	2017	62,986,791**
	January-June 2018	46,586,127
Total		\$197,090,619
<p>* The amounts represent two separate contractual agreement periods with varying terms in place. As a result, a trend cannot be determined based on these numbers.</p> <p>** According to MedImpact, the increase in rebates is because of improved rebate negotiations and OGB moved to an exclusionary/high rebate yield formulary (effective 1/1/17)</p> <p>Source: Prepared by legislative auditor's staff using unaudited information provided by OGB.</p>		

OGB did not ensure MedImpact remitted rebate payments to OGB within the required 60-day timeframe, and OGB did not penalize MedImpact for late payments.

MedImpact remitted \$54.8 million⁴ to OGB for rebates earned during calendar year 2017. We identified that all \$54.8 million (100%) were paid, on average, 119 days late. These late payments resulted in approximately \$119,257 in lost interest revenue to the state.⁵ According to OGB, MedImpact operates in accordance with the industry standard of paying rebates within 150 days after the end of the quarter. However, the contract specifically states rebate payments are due within 60 days after the end of the quarter. In addition to lost interest revenue, OGB could have assessed approximately \$85,000 in penalties to MedImpact for the late payments.

OGB does not ensure that it receives 100% of rebates, as required by the contract with MedImpact. OGB receives millions of dollars in rebates each year but has not implemented any ongoing monitoring activities to ensure MedImpact complies with contract requirements to remit 100% of rebates to OGB. Even though OGB has hired an independent actuarial firm to conduct an audit to determine whether the state has received the correct amount of rebates for plan year 2016, OGB should consider ways to actively monitor rebates in the future.

Recommendation 1: OGB should ensure MedImpact submits rebate payments in accordance with its contract.

Summary of Management's Response: OGB management agrees with this recommendation and stated that it will amend the MedImpact/OGB service agreement to update the current rebates payment deliverables language to be consistent with MedImpact's current practice of issuing rebate payments to OGB. See Appendix A for management's full response.

Recommendation 2: OGB should penalize MedImpact for late rebate payments.

Summary of Management's Response: OGB management agrees with this recommendation and stated that it will assess MedImpact penalties associated with late payments and rebates earned as defined in the contract between MedImpact and OGB. See Appendix A for management's full response.

Recommendation 3: OGB should develop a process to ensure MedImpact is submitting 100% of rebates received from drug manufacturers.

Summary of Management's Response: OGB management disagrees with this recommendation and stated that OGB's actuary and benefits consultant, Buck Global, LLC, performs an annual PBM audit to ensure that the discount and rebate guarantees are met and that all rebates received are passed through to OGB. See Appendix A for management's full response.

⁴ The \$54.8 million are the rebates earned during calendar year 2017 and do not match the amount in Exhibit 3 because this amount reflects all rebate payments received, which include rebates earned during the previous year.

⁵ We calculated lost interest revenue using 0.84%, which is the State Treasury's general fund investment earnings rate based on the first three quarters of fiscal year 2018.

LLA Additional Comments: OGB did not contract with Buck Global, LLC until April 2018, even though OGB’s contract with MedImpact has been in place since January 2014. In addition, Buck Global, LLC is currently evaluating only the 2016 plan year. Therefore, since Buck Global, LLC is two years behind in its evaluation of rebates, OGB should consider ways to actively monitor rebates on a more timely basis.

OGB has not ensured that MedImpact complies with contract terms related to mail-order pricing. As a result, OGB overpaid \$89,553 for mail-order prescriptions filled from January 2017 through October 2018 because MedImpact charged a minimum price for them, which is prohibited by the contract.

While R.S. 22:1011 prohibits OGB from requiring the use of mail-order pharmacies, plan members have the option to fill prescriptions through MedImpact’s designated mail-order pharmacy for OGB, Postal Prescription Services, or use a walk-in pharmacy. However, the current contract prohibits MedImpact from imposing a minimum price for prescriptions obtained through the designated mail-order pharmacy for OGB. Exhibit 4 summarizes the total cost of mail-order prescriptions over the past four years. Using claims data, we identified minimum charges on some mail order prescriptions filled from January 2017 through June 2018.

Exhibit 4		
Mail Order Prescription Costs		
Calendar Years 2015-2018*		
Contract	Calendar Year	Amount
Prior Contract	2015	\$2,575,699
	2016	2,475,751
Current Contract	2017	2,586,232
	January-June 2018	1,222,556
Total		\$8,860,238
* The amounts represent two separate contractual agreement periods with varying terms in place. As a result, a trend cannot be determined based on these numbers.		
Source: Prepared by legislative auditor’s staff using unaudited information provided by OGB.		

For example, we identified claims that had a minimum price of \$10.99 for Aspirin Enteric Coated that were filled by a prescription purchased at its mail-order pharmacy, while the average cost for Aspirin Enteric Coated filled by a prescription at walk-in pharmacies was only \$1.49 for the same strength and dosage. As a result of our analysis, MedImpact researched the issue and determined that it had inadvertently continued charging a minimum on mail-order prescription claims even though it should have stopped doing so effective January 1, 2017. According to MedImpact, OGB overpaid \$89,553 from January 2017 through October 2018 due to the incorrect mail-order minimum, and MedImpact is in the process of refunding OGB.⁶ Exhibit 5 summarizes the top 10 medications with the highest overpaid amounts.

⁶ We chose to include the complete results of MedImpact’s impact analysis even though the timeframe extends beyond our scope.

Exhibit 5 Top 10 Medications with Highest Overpaid Amounts Due to Minimum Pricing January 2017 through October 2018					
Number	Drug Name	Condition	Number of Prescriptions	Overpaid Amount	Percentage of Total Overpaid Amount
1	Freestyle Lite Strips	Diabetes	832	\$9,293.88	10.4%
2	Humalog	Diabetes	103	\$6,404.74	7.2%
3	Lantus Solostar	Diabetes	108	\$4,381.15	4.9%
4	Trulicity	Diabetes	62	\$3,815.76	4.3%
5	Humalog Kwikpen U-100	Diabetes	78	\$3,743.34	4.2%
6	Victoza 3-Pak	Diabetes	63	\$3,691.34	4.1%
7	Toujeo Solostar	Diabetes	69	\$3,225.96	3.6%
8	Humulin R U-500	Diabetes	21	\$2,592.60	2.9%
9	Invokana	Diabetes	67	\$2,541.93	2.8%
10	Humalog Mix 75-25	Diabetes	15	\$2,147.82	2.4%

Source: Prepared by legislative auditor's staff using unaudited data provided by OGB.

Recommendation 4: OGB should ensure that MedImpact prices mail-order prescriptions accurately.

Recommendation 5: OGB should ensure that MedImpact calculated the amount owed to OGB correctly due to charging a minimum for mail-order drugs.

Summary of Management's Response: OGB management agrees with these two recommendations and stated that MedImpact has corrected its internal systems to discontinue assessing a minimum charge on mail-order prescription claims. OGB management also stated they have received and reviewed a variance report submitted by MedImpact to substantiate the overpayments, and OGB has verified that the \$89,553 overpayment is accurate. See Appendix A for management's full response.

OGB has not ensured that MedImpact reports accurate adherence rates for specialty medications. According to healthcare literature, adherence to medications helps control healthcare costs and improves patient outcomes. In addition, OGB could expand adherence rate requirements to include additional medical conditions that require specialty drugs to further help control costs and improve patient outcomes.

Specialty drugs are defined as high-cost prescription drugs that treat complex medical conditions or require special handling and administration. For example, the cancer medication

An **adherence rate** is the percentage of time a patient follows the recommended course of treatment. For example, patients should take the full course of medications for Hepatitis C; otherwise, the virus can build a resistance to the medication resulting in additional health costs.

Targretin Gel costs almost \$30,000. Specialty drugs are generally used by a small percentage of plan members, but the cost of these drugs is significant. According to OGB, during calendar year 2017 approximately \$152 million, or 35% of total pharmacy costs for claims administered by MedImpact, was spent on specialty drugs. Exhibit 6 summarizes the total OGB spent on specialty drugs over the past four years.

According to healthcare literature,⁷ one way to control specialty drug costs is to increase adherence so that the patient takes the drug exactly as prescribed by the doctor. The contract requires MedImpact to achieve minimum adherence rates for patients who obtain medications for Hepatitis C, Rheumatoid Arthritis, and Multiple Sclerosis from MedImpact's designated specialty pharmacy for OGB, US Bioservices. According to the contract, if MedImpact fails to achieve the minimum adherence rates, it must pay performance penalties to OGB. According to MedImpact, to increase adherence rates it conducts educational outreach to patients taking medications for these three conditions. In calendar year 2017, OGB paid approximately \$50 million⁸ for specialty drugs for Hepatitis C, Rheumatoid Arthritis, and Multiple Sclerosis prescription claims.

Exhibit 6 Specialty Drugs Prescription Costs Calendar Years 2015-2018*		
Contract	Calendar Year	Amount
Prior Contract	2015	\$113,139,405
	2016	137,426,441
Current Contract	2017	152,017,978
	January-June 2018	85,056,460
Total		\$487,640,283
* The amounts represent two separate contractual agreement periods with varying terms in place. As a result, a trend cannot be determined based on these numbers. Source: Prepared by legislative auditor's staff using unaudited information provided by OGB.		

While MedImpact achieved all required adherence rates during calendar year 2017, OGB has not ensured that MedImpact reports accurate adherence rates for specialty medications for Hepatitis C, Rheumatoid Arthritis, and Multiple Sclerosis, as required by the contract. According to MedImpact, it determines adherence rates for the medication for these three conditions by evaluating the member's original fill date, day supply per fill, and subsequent refills for the physician's recommended length of adherence. MedImpact submits quarterly reports to OGB and must pay a penalty to OGB if it does not meet the minimum adherence rates. However, OGB does not monitor or verify the accuracy of the information in these reports. Using OGB's pharmacy claims data, we identified inaccuracies in the MedImpact reports. For example, MedImpact's report for the third quarter of 2017 indicated that no OGB plan members were using Hepatitis C medications, but the claims data showed prescriptions filled for two plan members. In response to our analysis, MedImpact researched the issue and identified an error in reporting from US Bioservices that was causing errors in MedImpact's calculation of adherence rates.

According to MedImpact, it is working with US Bioservices to prevent the error from re-occurring and will provide OGB with a revised performance guarantee report for calendar year 2017. OGB has access to the pharmacy claims data but does not use it for this type of analysis. Ensuring the accuracy of these reports would enable OGB to identify instances where

⁷ Iuga A, McGuire M. Adherence and Health Care Costs. *Risk Management and Healthcare Policy*, 2014;7 35-44.

⁸ The \$50 million OGB spent on specialty drugs for Hepatitis C, Rheumatoid Arthritis, and Multiple Sclerosis claims excludes Medicare Advantage Plan claims.

MedImpact may not be meeting its minimum adherence rates in order to keep costs down and achieve positive patient outcomes.

Adherence rates required in the contract only apply to prescriptions filled by US Bioservices, MedImpact’s designated specialty pharmacy. However, only 8% of the prescriptions filled for these conditions were filled by US Bioservices. The remaining 92% of prescriptions were filled from walk-in pharmacies, which do not have adherence requirements in the contract. Exhibit 7 summarizes the percentage of drugs used to treat Hepatitis C, Multiple Sclerosis, and Rheumatoid Arthritis that were filled through US Bioservices in calendar year 2017.

Exhibit 7					
Percentage of Prescriptions Purchased from US Bioservices					
For Conditions Included in the Minimum Adherence Guarantees					
Calendar Year 2017					
Condition	Amount Spent on US Bioservices	Amount Spent on All Pharmacies	Number of Prescriptions Purchased from US Bioservices	Number of Prescriptions Purchased from All Pharmacies	Percentage Purchased from US Bioservices
Hepatitis C	\$172,731.00	\$6,177,536.49	10	226	4%
Multiple Sclerosis	1,728,563.82	\$12,335,233.21	327	2,072	16%
Rheumatoid Arthritis	1,912,444.93	\$31,049,926.51	428	6,796	6%
Total	\$3,813,739.75	\$49,562,696.21	765	9,094	8%

Source: Prepared by legislative auditor’s staff using claims data provided by OGB.

OGB requires adherence rates for only three (14%) of the 22 conditions that require specialty drugs. Requiring adherence rates for other conditions, such as Hepatitis B, would further help OGB control drug costs. OGB does not require MedImpact to guarantee adherence rates for many other conditions that require specialty drugs including Hepatitis B, HIV, and organ transplants. According to OGB management, the agency has a disease management program for other conditions such as diabetes, heart disease, and asthma that helps manage these conditions and provide “financial incentives” to help with the purchasing of specialty drugs. However, not requiring adherence rates for specialty drugs used for other conditions limits OGB’s ability to control the costs of specialty drugs. According to healthcare literature,⁹ approximately 30% to 50% of U.S. adults are not compliant with taking long-term medications, leading to an estimated \$100 billion in preventable costs annually.

Recommendation 6: OGB should monitor whether MedImpact achieves minimum adherence rates for patients who obtain specialty drugs, as required in the contract.

Summary of Management’s Response: OGB management disagrees with this recommendation and stated that this matter should not be reported as a finding because MedImpact did achieve all minimum required adherence rates during calendar year 2017,

⁹Drs. Marcum, Handler, and Sevick. “Medication Nonadherence – A Diagnosable and Treatable Medical Condition.” *JAMA*. 2013;309(20):2105-2106.

and no discrepancies were found by the LLA. See Appendix A for management's full response.

LLA Additional Comments: Despite not being monitored by OGB, MedImpact did achieve all required adherence rates. However, this does not relieve OGB of its responsibility to monitor MedImpact and identify instances where it may not be meeting its minimum adherence rates.

Recommendation 7: OGB should consider expanding adherence requirements to all pharmacies that fill prescriptions for specialty medications for Hepatitis C, Rheumatoid Arthritis, and Multiple Sclerosis, and not just the adherence rates from US Bioservices.

Recommendation 8: OGB should consider expanding adherence requirements to the other 22 medical conditions that require specialty drugs to help control the costs of specialty drugs.

Summary of Management's Response: OGB management disagrees with both of these recommendations because no discrepancies were found by the LLA. However, OGB management stated that they will consider expanding the adherence requirements to all pharmacies that fill prescriptions for specialty medications for Hepatitis C, Rheumatoid Arthritis, and Multiple Sclerosis in addition to the adherence requirements for US BioServices. OGB management also stated that they will consider expanding adherence requirements for the subsequent contract to help control healthcare costs and improve patient outcomes. See Appendix A for management's full response.

LLA Additional Comments: While OGB management disagrees with these recommendations, it also states that it will consider implementing them. These recommendations were not based on any discrepancies, but based on best practices that states can use to control costs and improve patient outcomes.

OGB relies on MedImpact to self-report performance guarantees it does not meet and to pay any associated penalties, but OGB does not verify the accuracy of information reported by MedImpact. As a result, OGB cannot ensure that MedImpact is meeting all performance guarantees and paying all performance penalties.

OGB's contract with MedImpact requires specific performance guarantees that result in penalties if not met. For example, there is a "Prior Authorization" guarantee that requires MedImpact to promptly review and respond to requests for prior approval for specific drugs within a certain timeframe. The contract includes 23 performance guarantees and examples are listed on the following page:

- Average speed to answer calls from plan members
- Accuracy of prescriptions dispensed via mail order
- Timeframe for payments of all financial obligations

OGB relies on MedImpact to self-report the performance guarantees it does not meet and pay the associated penalties. For calendar year 2017, MedImpact self-reported that it met all performance guarantees except for the one related to prior authorizations. As a result of not meeting this performance guarantee, it paid penalties of \$47,908. OGB relies on quarterly and annual performance guarantee reports, created by MedImpact, to monitor compliance with performance guarantees but does not verify the accuracy of these reports. As a result, OGB cannot ensure that MedImpact is achieving all performance guarantees and paying all associated penalties. Using OGB claims data, auditors identified errors in the calendar year 2017 annual performance guarantee report related to adherence rates for Hepatitis C medications, as discussed previously. OGB could use claims data or request additional supporting documents from MedImpact to verify the accuracy of MedImpact's self-reported performance results.

In addition, OGB relies on MedImpact to report the amount of audit recoupments it received from pharmacies. Pharmacy Audit Recoupments occur when MedImpact audits a pharmacy and identifies claims that it should not have paid. Common errors identified by MedImpact during on-site audits include: prescription filled for incorrect days' supply, prescription refilled too soon, doctor's signature missing on the prescription, and hard copy of the prescription could not be found. MedImpact is required to conduct these on-site audits of 3% of pharmacies and remit all overpayments back to OGB. MedImpact reported that it conducted 74 on-site pharmacy audits during calendar year 2017 and paid \$270,394 in recoupments to OGB. Using claims data, we confirmed that MedImpact met the requirement to audit 3% of pharmacies.¹⁰ However, OGB did not conduct any monitoring activities to ensure that MedImpact met the audit requirement or is properly remitting all recoupments.

Recommendation 9: As part of its ongoing monitoring, OGB should ensure MedImpact is accurately reporting performance guarantee measures.

Summary of Management's Response: OGB management disagrees with this recommendation because no discrepancies were found by the LLA and stated that this matter should not be reported as a finding. See Appendix A for management's full response.

LLA Additional Comments: The LLA did identify errors in the performance guarantee reports submitted by MedImpact. Without verifying the accuracy of these reports, OGB cannot effectively monitor MedImpact and ensure that it is meeting performance guarantees and paying any applicable penalties.

Recommendation 10: OGB should ensure that MedImpact remits 100% of recoupments from pharmacy audits it conducts.

¹⁰ The contract specifically states MedImpact will audit 3% of network pharmacies that handle more than 150 OGB plan members. Using pharmacy claims data, we identified 1,818 pharmacies eligible for audit, and 3% of 1,818 is 55 pharmacies.

Summary of Management’s Response: OGB management disagrees with this recommendation because no discrepancies were found by the LLA. In addition, OGB management stated they did ensure that MedImpact remitted all recoupments to OGB. See Appendix A for management’s full response.

LLA Additional Comments: OGB cannot effectively monitor MedImpact when it relies solely on self-reporting by the contractor, because there is a risk OGB is not receiving all recoupments. In addition, OGB did not provide the LLA any evidence to support that it ensures that MedImpact remitted all audit recoupments, as required by the contract, other than to rely on MedImpact’s self-reported information.

OGB has not ensured that MedImpact charges OGB the same price it pays the pharmacy for prescription drug claims, as required by the contract, and does not ensure MedImpact complies with the formulary that outlines what drugs are covered.

OGB has not ensured that MedImpact does not engage in “spread pricing.” Spread pricing occurs when a PBM charges the plan sponsor (i.e., OGB) more than it pays the pharmacy, resulting in a profit for the PBM by keeping the difference. According to the contract, MedImpact is required to charge OGB the same amount it pays the pharmacy for each prescription drug claim. However, prior to contracting with an independent actuarial firm in 2018 to evaluate “spread pricing,” OGB had not implemented any ongoing monitoring activities to ensure that MedImpact complied with this requirement.

To assess MedImpact’s compliance with the provisions regarding spread pricing, we obtained claims records directly from three pharmacies who voluntarily agreed to share their pharmacy claims data for OGB participants. We compared the amount MedImpact paid pharmacies to the amount that MedImpact billed OGB for 626 claims¹¹ (approximately 0.02% of the 3,406,354 claims approved during calendar year 2017) and did not find any instances of spread pricing for these prescriptions.¹² Although we did not identify any instances of spread pricing, OGB should develop a process to ensure that it does not overpay for prescriptions. Using claims data and working with pharmacies would be an efficient method for OGB to monitor spread pricing.

OGB does not ensure that MedImpact complies with the formulary. As a result, OGB may pay claims for medications that are not on the formulary. As the PBM, MedImpact’s primary function is to administer the prescription drug benefits associated with its health plans, which includes processing and adjudicating claims for prescription drugs. According to the contract, the formulary is the list of medications that are considered covered benefits under the prescription drug plan. Claims for medications not listed on the formulary

¹¹ Excludes EGWP claims.

¹² Because we used a targeted selection and not a random sample of claims, our results cannot be projected to the total population of pharmacy claims.

should not be approved. However, OGB does not test the claims data to potentially identify any drugs approved by MedImpact that were not on the formulary. We compared the claims data from calendar year 2017 to the approved formulary and did not find any issues. Although we did not identify any issues, using claims data to test compliance with the formulary would help OGB ensure this does not become an issue.

Recommendation 11: OGB should monitor MedImpact to ensure that spread pricing does not occur.

Recommendation 12: OGB should monitor to ensure MedImpact only approved medications listed on the formulary.

Summary of Management's Response: OGB management disagrees with these recommendations because no discrepancies were found. OGB management also stated that OGB's actuary and benefits consultant, Buck Global, LLC, performs an annual PBM audit to identify any instances of spread pricing and to identify any claims for medications not included on the formulary. See Appendix A for management's full response.

LLA Additional Comments: OGB did not contract with Buck Global, LLC until April 2018, even though OGB's contract with MedImpact has been in place since January 2014. In addition, Buck Global, LLC is currently evaluating only the 2016 plan year. Since Buck Global, LLC is two years behind in its evaluation of spread pricing and formulary compliance, OGB should consider ways to actively monitor these areas to ensure that it does not overpay for prescriptions drug claims.

APPENDIX A: MANAGEMENT'S RESPONSE



STATE OF LOUISIANA
DIVISION OF ADMINISTRATION
OFFICE OF GROUP BENEFITS



January 18, 2019

Daryl G. Purpera, Louisiana Legislative Auditor
1600 North Third Street
Baton Rouge, LA 70802

RE: OGB Performance Audit

Dear Mr. Purpera:

Please accept this letter as the “The Office of Group Benefits” (OGB) official response to the referenced findings and recommendations presented as a result of a recent performance audit of the Pharmacy Benefits Manager (PBM) by the Louisiana Legislative Auditor’s (LLA’s) Office.

OGB is working on improvements to current processes and procedures to ensure compliance with contract requirements as outlined in the current PBM contract between OGB and MedImpact. Monitoring the MedImpact contract for efficiencies and effectiveness is a priority of the agency. OGB values the recommendations cited in the Legislative Auditor’s report that will assist with the agency’s goals and priorities to improve oversight of the services MedImpact provides to state employees, retirees, and their dependents. OGB is committed to the oversight of MedImpact services provided to the agency and its plan members. OGB has already begun a new contract monitoring training program for staff to strengthen the process.

Finding 1

Recommendation 1: OGB and MedImpact have agreed to amend the MedImpact / OGB service agreement that will update the current rebates payment deliverable language to be consistent with MedImpact’s current practice of issuing rebate payments to OGB as they are received by MedImpact from the manufacturer. This update will mirror what MedImpact’s historical practice has been when issuing rebate payments to OGB. Currently, the contract states rebate payments are due to OGB within 60 days after the end of each quarter. This contract requirement is impossible to meet since MedImpact does not receive rebates from the drug manufacturers for at least 120 to 150 days after the end of each quarter. The proposed amendment contemplates receipt of rebate payments within 180 days after the end of each quarter.

Recommendation 2: OGB will assess MedImpact penalties associated with the late payments and rebates earned as defined in the contract between MedImpact and OGB.

Recommendation 3: OGB allocates one employee to manage MedImpact's retiree program and one employee to manage MedImpact's active program. They ensure that OGB is paying the proper fees to MedImpact on a monthly basis, that the required reports are provided, and that the performance guarantees are met. These two employees also monitor other large TPA accounts. Buck Global, LLC, performs an annual PBM audit to ensure that the discount and rebate guarantees are met and that all rebates received are passed through to OGB.

OGB is fully aware of the amount of rebates received. In 2018, OGB's benefit consultant Buck Global LLC, was asked by OGB to conduct a market check. As a result of this check, a contract amendment was signed by MedImpact. The change will increase the discounts and rebates in 2019, resulting in \$31 million in savings by OGB.

Note: Prior to the 2013 restructuring of OGB activities, OGB had more than 300 employees on staff. In addition to self-administering many aspects of its operations, OGB now administers a \$1.5-billion-dollar program with only 42 employees.

Finding 2

Recommendation 4: MedImpact has corrected their internal systems to discontinue assessing a minimum charge on mail order prescription claims. A credit memo will be issued to OGB for the overpayment. OGB's actuary and benefits consultant, Buck Global LLC, performs an annual PBM audit to ensure the accuracy of mail order prescription pricing.

Recommendation 5: OGB has received and reviewed a variance report submitted by MedImpact to substantiate the overpayment. OGB has verified that the \$89,553 overpayment is accurate.

Finding 3

Recommendation 6: OGB disagrees this matter should be reported as a finding. MedImpact did achieve all minimum required adherence rates during calendar year 2017. No discrepancies were found. The PBM Request for Proposal (RFP) requires accurate adherence rates be reported for specialty medications issued for three conditions that include Hepatitis C, Rheumatoid Arthritis and Multiple Sclerosis. These conditions are reported on and reviewed by OGB on a quarterly basis at the required onsite meeting between OGB and MedImpact. Specialty Drugs are utilized to help control complex and serious health conditions. Persons with these conditions recognize that failure to take these drugs as directed may lead to very serious consequences, even death. As a result, adherence rates for specialty drugs are very high. OGB's adoption of improved contractual obligations for the 2017/2018 term demonstrates OGB's ongoing oversight and analysis of the PBM services provided. OGB will consider expanding adherence requirements in a subsequent PBM contract.

Recommendation 7: No discrepancies were found for this item. OGB's adoption of improved contractual obligations for the 2017/2018 term demonstrates OGB's ongoing oversight and analysis of the PBM services provided. For the next PBM RFP, OGB will consider expanding the adherence requirements to all pharmacies that fill prescriptions for specialty medications for

Hepatitis C, Rheumatoid Arthritis and Multiple Sclerosis in addition to the adherence requirements for US BioServices.

Recommendation 8: No discrepancies were found for this item. OGB's adoption of improved contractual obligations for the 2017/2018 term demonstrates OGB's ongoing oversight and analysis of the PBM services provided. OGB will consider expanding adherence requirements for the subsequent PBM contract. For the next PBM RFP, OGB will consider adding additional conditions to help control healthcare costs and improve patient outcomes.

Finding 4

Recommendation 9: No discrepancies were found for this item. OGB's adoption of improved contractual obligations for the 2017/2018 term demonstrates OGB's ongoing oversight and analysis of the PBM services provided. OGB disagrees that this matter should be reported as a finding. The adherence required by the Performance Guarantee was met per the performance guarantee reporting provided in the calculation method used, which is industry standard. The current contractual agreement is being adhered to and met.

Recommendation 10: No discrepancies were found for this item. OGB's adoption of improved contractual obligations for the 2017/2018 term demonstrates OGB's ongoing oversight and analysis of the PBM services provided. The contract specifically states MedImpact will audit at least 3% of participating network pharmacies with greater than 150 plan participant prescriptions within a calendar year. Using pharmacy claims data, MedImpact identified 1,818 pharmacies eligible for audit. Three percent (3%) of 1,818 is 55 pharmacies. MedImpact conducted 74 on-site pharmacy audits during calendar year 2017. In addition to MedImpact performing 74 on-site pharmacy audits (more than the minimum requirement of 55), all recoupments were accounted for, and, OGB ensured that MedImpact remitted all recoupments to OGB.

Finding 5

Recommendation 11: No discrepancies were found for this item as stated in the Louisiana Legislative Auditor's Performance Audit Services Report. OGB's adoption of improved contractual obligations for the 2017/2018 term demonstrates OGB's ongoing oversight and analysis of the PBM services provided. MedImpact's report "Network Performance Reporting" is provided to OGB quarterly to support the total amount OGB has paid and the amount pharmacies were paid. The amounts are an exact match each quarter. It has been acknowledged by the auditors that upon a small sample size review, they did not identify any instances of spread pricing. Audit tests did not result in finding any discrepancies; thus a finding on this issue is not appropriate. OGB's actuary and benefits consultant, Buck Global LLC, performs an annual PBM audit to identify any instances of spread pricing. OGB's contract with MedImpact is transparent and does not allow spread pricing.

Recommendation 12: No discrepancies were found for this item as stated in the Louisiana Legislative Auditor's Performance Audit Services Report. OGB's adoption of improved contractual obligations for the 2017/2018 term demonstrates OGB's ongoing oversight and

Daryl Purpera, Legislative Auditor

January 18, 2019

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analysis of the PBM services provided. Audit tests did not identify any claims with drugs not included on the approved formulary; thus, a finding on this matter is not appropriate. OGB's actuary and benefits consultant, Buck Global LLC, performs an annual PBM audit to identify any claims for medications not included on the formulary.

In conclusion, we appreciate the work efforts of the LLA staff. Our staff is available to discuss these matters with any reader of the report to attempt to clarify any of the issues presented.

Respectfully,



Tommy D. Teague, JD, CEBS, CGBA

CEO

Office of Group Benefits

APPENDIX B: SCOPE AND METHODOLOGY

This report provides the results of our performance audit of the Office of Group Benefits' (OGB) oversight of its Pharmacy Benefits Manager (PBM). We conducted this performance audit under the provisions of Title 24 of the Louisiana Revised Statutes of 1950, as amended. This audit covered the period of January 1, 2017, through June 30, 2018. Our audit objective was:

To evaluate if OGB effectively monitored its Pharmacy Benefit Manager to ensure compliance with contract requirements.

We conducted this performance audit in accordance with generally-accepted Government Auditing Standards issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and our conclusions based on our audit objective. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective. To answer our objective, we reviewed internal controls relevant to the audit objective and performed the following audit steps:

- Obtained and reviewed the OGB-MedImpact contract for PBM services to understand the scope of services provided, costs, and identify criteria. As part of this review, obtained and reviewed MedImpact policy documents.
- Researched and reviewed relevant state statutes and regulations relating to OGB and PBMs and interviewed relevant OGB staff to understand procedures in place to monitor MedImpact to ensure compliance with the terms of the contract.
- Researched PBM audits conducted by other states and literature on best practices.
- Attended meetings of the Group Benefits Policy and Planning Board and Group Benefits Estimating Conference to observe proceedings.
- Obtained and analyzed OGB pharmacy claims data covering January 1, 2017, through June 30, 2018. To assess the reliability and validity of the data, we relied on the work of LLA Financial Auditors, LLA Information Technology Auditors, and MedImpact's SOC1 report, and determined the data was valid and reliable for the purpose of answering our audit objectives.
- Obtained and reviewed various reports from OGB that were generated by MedImpact. We assessed the reasonableness of the controls surrounding the information system producing these reports and determined that the reports were sufficient and appropriate to support our findings and conclusions. In addition, we discussed the results of our analysis with OGB management and MedImpact staff.

These reports are noted in each of the following bullet points as *MedImpact generated*.

- **Rebate.** To test for timeliness of rebate payments, we used “Client Distribution Summaries” obtained from OGB (*MedImpact generated*) and compared the payment date with the due date as stated in the OGB-MedImpact contract. We calculated lost interest revenue using 0.84%, which is the State Treasury’s general fund investment earnings rate based on the first three quarters of fiscal year 2017.
- **Mail-Order.** To test mail-order pricing, we used claims data to identify mail-order claims with a minimum charge. As a result of our analysis, MedImpact identified an edit check that was inadvertently left in place and conducted an impact assessment (*MedImpact generated*).
- **Specialty Drugs.** To test adherence rates for specialty medications, auditors analyzed claims data and compared it to the performance guarantee report (*MedImpact generated*) to determine whether patients achieved the minimum required adherence rates required in the contract for Hepatitis C, Multiple Sclerosis, and Rheumatoid Arthritis medications.
- **Performance Guarantees.** To calculate performance penalties, we obtained the formula from OGB and applied it to the late rebated payments identified by using the “Client Distribution Summaries” (*MedImpact generated*) for calendar year 2017 from MedImpact.
- **Recoupments.** To test pharmacy audits, auditors obtained and reviewed MedImpact's pharmacy audit report for calendar year 2017 from OGB (*MedImpact generated*). In addition, we used claims data to determine the number of pharmacies that MedImpact should audit according to the contract.
- **Spread pricing.** To test for spread pricing, we obtained unaudited pharmacy claims data from the three Louisiana pharmacies who voluntarily submitted their claims data to us (we requested this information from the 10 pharmacies with the highest OGB claims during calendar year 2017) and matched the price reimbursed by MedImpact to the pharmacy to the price OGB paid MedImpact for the claim. Because we used a targeted selection of claims, the results cannot be extrapolated to the entire population of MedImpact pharmacy claims.
- **Formulary.** To test for formulary compliance, auditors used claims data and formulary extracts from OGB (*MedImpact generated*) to identify approved claims for medications not listed on the formulary.
- Provided our results to OGB to review for accuracy and reasonableness.