


ANNE ARUNDEL COUNTY
Annapolis, Maryland
Auditor's Office

INTER-OFFICE CORRESPONDENCE

To: Members of the County Council
County Executive John R. Leopold
Andrea Fulton, Personnel Officer

From: Teresa Sutherland, County Auditor 

Date: April 11, 2012

Subject: Executive Summary - Caremark Performance Audit

We conducted a performance audit of the County's prescription drug contract with Caremark managed by the Office of Personnel. We conducted our audit in accordance with generally accepted government auditing prescribed by the Comptroller General of the United States.

The objectives of our audit were to determine whether the Office of Personnel:

- had adequate internal controls to ensure that amounts paid under the prescription drug contract with Caremark were appropriate and authorized, including:
 - whether the Office of Personnel reports individuals who are no longer eligible for prescription drug coverage to Caremark in a timely manner;
 - whether Caremark discontinued providing covered services in a timely manner.
- had adequate internal controls to ensure amounts paid under the Caremark contract for administrative and miscellaneous fees were appropriate and authorized; and
- whether the Office of Personnel had an effective methodology for monitoring Caremark's performance and compliance with certain terms of the contract including:
 - whether Caremark provided agreed-upon pricing for drugs;
 - whether Caremark provided rebates in accordance with contract guarantees;
 - whether Caremark performed required pharmacy audits and forwarded savings realized to the County;
 - whether the guaranteed savings for the Custom Care program were achieved; and
 - whether Caremark has met contractual performance standards or paid damages to the County.

We determined that:

- The Office of Personnel did not have adequate internal controls in place to ensure the amounts paid under the prescription drug contract with Caremark were appropriate and authorized.
- The invoices for administrative and miscellaneous fees were properly approved and the fees billed were reasonable. However, the fees are driven by enrollment counts, and we noted deficiencies in the accuracy of the enrollment counts.
- The Office of Personnel did not have an effective methodology for monitoring Caremark's performance and compliance with certain terms of the contract.

Our audit methodology, detailed findings and recommendations, and management's responses are found in the attached report dated April 11, 2012.



**ANNE ARUNDEL COUNTY
OFFICE OF THE COUNTY AUDITOR**

April 11, 2012

The Honorable Members of the County Council
The Honorable County Executive John R. Leopold
Ms. Andrea Fulton, Personnel Officer
Anne Arundel County
44 Calvert Street
Annapolis, Maryland 21401

Dear Members and Mr. Leopold:

We conducted a performance audit of the County's prescription drug contract with Caremark managed by the Office of Personnel. We conducted our audit in accordance with generally accepted government auditing standards prescribed by the Comptroller General of the United States. Those standards require us to plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence we obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The objectives of the audit were to determine whether the Office of Personnel:

- had adequate internal controls to ensure that amounts paid under the prescription drug contract with Caremark were appropriate and authorized, including:
 - whether the Office of Personnel reports individuals who are no longer eligible for prescription drug coverage to Caremark in a timely manner;
 - whether Caremark discontinued providing covered services in a timely manner.
- had adequate internal controls to ensure amounts paid under the Caremark contract for administrative and miscellaneous fees were appropriate and authorized; and
- whether the Office of Personnel had an effective methodology for monitoring Caremark's performance and compliance with certain terms of the contract including:
 - whether Caremark provided agreed-upon pricing for drugs;
 - whether Caremark provided rebates in accordance with contract guarantees;
 - whether Caremark performed required pharmacy audits and forwarded savings realized to the County;
 - whether the guaranteed savings for the Custom Care program were achieved; and
 - whether Caremark has met contractual performance standards or paid damages to the County.

To accomplish our objectives, we:

- met with the Assistant Personnel Officer and staff in the Office of Personnel to document the procedures and internal controls over the administration of the Caremark contract including related monitoring;
- tested compliance with established procedures, internal controls, and contract terms; and
- reviewed available accounting records, contractor reports, claims data, and other applicable contract documents.

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Our findings and recommendations address controls in place and transactions that occurred during calendar years 2009 and 2008. Management's responses to our recommendations are shown in italics.

This report is intended solely for the use of the County Council and the management of Anne Arundel County. However, this report is a public document that may be obtained from the Office of the County Auditor.

BACKGROUND

Anne Arundel County has an agreement with Caremark to administer the County's prescription drug plan for approximately 7,500 employees, retirees, spouses, and dependents. The agreement with Caremark provides specific terms on the administration of the prescription benefit plan, including guaranteed discounted pricing, pharmaceutical company rebates due to the County, pharmacy audits, and specific cost-saving measures. The County's payments to Caremark for actual prescription claims and administrative fees were \$18.6 million in calendar year 2008 and \$21.9 million in calendar year 2009.

FINDINGS AND RECOMMENDATIONS

- Objective 1:** To determine whether the Office of Personnel had adequate internal controls to ensure that amounts paid under the prescription drug contract with Caremark were appropriate and authorized, including:
- whether the Office of Personnel reports individuals who are no longer eligible for prescription drug coverage to Caremark in a timely manner; and
 - whether Caremark discontinued providing covered services in a timely manner.

We determined that the Office of Personnel (Personnel) did not have adequate procedures to ensure that the amounts paid under the Caremark contract were appropriate and authorized. Specifically, the Office of Personnel did not report individuals who are no longer eligible for prescription drug coverage to Caremark in a timely manner. However, we determined that once notified by Personnel, Caremark did terminate coverage timely.

Findings

In the spring of 2009, the Office of Personnel performed a limited review of participants who previously participated in one of the health insurance plans terminated by the County. Personnel identified a number of individuals whose coverage should have ended because the employees no longer worked for the County, and they notified Caremark.

Using the list of terminated employees Personnel provided to Caremark, we determined that Caremark terminated the employees' coverage timely once Personnel notified Caremark of the terminations. However, we noted that Caremark paid some prescription claims incurred after the employees had terminated their employment with the County, but before Personnel notified Caremark of the terminations.

We brought our findings to the attention of Personnel management. Personnel then provided a list to Caremark of what they believed were all employees terminated from June 2004 – June 2010, asking Caremark to provide data on claims paid for those employees after their termination dates. Caremark identified claims totaling \$177,000 incurred and paid after the employees were terminated.

Personnel sent letters to the former employees requesting reimbursement for the improperly paid claims. Many responded that they were unaware that the County plan was used by the pharmacy to process their prescriptions, and a number said they had coverage elsewhere. On advice of the Office of Law, the Office of Personnel began collection efforts for \$37,000 of erroneous claims paid since July 1, 2008. The Office of Law advised the Office of Personnel not to pursue collection of the remaining accounts because of the age or small size of the accounts.

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To determine whether Personnel's list of employees terminated between from June 2004 – June 2010 was complete and accurate, we obtained a list of all employees terminated in 2009 and compared it to Personnel's list on a test basis. We determined that Personnel's list did not include 21 of the 30 employees we selected for testing. As a result of our findings, Personnel reviewed their records and identified an additional 229 terminated employees. They then asked Caremark to determine whether any claims were paid improperly for these terminated employees, and Caremark identified approximately \$700 of improper claims. Personnel has requested repayment of these improper amounts from the employees.

Personnel management told us that employee terminations were not always communicated to Caremark timely in prior years, but that they have taken steps to improve the timeliness of communicating the terminations to Caremark and updating the benefit records. For example, in fiscal year 2011, Personnel began routing notifications of terminations directly from departments to the staff responsible for updating the benefit records at the same time the notifications are provided to the staff responsible for terminating the employee in the payroll system. Our test of employees terminated in August 2010 confirmed that Personnel has improved the timeliness of its notifications to Caremark.

To ensure that terminations are processed timely, Personnel has initiated a process to periodically review terminations with Caremark to determine whether additional prescription benefits were paid improperly. Personnel obtained this information for calendar year 2010 and identified several instances of small amounts (less than \$120) paid after the appropriate end date and one instance of \$620 paid that requires further analysis by Personnel.

Recommendations

To ensure claims are paid only for eligible participants, we recommend that Personnel:

- perform a 100% match between its records and Caremark's records to ensure all participants receiving prescription drug benefits are eligible for coverage. If any discrepancies are noted, Personnel should take action to seek reimbursement for any claims paid improperly.
- establish a process to verify that terminated employees are removed from prescription coverage as of their date of termination, unless the employee elects to continue coverage under COBRA at their own expense.
- continue to work with the Office of Law to determine the collectability of improperly paid claims amounts and pursue these amounts for collection.

Management's Response:

The Office of Personnel is currently in the process of issuing an RFP for prescription drug coverage. Many of the recommendations listed here will be incorporated into the new contract whether it is with the current provider or a new vendor.

As noted, the Office of Personnel has already begun routing notifications of terminations from departments directly to staff members responsible for updating benefit records in order to end date benefit coverage as soon as possible. It should be noted that this finding amounts to less than .2% of the annual claims.

The Office of Personnel will implement data matches with Caremark in order to ensure that terminate employees do not receive benefits after their date of termination and that the County and Caremark agree on the total number of active participants.

To date, the Office of Personnel has recovered over \$25,000 from Caremark and directly from former employees as reimbursement for pharmacy claims after dates of termination. This amount includes a payment from Caremark for former employees who left the County and joined the Board of Education. This amount was charged back to the BOE.

Objective 2: To determine whether the Office of Personnel had adequate internal controls to ensure amounts paid under the Caremark contract for administrative and miscellaneous fees were appropriate and authorized.

We reviewed six Caremark invoices totaling \$2.8 million and verified that the invoices were properly approved and that fees billed were reasonable. However, administrative fees are driven by the plan's enrollment count, and we noted deficiencies related to the accuracy of the enrollment counts above.

Objective 3: To determine whether the Office of Personnel had an effective methodology for monitoring Caremark's performance and compliance with certain terms of the contract including:

- whether Caremark provided agreed-upon pricing for drugs;
- whether Caremark provided rebates in accordance with contract guarantees;
- whether Caremark performed required pharmacy audits and forwarded savings realized to the County;
- whether the guaranteed savings from the Custom Care program were achieved; and
- whether Caremark has met contractual performance standards or paid damages to the County.

Our review disclosed that during calendar years 2009 and 2008, the Office of Personnel did not have an effective methodology to monitor Caremark's performance and compliance with certain contract terms. Personnel told us that they met with a Caremark representative to review any plan or billing issues, and that Personnel received periodic management reports from Caremark. However, Personnel did not adequately monitor the specific terms of the contract as noted below:

Agreed-Upon Drug Pricing

Findings

The contract with Caremark sets pricing terms that include specific discounts from the average wholesale price. The average wholesale price, which is proprietary information, is a standard price for prescription drugs published daily. Caremark's discount from the average wholesale price depends on the purchase method (retail pharmacy or mail-order) and varies by brand-name or generic.

The contract guarantees an aggregate discount amount on certain categories of prescription purchases. If the guaranteed discounts are not met, Caremark is required to pay a cash settlement to the County to meet the guaranteed amounts. The categories with guaranteed discount amounts are:

- the aggregate purchase of brand-name drugs from retail pharmacies;
- the aggregate purchase of generic drugs from retail pharmacies; and
- the aggregate purchase of generic drugs through the mail.

Additionally, while there is no guaranteed aggregate discount amount for brand-name prescriptions purchased through the mail, the contract provides for a fixed discount on this category of drugs.

Our review showed that Personnel does not have effective procedures in place to ensure Caremark complies with the discount provisions of the contract. Caremark is required to periodically provide reports comparing the actual discounts to the discounts prescribed in the contract. We found that the Office of Personnel obtained the required reports from Caremark, but Personnel did not analyze the reports to determine whether Caremark's analyses was reasonable or complete.

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We reviewed Caremark's reports for calendar years 2008 and 2009 and determined that the reports did not include all claim activity. The reports did not include brand-name prescriptions processed through the mail, which represent 50% of the dollar value of all claims processed. Further, the reports for the latter part of 2009 did not include all retail prescription drug claims, and we were unable to reconcile the retail claims reported to claims data Caremark provided. Therefore, we were unable to determine whether Caremark complied with the agreed-upon pricing in the contract.

We also tested claims data for calendar years 2008 and 2009 to determine whether the agreed-upon discount rates were met. Our test of claims disclosed that the agreed-upon discount rate often was not met for retail purchases, consistent with the reports provided by Caremark in calendar years 2008 and 2009. In compliance with the contract, Caremark disclosed that it did not meet the guaranteed discounts for certain retail sales in 2008 and 2009, and they compensated the County accordingly.

Recommendations

We recommend that the Office of Personnel ensure Caremark provides all required reports comparing actual discounts to the discounts required in the contract. Personnel should work with Caremark to ensure the reports include all claim activity and that the amounts on the reports are reconciled to claims data. Personnel may wish to consider having the auditor they have under contract perform an independent analysis of discounts provided. Additionally, Personnel should ensure that any resulting compensation due to the County to meet Caremark's guaranteed discounts if applicable, is obtained.

Management's Response:

The Office of Personnel is working with Caremark in order to receive the reports necessary to make sure that the County is getting the discounts required by the Contract.

The Office of Personnel did engage an outside auditor to review Caremark. The audit did note that within the sample, CVS/Caremark was pricing drugs within the terms of the contract.

Rebates

Findings

The County's contract requires Caremark to pay to the County 100% of the rebates it earns on the County's activity. Further, the contract establishes minimum rebate guarantees based on the number and types of prescription claims.

We determined that the Office of Personnel was not monitoring rebates to ensure that the rebates received met or exceeded the amounts guaranteed in the Caremark contract. Once we brought this to the Office of Personnel's attention, they developed a tracking process to ensure the County was receiving at least the minimum guaranteed rebate amounts.

We reviewed the rebate paid to the County and determined that Caremark paid the County \$4 million in rebates for calendar years 2008 and 2009, which exceeded the minimum guaranteed amounts. We are unable to determine the actual rebate amounts received by Caremark on the County's activity without reviewing Caremark's records, which was beyond the scope of our audit objectives.

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Recommendation

We recommend that Personnel continue using its tracking process to ensure the County receives at least the minimum guaranteed rebate amounts. The Office of Personnel may also wish to consider using the auditor under contract with the County to audit Caremark's records to determine whether Caremark is paying 100% of the rebates to the County.

Management's Response:

The Office of Personnel will continue to use its tracking process to ensure that the County receives at least the minimum guaranteed rebates.

The Office of Personnel did engage an outside auditor to review Caremark. The audit did note that on a benchmark basis, CVS/Caremark was paying rebates in compliance with the terms of the contract.

Pharmacy Audits

Findings

The County's contract with Caremark requires Caremark to (1) audit a minimum of 1% of pharmacies on-site, (2) perform annual audits of mail and speciality pharmacies, (3) perform daily reviews of claims in excess of \$1,000, and (4) submit annual reports of pharmacy audit results to the County. Our review showed that Personnel does not have effective procedures in place to ensure Caremark complies with this contract provision because the Office of Personnel did not obtain the periodic audit information from Caremark.

We were unable to determine whether Caremark performed all required pharmacy audits because Caremark did not provide the required annual reports to the County. A Caremark representative told us that the required on-site pharmacy audits and daily reviews of claims in excess of \$1,000 were performed. However, the Caremark representative would not confirm that Caremark audited the specialty and mail pharmacies. Rather, the representative said that these pharmacies were subject to the daily review process for claims in excess of \$1,000.

Caremark did provide a list of audit recoveries for calendar year 2008 and 2009. Although we did not reconcile all audit recoveries individually, we did verify that the recoveries received met or exceeded the amount reported in the aggregate.

Recommendations

We recommend that the Office of Personnel ensure Caremark perform all required pharmacy audits and submit the required reports to the County. Further, we recommend that Personnel verify that all audit recoveries are passed through to the County.

Management's Response:

The Office of Personnel will work with Caremark to be sure that all required pharmacy audits are performed and that all required reports are submitted.

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Custom Care Program Guaranteed Savings

Findings

Under the Custom Care program, the County pays Caremark an administrative fee to review and evaluate the appropriateness and cost-effectiveness of prescriptions filled. If Caremark identifies a prescription that it believes is not appropriate or cost-effective, Caremark may consult with the physician on the prescribed medication, including the number of doses or the length of time the medication is prescribed. Caremark reports savings it identifies to the County, and the contract requires Caremark to guarantee savings equal to 200% of the fees paid for the service.

We determined that the Office of Personnel does not have effective procedures in place to ensure Caremark provides the guaranteed savings under the Custom Care program. Personnel does not review or verify the information provided by Caremark on the savings identified. Further, the contract with Caremark does not define how the savings will be calculated. For example, if Caremark consults with a physician and determines that a \$25/month generic drug could be substituted for a \$100/month brand-name drug, for how many months is the \$75 savings counted in determining the savings generated under the Custom Care program?

Recommendations

We recommend that the Office of Personnel work with Caremark to define the parameters used to determine the savings under the Custom Care program. Only then can compliance with the contract provision be determined. Once the parameters are defined, Personnel may wish to consider having the auditor it has under contract review the savings calculated by Caremark to ensure the savings equal at least 200% of the fees paid for the service.

Management's Response:

The Office of Personnel will work with Caremark to define the parameters used to determine and calculate the savings under the program. Once the parameters are determined, the Office of Personnel will determine the best way to measure compliance.

Performance Standards

Findings

Caremark's contract identifies eleven performance guarantees that include aggregate liquidated damages of \$250,000 annually if Caremark fails to meet the guarantees. The guarantees include items such as the timeliness of the delivery of management reports, the timeliness of processing of mail prescriptions, etc.

We obtained reports produced by Caremark which indicated that the eleven performance guarantees were met in both calendar years 2008 and 2009. We requested supporting documentation for selected guarantees and noted that the documentation provided supported Caremark's assertions that the guarantees had been met.

However, we noted that while the Office of Personnel received the annual reports from Caremark for calendar years 2008 and 2009, Personnel did not independently assess Caremark's performance or obtain supporting documentation to support Caremark's assertions.

Recommendation

The Office of Personnel should independently assess Caremark's performance and obtain documentation to support Caremark's assertions. Personnel may wish to use its contract auditor to do this.

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Management's Response:

The Office of Personnel will request and review supporting documentation to ensure that Caremark is meeting Performance Standards. The use and measure of performance standards is being reviewed as part of the upcoming prescription drug RFP. The audit report confirms that the Performance Standards were met.

OTHER COMMENTS

Average Wholesale Price

In March 2009, the United States District Court for the District of Massachusetts approved a settlement that required the contractor providing the average wholesale pricing to Caremark to reduce the average wholesale prices used by the Caremark effective September 26, 2009. Consequently, the amounts the County would pay Caremark for prescriptions would decrease, as would Caremark's profits from County activity.

To offset the reduction in Caremark's profits that would result from the settlement, the County agreed to amend Caremark's contract, giving Caremark the ability to change the benchmark used for pricing drugs without obtaining the County's approval. Ms. Fulton, Personal Officer, advised us that she reviewed the contract amendment prior to its enactment and that the County's benefit consultants advised her that the amendment included industry-standard language.

Our testing of claims paid after the contract terms were amended showed that Caremark complied with the revised terms and priced the County's prescriptions using its own calculated average wholesale price. However, in our opinion, allowing Caremark to set the pricing benchmarks without County approval does not give the County proper oversight of the contract.


We recommend that the Office of Personnel modify the contract with Caremark to require the County's approval for any changes in the pricing benchmarks.

Management Responses:

The Office of Personnel has already put language into the upcoming RFP that will required the vendor to justify any changes to pricing benchmarks and that any changes will be subject to approval by the County.

We thank the Office of Personnel for their assistance and courteous cooperation during our audit. Please call if you have any questions regarding our findings and recommendations.

Sincerely,


Teresa Sutherland, CPA
County Auditor