



Department of Legislative Services  
Office of Legislative Audits

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## Maryland Department of Health (MDH) - Pharmacy Services

Report Dated August 31, 2020

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## Report Overview

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- MDH has five programs that provide pharmacy services.
  - Medicaid Managed Care Program (MMCP)
  - Maryland Medicaid Pharmacy Program (MMPP)
  - Kidney Disease Program (KDP)
  - Maryland AIDS Drug Assistance Program (MADAP)
  - Breast and Cervical Cancer Diagnosis and Treatment Program (BCCDTP)
  
- This report presents the findings of OLA's first consolidated audit of MDH's pharmacy operations. To accomplish this audit, we reviewed the procedures and conducted certain testing for all five of these programs which were previously audited under the Medical Care Programs Administration (MCPA) and the Prevention and Health Promotion Administration (PHPA).



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## Background – Payment Structure

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- MMCP provides pharmacy services to Medicaid enrollees through the nine Managed Care Organizations (MCOs). Each MCO contracts with a Pharmacy Benefit Manager (PBM) to administer all aspects of the pharmacy activities. The MCO pharmacy costs are reimbursed through the monthly capitation payment made by MCPA for each Medicaid recipient enrolled in the MCO. During calendar year 2019, the capitation costs related to pharmacy services totaled approximately \$729 million.
- MMPP, KDP, MADAP and BCCTDP provide pharmacy services using a fee-for-service (FFS) model, whereby payments are made directly to pharmacies by MDH after claims have been adjudicated through a point-of-sale system operated by MDH's pharmacy vendor. During fiscal year 2019, MDH payments to pharmacies for these programs totaled approximately \$709.1 million.



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## Background – Independent Audit of MMCP Pharmacy Services

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In response to concerns raised by pharmacies regarding MCO reimbursement rates, House Bill 589, 2019 Session, required MDH to engage an independent firm to audit the MCOs' Pharmacy Benefit Managers (PBMs). The resulting audit report was issued in January 2020 and noted:

- The PBMs used the spread-pricing payment method. Under this method the MCO pays the PBM an agreed upon price for each prescription. The PBM retains the difference between the payments received from the MCO and the amounts actually paid to the pharmacies.
- Under MMCP, the average dispensing fee (the amount paid to the pharmacy for filling the prescription) was \$0.50, which was significantly less than the \$10.49 paid under the MMPP.



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## Key Findings

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- MDH had not established financial and reporting requirements and did not monitor pharmacy services provided through MCOs.
- MDH did not perform audits of certain programs' pharmacy claims.
- MDH did not have procedures to ensure its pharmacy vendor obtained the required documentation and properly authorized high cost pharmacy claims.
- MDH did not have procedures to ensure prescribing providers were licensed.
- MDH did not submit drug utilization data to manufacturers resulting in the failure to collect \$20.6 million in rebates including \$1.6 million that is now deemed uncollectable.
- MDH did not ensure that drug manufacturers provided timely rebates and as a result, did not pursue \$7.3 million in outstanding rebates.



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## MMCP Pharmacy Services (Finding 1)

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MDH did not establish financial and reporting requirements and did not monitor pharmacy services provided through MCOs.

- MDH's agreement with the MCOs did not include key financial and reporting requirements. For example, the agreements did not address the use of PBMs (or the related payment methodology), adjustments to paid claims, and dispensing fees. In addition, the agreements did not require the MCOs to submit their agreements with the PBMs to MDH for review and approval. As a result, MDH had no knowledge over how the MCOs and PBMs were operating in these areas (including the issues identified in the independent audit).
- MDH did not have procedures to monitor MCOs to ensure that the PBMs' operational controls were adequate. Critically, MDH did not have procedures to ensure that only appropriate claims were paid by the MCOs and that sensitive patient information was properly safeguarded.



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## Claims Processing (Finding 2)

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MDH did not perform audits of certain programs' pharmacy claims and did not use available data to identify improper claims.

- MDH did not perform audits of the MMPP, KDP, and BCCDTP pharmacy claims. By contrast, MADAP conducted at least 50 on-site pharmacy audits annually. The primary purpose of the audits is to ensure tested claims are proper by ensuring that a valid prescription was issued, filled, and picked up.
- MDH did not evaluate claims data to identify pharmacies that may not be processing claim reversals when prescriptions are not picked up. Pharmacies submit claims for reimbursement when the prescriptions are filled, but before they are picked up. Our analysis identified certain pharmacies that had reversal rates far below the program average, which we believe should prompt a review by MDH. For example, during one 6 month period, certain pharmacies had reversal rates of < 3%, while the average was 15%.
- MDH did not use drug utilization claims data to identify fraud, waste, and abuse in the MMPP.



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## Claims Processing (Finding 3)

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MDH did not have procedures to ensure the pharmacy vendor obtained the required documentation and properly authorized high risk and high cost pharmacy claims for three of the four programs.

- MDH did not have procedures to ensure that its pharmacy vendor obtained the required documentation from the prescribing provider and properly authorized high risk and/or high cost pharmacy claims (such as those exceeding \$2,500) for the MMPP, KDP, and BCCDTP.
- Although we verified that the pharmacy vendor had a documented quality assurance process that included supervisory review of the authorizations, MDH did not periodically verify that the vendor obtained the required documentation and properly authorized the transactions.
- The pharmacy vendor processed approximately 45,000 authorizations for such high risk and/or high cost pharmacy claims that totaled \$16.7 million in fiscal year 2019.





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## Claims Processing (Finding 4)

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MDH did not have procedures to ensure that prescribing providers were licensed to prescribe medications prior to approving pharmacy claims for payment.

- In fiscal year 2019, MDH paid 4.6 million claims totaling \$709 million without first verifying the prescribing providers were licensed.
- Our analysis of those 4.6 million claims identified 282,026 claims totaling approximately \$42 million where the prescribing provider was not enrolled in a MDH program. Consequently, there was no assurance that the related prescribing providers were licensed. Although providers enrolled in MDH programs have their license validated by MDH as part of the enrollment process, pharmacy claims can be paid regardless of provider enrollment.



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## Background - Drug Rebates (Findings 5 and 6)

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- MDH receives prescription drug rebates under two federal programs, the Medicaid Drug Rebate Program and Section 340B Drug Pricing Program.
- Rebates are received from drug manufacturers for covered outpatient drugs regardless of whether MDH's payment is in full or partial, such as when an insurance company pays for part of the claim.
- We reviewed the procedures and performed testing on the rebate process for all five MDH programs and noted several issues with the MADAP rebates. MADAP rebates totaled \$50.4 million, which was received from 232 drug manufacturers in fiscal year 2019.



## Drug Rebates (Finding 5)

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MDH did not submit certain MADAP drug utilization data to two drug manufacturers resulting in the untimely collection of approximately \$20.6 million in rebates, including \$1.6 million that is no longer collectable.

- MDH did not submit required quarterly drug utilization data to one drug manufacturer resulting in no rebates being received for fiscal year 2019. At our request, MDH submitted the required data and, as of March 2020, collected approximately \$19.5 million in rebates.
- MDH failed to timely submit certain detailed drug utilization data to another drug manufacturer resulting in the failure to recover \$2.7 million in rebates timely. In response to a prior audit finding, MDH determined that data had not been submitted for a three-year period. Once MDH submitted the data, the drug manufacturer paid \$1.1 million, but rejected rebates totaling \$1.6 million because they were untimely.



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## Drug Rebates (Finding 6)

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MDH did not ensure that drug manufacturers made timely and proper MADAP drug rebate payments and did not pursue collection of \$7.3 million in outstanding rebates, including \$1.5 million that was more than one year old. (Repeat Finding).

- MDH did not have a process to determine how much was owed by drug manufacturers and therefore, did not implement any collection efforts for outstanding rebates.
- MDH did not verify the propriety of the rebates that were remitted by the drug manufacturers, but rather relied on the manufacturer to determine the amount of the rebate.
- The dollars mentioned in this finding are separate and distinct from those addressed in Finding 5.



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## System Security (Finding 7)

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MDH did not obtain adequate assurance that its pharmacy vendor had sufficient security over its information system to protect sensitive data such as personally identifiable information (PII) and protected health information (PHI) maintained by the vendor.

- According to agency records, during fiscal year 2019 the pharmacy vendor system contained information pertaining to at least 559,416 program enrollees with some type of claims activity including 327,442 for which a claim was paid.
- Although MDH's vendor contract required the performance of a certain system review, it was not as comprehensive as necessary to ensure that appropriate security was in place.



## Conclusions

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MDH should:

- ensure agreements with MCOs include appropriate financial and reporting provisions,
  - implement comprehensive procedures to monitor MCO pharmacy services to ensure claims are proper and operational controls are appropriate,
  - periodically audit pharmacy claims and use all available data to help identify improper claims,
  - independently review claim authorizations to ensure they are proper,
  - ensure that prescribing providers are licensed,
  - submit detailed drug utilization data in accordance with rebate agreements for each applicable drug manufacturer,
  - establish procedures to ensure that all required drug manufacturers pay rebates accurately and timely, and
  - ensure sensitive data is safeguarded.
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