



# Legislative Post Audit Performance Audit Report Highlights

## Kansas State Employee Health Plan: Evaluating the State's Pharmacy Benefits Management System

### Report Highlights

February 2015 • R-15-002

#### **Summary of Legislator Concerns**

*Legislators are interested in knowing whether Kansas has sufficient controls in place to help ensure that its current pharmacy benefit manager is minimizing state costs.*

#### **Background Information**

*The State Employee Health Plan provides health care benefits to about 92,000 state employees and their dependents.*

*The plan is overseen by the Kansas State Employees Health Care Commission, but Kansas Department of Health and Environment (KDHE) staff administer the daily operations.*

*The prescription portion of the plan costs about \$80 million each year.*

*Since 2006, Caremark has been the pharmacy benefit manager for the prescription drug plan.*

#### **QUESTION 1: Does Kansas have Sufficient Controls in Place to Minimize State Costs and Enhance Benefits through its Pharmacy Benefits Manager?**

- Because a pharmacy benefit manager controls many aspects of the prescription benefit plan, there is a risk that it may not manage the plan in the state's best interest. While the state cannot fully eliminate these risks, it can mitigate them through a combination of good contractual provisions and monitoring activities.
- The Health Care Commission has negotiated strong contractual provisions, but KDHE does little to verify Caremark's compliance with those terms.
  - The commission has included numerous contractual provisions to reduce the risks associated with using a pharmacy benefit manager.
  - However, as the administrator of the contract, KDHE does not routinely take the steps needed to verify that Caremark is complying with those provisions.
- KDHE does not adequately check claims data for spread pricing, which may occur if a pharmacy benefit manager charges the state more than it pays the pharmacy for a claim.
  - Because spread pricing has the potential to affect every claim, it represents a significant risk to the state that needs to be addressed.
  - The state only occasionally audits claims for spread pricing, and when it does, it does not independently verify Caremark's information.
  - Although KDHE's monitoring for spread pricing is weak, our analysis of 259 prescription drug claims found no evidence of spread pricing.
- Although ensuring the state receives its share of drug rebates is difficult, KDHE does little to monitor Caremark's compliance. Rebates are paid by drug manufacturers to pharmacy benefit managers and the state's contract with Caremark requires the rebates to be passed on to the state.
  - Monitoring these rebates is important because they can total in the millions of dollars, and it can be easy for pharmacy benefit managers to keep them.
  - However, monitoring drug rebates is difficult because pharmacy benefit managers and drug manufacturers consider rebate information proprietary.
  - KDHE has not taken proactive steps to verify rebate amounts, but told us they plan to audit drug rebates during calendar year 2015.
- The state does little to verify how the state employee prescription drug formulary (list of medicines covered by the plan) is managed.
  - Scrutiny of proposed changes is important to ensure the changes benefit the state rather than the pharmacy benefit manager.
  - Despite the contract giving KDHE the final say on any formulary changes, Kansas relies primarily on Caremark's recommendations.

- The state does not take steps to ensure it receives all claim recoupments that Caremark collected from pharmacies.
  - There is risk that payments recouped from pharmacies may not be passed to the state.
  - The state does not verify whether Caremark has provided all the funds it has recouped from pharmacies.
  - The total claims recouped from pharmacies likely does not merit the state spending significant resources to ensure that the state receives all that it should.
- The state's contract with Caremark includes few controls related to mail-order prescriptions, but state spending for mail-order is minimal.
  - There is a risk that the pharmacy benefit manager will charge more for mail-order prescriptions than the same prescription at a walk-in pharmacy.
  - The state does not have controls related to mail-order prescriptions.
  - However, the lack of controls is not a significant issue because mail-order prescriptions comprise a very small portion of total prescription drug costs.
  - Therefore, there is little reason to dedicate additional state resources at this time.

On May 6, 2015, we revised the audit report to include a discussion of specialty drugs. Appendix D in the full report includes a "strike-and-add" version of those changes, which include the following information:

- Although specialty drugs account for 32% of total prescription drug costs for the State Employee Health Plan, we could not verify whether KDHE is proactively monitoring this area.
  - Monitoring and controlling how much the state spends on specialty drugs is important because they are a significant portion of the total costs and are increasing rapidly.
  - KDHE officials told us they monitor the total costs of specialty drugs and check specialty drug pricing for accuracy, but we could not verify these actions.
  - KDHE plans to more closely monitor specialty drug costs and take steps to ensure the state receives all drug manufacturer rebates for specialty drugs.

## SUMMARY OF RECOMMENDATIONS

### Question 1 Recommendations:

We made a series of recommendations aimed at addressing the state's lack of monitoring its pharmacy benefits manager for the state employee prescription drug plan. These include developing processes to verify compliance with contract terms or contracting with a third party to do so.

## AGENCY RESPONSE

In its response, the agency stated that it found the report's findings helpful and that it planned to immediately implement additional controls.

### HOW DO I REQUEST AN AUDIT?

By law, individual legislators, legislative committees, or the Governor may request an audit, but any audit work conducted by the division must be directed by the Legislative Post Audit Committee. Any legislator who would like to request an audit should contact the division directly at (785) 296-3792.

*Caremark provides a number of prescription management services as the state's pharmacy benefit manager. These include:*

- *Caremark has established a network of pharmacies where members can fill prescriptions.*
- *Caremark negotiates drug rebates and administers the plan's preferred drug list (formulary).*
- *Caremark processes and pays prescription drug claims.*

### Legislative Division of Post Audit

800 SW Jackson Street  
Suite 1200  
Topeka, Kansas 66612-2212  
Telephone (785) 296-3792  
Fax: (785) 296-4482  
Website:

<http://www.kslpa.org/>

Scott Frank  
Legislative Post Auditor

For more information on this  
audit report, please contact

**Laurel Murdie**  
(785) 296-3792

Laurel.Murdie@lpa.ks.gov