COUNTY OF LOS ANGELES
DEPARTMENT OF AUDITOR-CONTROLLER

KENNETH HAHN HALL OF ADMINISTRATION
500 WEST TEMPLE STREET, ROOM 525
LOS ANGELES, CALIFORNIA 90012-3873
PHONE: (213) 974-8301 FAX: (213) 626-5427

WENDY L. WATANABE
AUDITOR-CONTROLLER

ASST. AUDITOR-CONTROLLERS

ROBERT A. DAVIS
JOHN NAIMO
JAMES L. SCHNEIDERMAN
JUDI E. THOMAS

January 26, 2012

TO: Supervisor Zev Yaroslavsky, Chairman
Supervisor Gloria Molina
Supervisor Mark Ridley-Thomas
Supervisor Don Knabe
Supervisor Michael D. Antonovich

FROM: Wendy L. Watanabe
Auditor-Controller

SUBJECT: **DEPARTMENT OF HEALTH SERVICES COMMUNITY HEALTH PLAN PHARMACY SERVICE CONTRACT COMPLIANCE AUDIT**

The County Department of Health Services' (DHS) Community Health Plan (CHP) provides managed health care services to Medi-Cal recipients who enroll in the CHP. CHP members can fill their prescriptions at more than 800 contract pharmacies throughout the County. informedRx is the CHP's prescription drug third-party administrator (Pharmacy Benefit Manager). informedRx is responsible for contracting with the pharmacies, processing and paying prescription drug claims from the pharmacies, and negotiating discounts and rebates with drug manufacturers. CHP paid informedRx a composite rate for each prescription processed, less the copayments paid by CHP members, for a total of approximately $18 million in Fiscal Year 2008-09.

At the request of CHP, we contracted with an independent Certified Public Accounting firm, Qiu Accountancy Corporation, CPAs (Qiu), to audit CHP's contract with informedRx. The audit was intended to determine whether informedRx complied with the CHP contract. Qiu also conducted an automated analysis of 1.6 million prescription claims processed by informedRx from July 1, 2008 through July 31, 2009.

Review Summary

Qiu's report (attached) indicates that informedRx improperly processed 3,550 prescriptions, totaling $244,172 in payments to informedRx. These included prescriptions that were filled for non-covered medications; filled using a higher-priced

medication first, instead of a lower-cost medication; refilled too soon; and filled/refilled in quantities that exceeded the CHP's limits. As a result, Qiu recommended that informedRx refund the $244,172 to CHP, or provide additional documentation justifying the questioned transactions.

The report also includes some operational recommendations. For example, Qiu recommended that CHP prepare a calendar of all informedRx performance requirements from the contract along with due dates, and verify that all performance criteria are met.

It should be noted that auditors usually request the company/agency being audited to provide a management representation letter to confirm in writing: 1) statements they made to the auditor during the audit; 2) that they have disclosed all potential issues to the auditor; and 3) any other areas of uncertainty related to the audit. Qiu's report indicates that informedRx refused to provide a representation letter because, according to Qiu, informedRx disagreed with Qiu's findings regarding the number of improperly processed prescriptions. As a result, Qiu cannot determine whether informedRx complied with all the requirements of the contract.

Review of Report

Qiu met with CHP and informedRx to discuss the results of the audit. As noted earlier, informedRx disagreed with Qiu's conclusion that informedRx had processed some prescriptions improperly, and disagrees that they should repay CHP $244,172. However, informedRx generally agreed with Qiu's other contract compliance findings.

CHP management indicated that they are working with informedRx to resolve the $244,172. Most of CHP's business is being transferred to LA Care over the next year. As a result, CHP does not plan to implement Qiu's recommendations to revise the informedRx contract. However, CHP management indicated they are working to address some of Qiu's other operational recommendations.

Please call me if you have any questions, or your staff may contact Robert Campbell at (213) 253-0101.

WLW:JLS:RGC:MP

Attachment

c: William T Fujioka, Chief Executive Officer
Mitchell H. Katz, M.D., Director, DHS
Audit Committee
Public Information Office

2008-09 PHARMACY BENEFIT MANAGEMENT (PBM) SERVICES AGREEMENT FINANCIAL/COMPLIANCE AUDIT

PBM Agreement Number: H-207932
For the Period of July 1, 2008 to June 30, 2009

2008-2009 Pharmacy Benefit Management Services Agreement
Financial/Compliance Audit

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QIU ACCOUNTANCY CORPORATION

3580 Wilshire Blvd., Suite 1126, Los Angeles, CA 90010 Tel : 213.387.1818 Fax: 213.387.2203

Independent Accountant's Report

Ms. Wendy L. Watanabe
Auditor-Controller
County of Los Angeles
500 W. Temple St. Room 525
Los Angeles, CA 90012

We have examined informedRx's compliance to specified sections of the County of Los Angeles Community Health Plan Pharmacy Benefit Management Services Agreement, H-207932 with informedRx for the fiscal year ended June 30, 2009. The County of Los Angeles and informedRx are responsible for the Community Health Plan Pharmacy Benefit Management Services Agreement. Our responsibility is to express an opinion based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and the Standards applicable to attestation engagements contained in *Governmental Auditing Standards* issued by the Comptroller General of the United States, and accordingly, include examining, on a test basis, evidence supporting the adherence and the compliance to certain specified sections of the Los Angeles Community Health Plan Pharmacy Benefit Management Services Agreement, H-207932, identified through the Los Angeles County Auditor-Controller Work Order Request 7-74A Statement of Work section II B paragraphs 2 through 7, and performing such other procedures as we considered necessary in the circumstances. Except as discussed in the following paragraph, we believe that our examination provides a reasonable basis for our opinion. Our examination does not provide a legal determination on informedRx's compliance with specified requirements.

We were unable to obtain a management representation letter from informedRx, therefore we were not able to assess whether sufficient documentation was provided supporting the compliance of informedRx with the Los Angeles Community Health Plan Pharmacy Benefit Management Services Agreement, H-207932 regarding "Drug Coverage", "Refilled Too Soon", "Quantity Limits" and "Step Therapy" requirements, nor were we able to satisfy ourselves as to informedRx's compliance with those requirements by other auditing procedures.

The accompanying supplemental information presents only the specific sections of the Los Angeles Community Health Plan Pharmacy Benefit Management Services Agreement, H-207932, identified through the Los Angeles County Auditor-Controller Work Order Request 7-74A Statement of Work section II B paragraphs 2 through 7, with which serves as the basis of presentation and findings and recommendations.

In our opinion, except for the effects of such noncompliance due to the lack of management representation, informedRx, complied, in all material respects, with the specific sections of the Los Angeles Community Health Plan Pharmacy Benefit Management Services Agreement, H-207932, identified through the Los Angeles Work Order Request 7-74A Statement of Work section II B paragraphs 2 through 7 for the fiscal year ended June 30, 2009.

In accordance with Governmental Auditing Standards, we are required to report significant deficiencies in internal controls, identifying those considered to be material weaknesses, of provisions of contracts or grant agreements, abuse that could have material effect on informedRx's compliance with the specific sections of the Los Angeles County Community Health Plan Pharmacy Benefit Management Services Agreement, H-207932, identified through the Los Angeles County Auditor-Controller Work Order Request 7-74A Statement of Work section II B paragraphs 2 through 7 and any fraud and illegal acts that are more than inconsequential that come to our attention during our examination. We are also required to obtain the views of management on those matters. We performed our examination to express an opinion on whether informedRx's compliance with the specific sections of the Los Angeles Community Health Plan Pharmacy Benefit Management Services Agreement, H-207932, identified through the Los Angeles County Auditor-Controller Work Order Request 7-74A Statement of Work section II B paragraphs 2 through 7 is presented in accordance with the criteria described above and not for the purpose of expressing an opinion on the internal controls over the County of Los Angeles Community Health Plan and informedRx's contract compliance and other matters; accordingly, we express no such opinions. Our examination disclosed certain findings that are required to be reported under Government Auditing Standards and those findings, along with the views of management, are described in the attached Schedule of Findings.

This report is intended solely for the information and use by the County of Los Angeles and informedRx, and is not intended to be and should not be used by anyone other than these specified parties.

Qiu Accountancy Corp.

QIU Accountancy Corporation
May 9, 2011

2008-2009 Pharmacy Benefit Management Services Agreement
Financial/Compliance Audit
Notes to Audit Report
Fiscal Year Ended June 30, 2009

NOTE 1 CLAIMS AUDIT SUMMARY

Overview

The audit was conducted on a file of 1.6 million claims with dates of service from 7/1/2008 through 7/31/2009 (informedRx sent an additional month of claims data that was audited). Claims filled prior to the audit period were eliminated.

The audit compared the data results to the plan contract pricing and plan set up information received from informedRx and Los Angeles County Community Health Plan (CHP). The audit results have been reviewed with informedRx on two previous occasions. Each time the results were presented, informedRx produced additional documentation that they had not shared with us previously (formularies, plan changes).

The CHP Prescription Drug program audit process included:

- Extracting and loading claims into the data warehouse;
- Validating the claim load using control numbers provided by informedRx;
- Reviewing all claims against Medispan (published industry source) pricing files;
- Reviewing and loading of CHP employer members' plan design specifications (co-pays, inclusions, exclusions, etc.);
- Assuring quality of all output;
- Sharing all findings with informedRx;
- Reviewing and verifying any contested findings.

The claims data that was analyzed included *all* prescription drug claims for each participating CHP member. This data was reviewed for compliance with the financial terms of the CHP/informedRx Agreement.

2008-2009 Pharmacy Benefit Management Services Agreement
Financial/Compliance Audit
Notes to Audit Report
Fiscal Year Ended June 30, 2009

NOTE 1 CLAIMS AUDIT SUMMARY (Continued)

Financial Performance

- The Pharmacy Benefit Management (PBM) Services Agreement requires an overall composite rate of Average Wholesale Price (AWP) minus 14%. The overall realized brand retail composite rate of AWP minus 21.5%, exceeds this threshold. The savings driver came from the exceptional discounts provided by providers listed as CHP contracted pharmacies. Opportunity exists for further savings by improving contracts with other retail pharmacies (e.g., Walgreens, CVS, etc.) into the AWP minus 17% national average rate. By being more aggressive in contracting, informedRx contracted pharmacies could have improved the overall brand composite rate for CHP, even higher than AWP minus 21.5%.
- The Pharmacy Benefit Management (PBM) Services Agreement requires an overall composite rate of the lower of Average Wholesale Price (AWP) minus 14%, Centers for Medicare and Medicaid (CMS) Maximum Allowable Charge (MAC), or Contractor's MAC, plus a dispensing fee of $2.35. The overall generic retail composite rate of AWP minus 75.7% exceeds this threshold, and is well above norms when compared to industry benchmarks. Benchmark pricing is currently in the AWP minus 69% to 72% range.
- 84% of all retail claims were filled with generics. The overall program is well above benchmark data, with most accounts running in the 68% to 73% range during the same time period. With more brand name drugs losing patent protection, the ability to maximize generic substitution is the key to long term financial performance. The rule of thumb is that for each one percent increase in generic substitution, there is a decrease in overall plan costs by one to two percent.

Contract Observations and Recommendations

Observations and Conditions:

- Since the original PBM Services Agreement was executed in 2002, it has become outdated. Causes are as follows:
    - Since execution, there have been two changes in PBM ownership. The changes in PBM ownership caused informedRx to go to multiple locations to access files and other documentation. As a result, it added a substantial amount of time for the auditors to obtain the requested information.
    - The overall composite pricing structure no longer reflects the current national average for AWP pricing.

2008-2009 Pharmacy Benefit Management Services Agreement
Financial/Compliance Audit
Notes to Audit Report
Fiscal Year Ended June 30, 2009

NOTE 1 CLAIMS AUDIT SUMMARY (Continued)

Recommendations:

- In the event of future changes in PBM ownership, CHP staff should review the contract to ensure that no clauses become outdated or inapplicable. Based upon the results of the review, CHP staff should promptly take appropriate action to amend the contract.
- CHP should pursue a contract amendment which updates the pricing sections of the Contract, including Schedules B-1 and B-2 of Amendment 1, Schedules B-3 and B-4 of Amendment 2, and Exhibit A of Amendment 3, to reflect industry trends and norms.
- The PBM (i.e., informedRx) should provide CHP with a listing of all drugs for which a rebate agreement exists. As these agreements change or as additional agreements are entered into, informedRx should provide CHP an updated listing. Rebate guarantees need to be established to ensure that CHP receives the negotiated rebate regardless of any confidentiality wording.
- CHP should pursue a contract amendment which includes specific remedies to the CHP for any issues of non-compliance.

NOTE 2 COMPLIANCE AUDIT SUMMARY

Overview

This section of our compliance audit covered Paragraphs 17A-B, 17D, 17F, 1E-F, Exhibit A Paragraph 1 [A(1), A(3), A(5), A(6), A(9), A(13), B(2), C(1), C(2), C(4), D(1), D(2), D(3), E, L], 3C, Exhibit B Paragraph 3A (1)b, 3A (2), Exhibit A paragraph 1F and 1G, Amendment No. 1 Billing and Payment Exhibit B Paragraph 1, Additional Provisions Paragraph 1H, 2 and 3 of the contract as outlined in Work Order Request No. 7-74A, other than the Claims Audit section which was outlined in Note 1.

The audit encompassed obtaining documents and other data to ensure compliance with each of the contract sections. Where applicable, a sample base was selected for testing and if the sample base uncovered discrepancies, the sample base was expanded.

The audit process included:

- Discussions and meetings with various personnel at informedRx and at the County of Los Angeles.
- Discussions with various informedRx staff regarding policies and procedures, and adherence to Health Insurance Portability and Accountability Act (HIPAA) guidelines.

2008-2009 Pharmacy Benefit Management Services Agreement
Financial/Compliance Audit
Notes to Audit Report
Fiscal Year Ended June 30, 2009

NOTE 2 COMPLIANCE AUDIT SUMMARY (Continued)

Overview (Continued)

- Performing physical observations of the facilities at informedRx relating to customer service, data security, back-up systems, fault tolerance and disaster recovery systems. This included a review of the unqualified SAS 70 report issued by McGladrey & Pullen.
- Obtaining documentation relating to insurance coverage, financial statements, bank statements, desktop and on-site audits, credentialing, semi-monthly billing to CHP, rebates (where possible), pharmacy recoupments, and subcontractor agreements (where possible).
- Reviewing SAS 70, quarterly 10Q and annual 10K reports of informedRx.
- Reconciliations of financial activity occurring during the audit period.
- Obtaining alternate documentation and/or statements from informedRx management when rebate agreements, transmittals and remittance advice support could not be provided due to confidentiality or proprietary issues.

2008-2009 Pharmacy Benefit Management Services Agreement
Financial/Compliance Audit
Schedule of Findings
Fiscal Year Ended June 30, 2009

FINANCIAL FINDINGS

Reporting Areas		Audit Overcharge	Unduplicated Claims
Discount Pricing	Mail	$ -	-
	Retail	$ -	-
	Specialty	$ -	-
Dispensing Fee	Mail	$ -	-
	Retail	$ -	-
	Specialty	$ -	-
MAC Pricing	Mail	$ -	-
	Retail	$ -	-
	Specialty	$ -	-
Drug Coverage (1)	Mail	$ -	-
	Retail	$ 84,908.31	1,171
	Specialty	$ -	-
Refilled Too Soon (2)	Mail	$ -	-
	Retail	$ 61,886.93	1,819
	Specialty	$ -	-
Quantity Limits (3)	Mail	$ -	-
	Retail	$ 15,501.50	51
	Specialty	$ -	-
Step Therapy (4)	Mail	$ -	-
	Retail	$ 81,875.56	509
	Specialty	$ -	-
Total Claims Analysis		**$ 244,172.30**	**3,550**

2008-2009 Pharmacy Benefit Management Services Agreement
Financial/Compliance Audit
Schedule of Findings
Fiscal Year Ended June 30, 2009

FINANCIAL FINDINGS (Continued)

Financial Finding No. 1

Criteria: Attachment D – Exhibit 3 – Paragraphs C (1) and (2) State: Contractor shall provide on-line claims processing and adjudication and is responsible for the following: (1) Maintaining a CHP approved drug formulary by CHP Product Line to provide real-time, point-of-service (hereafter POS) electronic prescription claims adjudication including compliance with the CHP formulary, benefit packages, co-payments, and pricing on a 24-hour 7-days a week basis, with the exception of routinely scheduled maintenance downtime. (2) Reviewing each on-line claim transaction for, but not limited to: (a) Member eligibility; (b) Prospective Drug Utilization Review ("DUR") Criteria to include: ♦ Drug history, ♦ Excessive drug dosage (age-specific), ♦ Insufficient drug dosage (age-specific), ♦ Too early refill activity, ♦ Drug-to-age contraindications, ♦ Drug-to-pregnancy contraindications, ♦ Excessive quantity dispensed, ♦ Drug-to-drug interactions, ♦ Inappropriate days supply, ♦ Therapeutic duplication, ♦ Age/sex to drug, ♦ Drug-to-diagnosis (disease) contraindications, ♦ Duplicate prescriptions.

Although not specifically stated in the contract, it is standard industry practice for Pharmacy Benefit Managers to request/obtain authorization from the Pharmacy Benefit Plan administrator for claims that contain medications not included in the Formulary before the prescription is dispensed. In addition, the Pharmacy Benefit Manager should retain evidence of authorization that is obtained for claims that do not adhere with the Formulary's provisions.

Condition/Cause: The audit found that 1,171 claims were not included in the formulary, amounting to $84,908.31 that was dispensed by informedRx. These claims were either related to medications excluded from the Formulary, claims for new drugs that had not been added to the Formulary, or drugs purposefully deleted from the Formulary. These claims should not be payable without a prior authorization. The paid claims tape provided did not have evidence that the claim was authorized by CHP. informedRx believed that these claims did not require CHP's authorization, and therefore incorrectly approved the claims.

Recommendation: informedRx should refund $84,908.31 to CHP or provide CHP substantiation for reducing the liability amount. informedRx should only pay claims for medications that are included in the formulary. If informedRx receives a claim that includes medication not included in the formulary, informedRx must obtain authorization from CHP before the prescription is dispensed or deny the claim. informedRx should retain evidence of authorization that is obtained for claims that do not adhere to the Formulary's provisions.

2008-2009 Pharmacy Benefit Management Services Agreement
Financial/Compliance Audit
Schedule of Findings
Fiscal Year Ended June 30, 2009

FINANCIAL FINDINGS (Continued)

Financial Finding No. 1 (Continued)

informedRx Response:
The 8,663 claims as referenced by the original finding are either Prior Authorization coded drugs or excluded medications. informedRx previously supplied the Code 1 drug overrides to Arxcel. The following drugs were not excluded until 6/10/09. See attached e-mail from CHP. They are Symbacort, Veramyst and Ravantia. The report also includes diabetic test strips, insulin syringes and glucose monitoring claims. These are considered formulary inclusions and were processed correctly. See attached Drug Coverage Only file, it is segregated by PA and Excluded Drugs. A notation is in the comment field for all drug types.

The following programming errors were uncovered from our research effort:

Drug Type		Amount
Felodipine	$	26,150.66
Cleocin		60.74
Clindamycin		403.31
Deplin		613.76
Limbrel		1,627.61
Progesterone		1,201.84
Pravastatin		6,075.86
informedRx Liability	$	36,133.78

informedRx Liability - $36,133.78

Audit Team Comment to informedRx Response:
Subsequent to the above response from informedRx, we contacted informedRx and reviewed their response against our findings. Based upon this review, we were able to determine that a number of our findings were on a Code 1 list which allows a retail pharmacist to override and process. Those were then removed from our findings. The remaining claims either were not on the Code 1 list and/or the 2008 Formulary. While informedRx provided a satisfactory response to reduce the findings to $84,908.31, they could not (prior to the drafting of this report), provide substantiation for any further reductions, and we therefore recommend that informedRx should refund $84,908.31 to CHP or provide CHP substantiation for reducing the liability amount.

2008-2009 Pharmacy Benefit Management Services Agreement
Financial/Compliance Audit
Schedule of Findings
Fiscal Year Ended June 30, 2009

FINANCIAL FINDINGS (Continued)

Financial Finding No. 2

Criteria: Attachment D – Exhibit 3 – Paragraphs C (1) and (2) State: Contractor shall provide on-line claims processing and adjudication and is responsible for the following: (1) Maintaining a CHP approved drug formulary by CHP Product Line to provide real-time, point-of-service (hereafter POS) electronic prescription claims adjudication including compliance with the CHP formulary, benefit packages, co-payments, and pricing on a 24-hour 7-days a week basis, with the exception of routinely scheduled maintenance downtime. (2) Reviewing each on-line claim transaction for, but not limited to: (a) Member eligibility; (b) Prospective Drug Utilization Review ("DUR") Criteria to include: ♦ Drug history, ♦ Excessive drug dosage (age-specific), ♦ Insufficient drug dosage (age-specific), ♦ Too early refill activity, ♦ Drug-to-age contraindications, ♦ Drug-to-pregnancy contraindications, ♦ Excessive quantity dispensed, ♦ Drug-to-drug interactions, ♦ Inappropriate days supply, ♦ Therapeutic duplication, ♦ Age/sex to drug, ♦ Drug-to-diagnosis (disease) contraindications, ♦ Duplicate prescriptions.

Condition/Cause: The formulary refill limit was set at 75% of the day's supply of current medication needing to be passed prior to the next refill. The audit identified 1,819 claims amounting to $61,886.93 that were refilled too soon. Claims noted as refilled too soon (RTS) were processed prior to completing the required days between fills. The general processing rule is that 75% of the current prescription days were to have passed prior to the system processing a refill prescription. Noted in the Audit Team Comment to informedRx Response, we were told by informedRx that their processing system evaluates the new claim, then looks at the previous claims and recalculates the day's supply of that previous claim to determine eligibility of the new claim. informedRx claims the processing system failed to include a consistent logic to recalculate a day's supply that could account for these claims being eligible for payment.

Recommendation: informedRx should refund $61,886.93 to CHP or provide CHP substantiation for eliminating or reducing the liability. informedRx should ensure their RTS processing logic adheres to the formulary's limit that 75% of the days' supply be completed prior to the next fill. informedRx should fully disclose the processing rule that recalculates the prior prescription needs to CHP and if CHP approves this processing rule, CHP should provide their approval in writing to informedRx.

informedRx Response:
informedRx research indicates that the medication dosage or instructions were changed by the physician on the claims in question. In all cases a lower dosage was prescribed. The claim recalculates based upon the lower dosage and allows the claim to process because it met the 75% refill threshold. See attached file LACHP with executive summary report, RTS tab.

2008-2009 Pharmacy Benefit Management Services Agreement
Financial/Compliance Audit
Schedule of Findings
Fiscal Year Ended June 30, 2009

FINANCIAL FINDINGS (Continued)

Financial Finding No. 2 (Continued)

InformedRx Response (Continued)

informedRx Liability – no liability found.

Audit Team Comment to informedRx Response:
Subsequent to the above response from informedRx, we contacted informedRx and reviewed their response against our findings. In our subsequent discussion, informedRx claimed that their claims processing system looks at the new prescription, determines the rate of consumption and adjusts the previous claim days' supply to determine if the claim is paid too soon. informedRx previously claimed that all the new (RTS) claims had a lower dose than the previous, thus the system allowed these new prescriptions to pay while refilled too soon. We know that about half of these claims did not meet these criteria. We mutually agreed that we would not change the findings and informedRx should work with CHP to determine if this process acts in accordance with expected processing obligations. Therefore, informedRx should refund $61,886.93 to CHP or provide CHP substantiation for eliminating or reducing the liability.

2008-2009 Pharmacy Benefit Management Services Agreement
Financial/Compliance Audit
Schedule of Findings
Fiscal Year Ended June 30, 2009

FINANCIAL FINDINGS (Continued)

Financial Finding No. 3

Criteria: Attachment D – Exhibit 3 – Paragraphs C (1) and (2) State: Contractor shall provide on-line claims processing and adjudication and is responsible for the following: (1) Maintaining a CHP approved drug formulary by CHP Product Line to provide real-time, point-of-service (hereafter POS) electronic prescription claims adjudication including compliance with the CHP formulary, benefit packages, co-payments, and pricing on a 24-hour 7-days a week basis, with the exception of routinely scheduled maintenance downtime. (2) Reviewing each on-line claim transaction for, but not limited to: (a) Member eligibility; (b) Prospective Drug Utilization Review ("DUR") Criteria to include: ♦ Drug history, ♦ Excessive drug dosage (age-specific), ♦ Insufficient drug dosage (age-specific), ♦ Too early refill activity, ♦ Drug-to-age contraindications, ♦ Drug-to-pregnancy contraindications, ♦ Excessive quantity dispensed, ♦ Drug-to-drug interactions, ♦ Inappropriate days supply, ♦ Therapeutic duplication, ♦ Age/sex to drug, ♦ Drug-to-diagnosis (disease) contraindications, ♦ Duplicate prescriptions.

Although not specifically stated in the contract, it is standard industry practice for Pharmacy Benefit Managers to request/obtain authorization from the Pharmacy Benefit Plan administrator for claims that contain prescriptions which are not in accordance with Formulary provisions before the prescription is dispensed. In addition, the Pharmacy Benefit Manager should retain evidence of authorization that is obtained for claims that do not adhere with the Formulary's provisions.

Condition/Cause: The formulary listed drugs that were to be limited in the quantity dispensed for each fill and a time period before allowing that next fill. The audit identified 51 claims amounting to $15,501.50 that were out of compliance with the formulary's dispensing requirements. The identified claims were filled or refilled in quantities that exceeded CHP Formulary guidelines. For safety and cost reasons, certain drugs are limited to X number of doses for X number of days. These rules are clearly presented in the CHP Formulary, however not followed by informedRx.

Recommendation: informedRx should refund the $15,501.50 to CHP or provide CHP substantiation for reducing the liability amount. informedRx should only process Formulary approved medications and supplies in the quantities allowed by the Formulary. informedRx must obtain authorization from CHP before prescriptions which are not in accordance with Formulary provisions are dispensed. informedRx should retain evidence of authorization that is obtained for claims that do not adhere with the Formulary's provisions. informedRx should review the Formulary documents and utilize the information as the basis for claims processing rules.

2008-2009 Pharmacy Benefit Management Services Agreement
Financial/Compliance Audit
Schedule of Findings
Fiscal Year Ended June 30, 2009

FINANCIAL FINDINGS (Continued)

Financial Finding No. 3 (Continued)

informedRx Response:
The 209 claims were processed with the correct limitations with the exception of insulin syringes. We have notated our individual findings on the attached report QL Tab.xls. We have previously reported an error on the quantity limit for insulin syringes and on a portion of Retin-A claims for the age limit.

informedRx Liability - $9,084.08

Audit Team Comment to informedRx Response:
Subsequent to the above response from informedRx, we contacted informedRx and reviewed their response against our findings. We discussed several drug types that repeat. An example is Imitrex/Sumatriptan. informedRx does not know why it processes outside of formulary expectations and is investigating it. Insulin syringes are also a recurring theme and informedRx is aware of a set-up issue. They will continue to investigate the other claims, as well. We therefore recommend that informedRx should refund $15,501.50 to CHP or provide CHP substantiation for reducing the liability amount.

2008-2009 Pharmacy Benefit Management Services Agreement
Financial/Compliance Audit
Schedule of Findings
Fiscal Year Ended June 30, 2009

FINANCIAL FINDINGS (Continued)

Financial Finding No. 4

Criteria: Attachment D – Exhibit 3 – Paragraphs C (1) and (2) State: Contractor shall provide on-line claims processing and adjudication and is responsible for the following: (1) Maintaining a CHP approved drug formulary by CHP Product Line to provide real-time, point-of-service (hereafter POS) electronic prescription claims adjudication including compliance with the CHP formulary, benefit packages, co-payments, and pricing on a 24-hour 7-days a week basis, with the exception of routinely scheduled maintenance downtime. (2) Reviewing each on-line claim transaction for, but not limited to: (a) Member eligibility; (b) Prospective Drug Utilization Review ("DUR") Criteria to include: ♦ Drug history, ♦ Excessive drug dosage (age-specific), ♦ Insufficient drug dosage (age-specific), ♦ Too early refill activity, ♦ Drug-to-age contraindications, ♦ Drug-to-pregnancy contraindications, ♦ Excessive quantity dispensed, ♦ Drug-to-drug interactions, ♦ Inappropriate days supply, ♦ Therapeutic duplication, ♦ Age/sex to drug, ♦ Drug-to-diagnosis (disease) contraindications, ♦ Duplicate prescriptions.

Although not specifically stated in the contract, it is standard industry practice for Pharmacy Benefit Managers to request/obtain authorization from the Pharmacy Benefit Plan administrator for claims that contain prescriptions which are not in accordance with Formulary provisions before the prescription is dispensed. In addition, the Pharmacy Benefit Manager should retain evidence of authorization that is obtained for claims that do not adhere to the Formulary's provisions.

Condition/Cause: The plan design required that certain lower priced drugs were to be used prior to allowing a higher priced drug. The remaining step therapy was the requirement to try an ACE Inhibitor prior to filling an ARB (Angiotensin Receptor II Blocker). The audit identified 509 claims amounting to $81,875.56 without meeting a "grandfathering" grace period. informedRx believed that its system was able to process the step therapy drugs correctly, therefore allowing the use of lower priced drugs prior to using higher priced drugs. However, our claims review found that informedRx had failed to follow the plan design that required them to use the lower priced drugs prior to using the higher priced drugs.

Recommendation: informedRx should refund $81,875.56 to CHP or provide CHP substantiation for reducing the liability amount. informedRx must follow the Formulary rules that required them to use the lower priced drugs prior to using the higher priced drugs, and establish a protocol with CHP that will enable CHP to monitor the step therapy application process. informedRx must request/obtain authorization from CHP for claims that contain prescriptions which do not adhere to the Formulary's established step therapy provisions before the prescription is dispensed. informedRx should retain evidence of the authorization that is obtained for claims that do not adhere to the Formulary's provisions.

2008-2009 Pharmacy Benefit Management Services Agreement
Financial/Compliance Audit
Schedule of Findings
Fiscal Year Ended June 30, 2009

FINANCIAL FINDINGS (Continued)

Financial Finding No. 4 (Continued)

informedRx Response:
See attached Step Therapy tab on Claim Error Report. All claims for the step therapy section have a valid PA or Code 1 override number. The only exception is Micardis which was not subject to step therapy protocols during the audit time period. In the case of the Cozaar/Hyzaar, the rules were correctly implemented. The claims system looked back at the members' history to determine if an ARB or an approved Cozaar claim had been processed. The Code 1 override enabled the claim to process. Subsequent claims paid from the override or the approval of a Cozaar claim is indicated in the member's profile.

informedRx Liability – no liability found.

Audit Team Comment to informedRx Response:
Subsequent to the above response from informedRx, we contacted informedRx and reviewed their response against our findings. informedRx provided a Code 1 drug list that was reviewed by CHP. After removing claims with Code 1 override which were validated by CHP, we revised our finding from 2,742 claims amounting to $258,863.04 to 509 claims amounting to $81,875.56. Our recommendation is that informedRx should refund $81,875.56 to CHP or provide CHP substantiation for reducing the liability amount.

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COMPLIANCE FINDINGS

ATTACHMENT D – EXHIBIT 5 - PARAGRAPHS F (Rebates) and G (Recoupments):

Compliance Finding No. 1

Criteria: Attachment D-Exhibit 5-Paragraph F(1) States: "Contractor shall verify drug rebate/administrative fee proceeds received from its contracted drug manufacturers for such proceeds by: Providing Director with any or all allowable rebate/administrative fee terms under Contractor's drug rebate/administrative fee contracts with drug manufacturers, unless otherwise prohibited by such contracts.

Condition/Cause: informedRx stated to us that rebate agreements, rebate transmittals, and remittance advices from drug manufacturers (Pharma's) and Medco (rebate aggregator) could not be provided due to "contract confidentiality." We:

a) were unable to obtain copies of any rebate contracts between informedRx and any of the Pharma's. We therefore could not confirm that the amount of the rebates received by informedRx for CHP prescriptions were in accordance with the terms of any of the contracts.
b) were unable to obtain copies of rebate information submitted to the Pharma's or to Medco. We therefore could not confirm that the rebate amounts received from Pharma's and Medco were correct.
c) were unable to obtain original remittance documentation relating to the rebates received by informedRx from the Pharma or from Medco. informedRx provided us with spreadsheets that they stated were imported from the detail provided by Pharma's and Medco. We could not verify that the rebate information provided by informedRx agreed with the documentation provided by Pharma's and Medco.

Recommendation: The County Department of Health Services should perform or cause to be performed, a market analysis to analyze overall rebate rates paid for various drugs across the population of Pharmacy Benefits Managers, pharmacies and Group Purchasing Organizations (GPO's). A reasonable average rate per prescription or dollar value per medication should be determined. CHP should re-negotiate the rebates portion of the contract to reflect a flat rate per prescription or per dollar value of all medications in the formulary that are provided to CHP members. informedRx would then continue to pay these re-negotiated rebates on a quarterly basis. This would eliminate the difficulty in trying to verify the reasonableness of rebates paid by informedRx to CHP.

The PBM (i.e., informedRx) should provide CHP with a listing of all drugs for which a rebate agreement exists. As these agreements change or as additional agreements are entered into, informedRx should provide CHP an updated listing.

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COMPLIANCE FINDINGS (Continued)

Compliance Finding No. 1 (Continued)

CHP Management Response:
CHP concurs with the recommendation, and has discussed it with our Pharmacy Benefit Manager (PBM) RFP consultant, TriCast, which agrees that a clause allowing for the audit and review of rebate contracts is critical and mandatory. This allows CHP the opportunity to validate that the rebate dollars being distributed are reflective of the contractual terms. In addition to audit language, it is important for the PBM to remit to CHP a percentage of the total rebate pool along with minimum level guarantees. These guarantees should be in the form of a per claim or per branded claim (per brand claim is preferred as the PBM's are willing to go a little deeper due to the mitigated risk involved). This allows CHP to 1) easily validate the offering between prospective PBM's and 2) it will provide a minimum value that CHP will be receiving in rebates. The upcoming RFP will include these requirements in the PBM statement of work.

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COMPLIANCE FINDINGS (Continued)

Compliance Finding No. 2

Criteria: Attachment D-Exhibit 5-Paragraph F(2) States: "Contractor shall verify drug rebate/administrative fee proceeds received from its contracted drug manufacturers for such proceeds by: Providing the County with quarterly rebate/administrative fee reports that will include rebate/administrative fee dollars by NDC, drug name, manufacturer, and CHP Product Line."

Condition/Cause: We determined that the rebate reports for the quarters beginning July 1, 2008 to September 30, 2008 did include rebate/administrative fee dollars by NDC, drug name, manufacturer and CHP Product Line. The reports for the quarters beginning October 1, 2008 to December 31, 2008, January 1, 2009 to March 31, 2009 and April 1, 2009 to June 30, 2009 did not contain this information. It was stated to us by informedRx that the information was not provided by Medco. When asked, informedRx told us that Medco does not provide the information as part of the rebate report. Although in violation of this section of the contract, nobody at informedRx followed up with Medco on this.

Recommendation: CHP should pursue a contract amendment which states that if the rebate report is not received timely, then CHP can withhold payment until such report is provided (this wording does not currently exist in the PBM Services Agreement). CHP staff should verify that the required supporting information is provided in a timely manner. If the rebate report is not received timely, CHP staff should request that informedRx adhere to the terms of the contract and provide this information. informedRx should ensure that the rebate/admin fee is received from Medco and provided to CHP.

informedRx Response:
No response received.

CHP Management Response:
CHP concurs with the recommendation of timely receipt of supporting documentation that includes rebate information by NDC number, drug name, manufacturer and CHP product line. CHP will monitor the receipt of supporting documentation, and if it is not received CHP will immediately contact informedRx to ensure they remain compliant with current or amended contract terms. The contract for the upcoming RFP has been designed to include performance guarantees in the statement of work and will be reviewed in the evaluation process.

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COMPLIANCE FINDINGS (Continued)

Compliance Finding No. 3

Criteria: Attachment D-Exhibit 5-Paragraph F(3) States: "Contractor shall provide such rebate/administrative fee proceeds, less fees authorized to be paid to Contractor under this Agreement, to County in accordance with Schedule B-2, in the form of a quarterly check. The initial check will be issued on or about July 1, 2003, and subsequent payments will be made on or about the first day of every calendar quarter thereafter."

Condition/Cause: Payments made during the period being audited were made at varying times subsequent to the end of the quarter, but not "on or about the first day of every calendar quarter" as required by contract. informedRx failed to adhere to the contract requirements and it appears that CHP did not demand timely remittance of the quarterly rebate. It appears CHP does not have procedures in place which would ensure informedRx adheres to all timeframes established in the contract and that timely follow up is made when informedRx does not adhere to any section of the contract. The rebate for the period July 1, 2008 to September 30, 2008 was sent to CHP on June 26, 2009 and received by CHP on July 9, 2009. The rebate for the period October 1, 2008 to December 31, 2008 was sent to CHP on September 18, 2009 and received by CHP on September 30, 2009. The rebate for the period January 1, 2009 to March 31, 2009 was sent to CHP on December 10, 2009 and received by CHP on December 24, 2009. The rebate for the period April 1, 2009 to June 30, 2009 was sent to CHP on March 30, 2010 and received by CHP on April 1, 2010.

Recommendation: CHP should create and follow procedures to ensure informedRx adheres to all timeframes established in the contract and perform follow-ups with informedRx when they fail to do so. If informedRx is unable to adhere to the terms of the contract, a mutually agreeable timing for the quarterly payments should be reached, and the contract should be amended to reflect those revised dates. In addition, the amendment should indicate that an estimated equivalent portion of the informedRx reimbursement request would be withheld if submitted beyond a specified time period.

CHP Management Response:
CHP concurs with the recommendation, and will instruct accountable staff to monitor receipt of rebates to ensure compliance with contract terms. Additionally, CHP will discuss timing for quarterly rebate payments with informedRx, and if it is necessary alter the payment timetable.

informedRx Response:
informedRx/NMHC was paying the plan 270 days after the close of a quarter due to collections from pharma manufacturers. In 2010, the payment cycles were shortened to 180 days after the close of the quarter. The plan was paid up through second quarter of 2010. informedRx would like to recommend an addendum to alter the language in Exhibit 5 for payment of rebates. One hundred eighty days is standard in the industry to ensure all collections are received in order to pass on to the plan.

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COMPLIANCE FINDINGS (Continued)

Compliance Finding No. 4

Criteria: Attachment D-Exhibit 5-Paragraph G States: "County shall participate in Contractor's pharmacy recoupment program whereby Contractor shares recovery of monies owed by Subcontracted Pharmacies or Mail Service Pharmacies as a result of disallowed claims, either in whole or in part, identified during an audit of such pharmacy by Contractor. Contractor shall pay recovered monies to County less administrative fees, as set forth in Schedule B-2. Contractor shall also provide Director with a quarterly reimbursement savings report which shall reconcile the amount of recovered monies with claims disallowed by Contractor."

Condition/Cause: We reviewed the schedules of disallowed claims provided by informedRx and discovered that none of the recoupment of those claims was reimbursed to CHP. A check for the period January 1, 2007 to December 31, 2008 was subsequently sent to CHP on August 16, 2010 and received by CHP on August 26, 2010. Payment for the period January 1, 2009 to March 31, 2009 was received by CHP on November 24, 2010. We believe that the delay in recovery is mainly caused by informedRx's use of an external audit firm in resolving all audit recovery issues. Further, the amounts identified for recovery as compared to the actual amounts identified as collected via the informedRx field audit reports do not tie because certain amounts identified had not yet been collected. Delays in collection are mainly tied to the dollar volume of prescriptions submitted after the field audit report findings. If, by the time a reimbursement is due to CHP, and the dollar volume of subsequent prescriptions is insufficient to cover the amounts to be recouped, a difference would exist. This difference would conceptually be cleared in later remittances. In addition, informedRx did not provide CHP with quarterly reimbursement savings reports during the audit period of July 1, 2008 to June 30, 2009. There was no reason given by informedRx for this contract violation. informedRx should be held accountable to provide quarterly summaries of all recoverable monies identified through their required desk and field audits.

Recommendation: CHP should prepare a calendar listing of all informedRx performance requirements under the contract along with the performance dates. CHP staff should verify that all performance criteria are met. The CHP should pursue a contract amendment which states that in the event informedRx does not remit its collections within the timeframes established in the contract, an equivalent amount would be withheld by CHP until such recoveries are remitted by informedRx or resolved to the satisfaction of CHP.

CHP Management Response:
CHP concurs with the recommendation to design a monitoring tool defining performance requirements based on a calendar date listing. CHP intends to hold informedRx accountable for providing quarterly reimbursement savings reports that reconcile recovered amounts with disallowed claims, and furthermore, will assign staff to track reporting dates, review/verify the information to ensure performance requirements are met.

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COMPLIANCE FINDINGS (Continued)

Compliance Finding No. 4 (Continued)

informedRx Response:
informedRx is providing updated audit activity reports quarterly. We will recommend penalty language is added to the contract addendum stating a $500 penalty would apply if audit recoveries were not paid to CHP timely.

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COMPLIANCE FINDINGS (Continued)

Compliance Finding No. 5

Criteria: Attachment D – Exhibit 6 - Paragraph 13, Subparagraph 1 States: "Beginning on December 20, 2002 and thereafter on the 20th of each calendar month of the remaining Agreement term, other than June 20, 2005, County shall deposit electronically in a commercial, interest bearing account of FDIC-approved bank designated by Contractor, a sum of money to pay Contractor only for valid claims submitted to Contractor by its Subcontracted Pharmacies, Mail Service Pharmacies, Specialty Services Pharmacies and by any County Contract Pharmacies. Contractor shall use this account exclusively to pay for claims submitted by such pharmacies for prescription services and other Covered Services rendered by them to members. Contractor shall not place or comingle other Contractor monies in this account, nor shall it place or comingle the monies of any third party to this account." Further, the paragraph states "As noted, Contractor shall use each of these payments, together with any interest that the account may accrue, only for the purpose of paying pharmacies for valid claims submitted under this agreement." Lastly, the contract further states "Quarterly, on or about April 1, July 1, October 1 and January 1, CHP representatives and authorized representatives or Contractor shall meet to review transactions in the account for the prior quarter (ending March 19, June 19, September 19, or December 19). If the parties find that an excess amount has accumulated in the account as of midnight the last day of the quarter, i.e., over $5,000, that sum of money in excess of $5,000 shall be withdrawn by Contractor and either returned to the County forthwith, or shall serve as a credit on current Contractor billings to County for other services listed hereunder if Director in his discretion so approves in writing. If all other Contractor billings to County have been paid, Contractor shall return the excess amount forthwith to County."

Condition/Cause - Comingling of Funds and Interest Earned: We obtained confirmation from informedRx that beginning in March 2009; payments received by informedRx from CHP for informedRx semi-monthly billings, were deposited into a general account and comingled with other funds. Funds are then transferred out of this account to pay for pharmacy reimbursements. informedRx subsequently set up a restricted account with $1.5 million as security for monies received from CHP that are deposited into the general account. Furthermore, the comingling of funds makes it impossible to verify that the correct amount of interest relating to CHP funds was used to pay pharmacy claims. When asked why this occurred, informedRx responded that it was a unilateral decision made by them, and while in violation of the contract, they felt that the restricted account would mitigate any violations. They never discussed their decision with CHP.

Quarterly Meetings: No quarterly meetings occurred during the audit period and therefore amounts in excess of $5,000 were not addressed. This contract requirement was not followed by either CHP or informedRx.

Recommendation: CHP should meet with informedRx to address these issues, reach an agreement as to the disposition of these exceptions and amend the contract accordingly. If the

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COMPLIANCE FINDINGS (Continued)

Compliance Finding No. 5 (Continued)

Recommendation (Continued)

contract requires that a separate account be maintained, CHP should request monthly copies of the bank statements, and copies of each signed and approved bank reconciliation for this account.

CHP Management Response:
CHP concurs with the recommendation, and will meet with informedRx to discuss complying with the contract's separate account requirement or another acceptable account setup; so long as interest earned and excess amounts can be readily identified. In either case CHP will enforce the contract's quarterly meeting requirement to review prior month's transactions, and require a monthly bank reconciliation of activity pertinent to CHPs account.

informedRx Response:
informedRx will meet with CHP to discuss the bank account. If a separate account is still necessary, we can accommodate that request. If the separate account is not necessary, we are suggesting an addendum with alternate language for Exhibit 6 and provide the bank account statement and reports on a frequency approved by CHP.

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COMPLIANCE FINDINGS (Continued)

Compliance Finding No. 6

Criteria: Attachment D – Exhibit 3 Paragraph 1A(1)(a)(1) States: "Upon written request by the CMO, Contractor shall use its best efforts to establish a written agreement with a new Subcontracted Pharmacy for the CHP Pharmacy Network."

Condition/Cause: Due to informedRx's statement of confidentiality, we were unable to review any agreements between informedRx and the Subcontracted Pharmacies under the CHP Network. Therefore, we were unable to verify informedRx's compliance with the contract.

Recommendation: If the contracts between informedRx and Subcontracted Pharmacies for the CHP Pharmacy Network are subject to confidentiality, CHP should prepare a listing of all contract parameters that CHP requires between informedRx and the Subcontracted Pharmacy. In addition, CHP should pursue a contract amendment which requires informedRx to have a copy of that listing be mutually signed by informedRx and the Subcontracted Pharmacy stating that all of the required terms have been agreed to.

CHP Management Response:
informedRx submits a list of pharmacies on a monthly basis to CHP, and they have CHP's policy on credentialing. In addition, the upcoming RFP for PBM services is designed to include language to ensure that CHP is notified by the PBM of any new subcontracted pharmacies and access to the subcontract template will be available for viewing upon request.

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COMPLIANCE FINDINGS (Continued)

Compliance Finding No. 7

Criteria: Attachment D – Exhibit 3 Paragraph 1A(5) States: "If Contractor's desktop audit findings or credentialing reviews of Subcontracted Pharmacies meet specified Contractor criteria for an on-site compliance audit by Contractor or its subcontracted auditor, Contractor shall notify Director and obtain written approval from Director prior to conducting such audit."

Condition/Cause: informedRx stated that written approval from the Director was waived during a conference call with CHP. When discussed with CHP we were informed that they have no record of this requirement being waived.

Recommendation: CHP should review the entire contract, renegotiate, if applicable, and amend all outdated sections or areas of non-compliance. In addition, CHP should establish verification checks and balances to ensure that the terms of the contract are adhered to in the future.

CHP Management Response:
CHP concurs with the recommendation, and will establish internal reviews of the PBM contract to occur on an annual basis and modify the contract as appropriate.

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Definitions:

Average Wholesale Price (AWP) is a prescription drugs term referring to the average price at which wholesalers sell drugs to physicians, pharmacies, and other customers.

Pharma, a term used to reference various drug manufactures.