

PERFORMANCE AUDIT REPORT

Pennsylvania Department of Human Services

PerformRx, LLC

An Audit of the Pharmacy Benefit Manager Services for
the Physical HealthChoices Medicaid Program
in Pennsylvania

August 2024



Commonwealth of Pennsylvania
Department of the Auditor General

Timothy L. DeFoor • Auditor General



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TIMOTHY L. DEFOOR
AUDITOR GENERAL

August 28, 2024

The Honorable Valerie A. Arkoosh, MD,
MPH
Secretary
Pennsylvania Department of Human
Services
P.O. Box 2675
Harrisburg, PA 17110-2675

Mr. Jim Gartner, MBA, R.Ph.
President
PerformRx, LLC
200 Stevens Drive
Philadelphia, PA 19113-1570

Dear Secretary Arkoosh and Mr. Gartner:

This report contains the results of the Department of the Auditor General's performance audit of the Pennsylvania Department of Human Services (DHS) Physical HealthChoices (HealthChoices) Medicaid program and the pharmacy benefit manager (PBM) PerformRx, LLC (PerformRx). Our audit period was January 1, 2022, through December 31, 2022. This performance audit was conducted pursuant to Sections 402 and 403 of The Fiscal Code and Section 449.2 of the Human Services Code.¹

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we 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.² We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Our audit included the following three objectives:

Pertaining to DHS, the audit objectives were as follows:

- Determine whether DHS effectively monitored the PBMs' pharmacy claims, including, but not limited to, the accuracy of the pharmacy information used to prepare the capitation rates for the HealthChoices Medicaid program.

¹ See 72 P.S. §§ 402 and 403, 62 P.S. § 449.2, effective December 27, 2022 (Act 98 of 2022).

² U.S. Government Accountability Office. *Government Auditing Standards*. 2018 Revision. Technical Update April 2021.

- Determine whether DHS effectively monitored the PBMs' contracts to ensure compliance and transparency for the HealthChoices Medicaid program.

Pertaining to PerformRx, the audit objective was as follows:

- Determine if the PBM was compliant with 62 P.S. § 449(h)(3) and (4) of the Human Services Code (as amended by Act 120 of 2020) regarding charges and fees paid to the PBM by the pharmacies, or pharmacy service organizations, as compared to the corresponding amounts billed to the applicable HealthChoices managed care organizations (MCOs) to ensure transparency, compliance, and accountability for the HealthChoices Medicaid Program.

Our methodology to satisfy these audit objectives, along with our evaluation of management's internal controls significant to these audit objectives, is included in *Appendix A* of this report. This report presents three findings and 17 recommendations.

As discussed in *Finding 1*, we found that DHS failed to effectively monitor the HealthChoices program's pharmacy expenditures of \$4.6 billion in calendar year 2022. This resulted in undisclosed spread pricing in which PBMs were not reporting transmission fees to the MCOs and DHS that are charged to the pharmacies. This lack of transparency resulted in overstated pharmacy data. DHS declined to provide MCO financial reports, which prevented the auditors from determining whether the transmission fees charged by PBMs were properly accounted for in the MCOs' Medical Loss Ratio (MLR) calculations or properly accounted for in setting future capitation rates for the HealthChoices program.

In *Finding 2*, we found DHS did not effectively monitor contracts between the Physical HealthChoices MCOs and PBMs. DHS did not have written policies and procedures for its contract monitoring efforts, and it did not verify that PBM contracts complied with the HealthChoices contract.

In *Finding 3*, we found PerformRx, LLC was transparent and accountable to the pharmacies for transmission fees charged during pharmacy drug claims but was not adequately transparent to the three HealthChoices MCOs or DHS.

In closing, we thank DHS and PerformRx for their cooperation and assistance during the audit. DHS is in general disagreement with *Finding 1* and general agreement with *Finding 2*. See *DHS' Response and Auditor's Conclusion* section of this audit report. PerformRx is in general agreement with *Finding 3*. For further detail, see the *PerformRx LLC's Response and Auditor's*

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Conclusion section of this audit report. We reserve the right to follow up at an appropriate time to determine whether and to what extent our recommendations have been implemented.

Sincerely,

Timothy L. DeFoor
Auditor General

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Executive Summary

This report presents the results of our performance audit of the Pennsylvania Department of Human Services (DHS) Physical HealthChoices (HealthChoices) Medicaid program regarding DHS's monitoring of pharmacy claims and pharmacy benefit manager (PBM) contracts, as well as one of the PBMs, PerformRx, LLC's (PerformRx) compliance with Act 120 of 2020. Our performance audit included the following three objectives.

Pertaining to DHS, the audit objectives were as follows:

- Determine whether DHS effectively monitored the PBMs' pharmacy claims, including, but not limited to, the accuracy of the pharmacy information used to prepare the capitation rates for the HealthChoices Medicaid program.
- Determine whether DHS effectively monitored the PBMs' contracts to ensure compliance and transparency for the HealthChoices Medicaid program.

Pertaining to PerformRx, the audit objective was as follows:

- Determine if the PBM was compliant with 62 P.S. § 449(h)(3) and (4) of the Human Services Code (as amended by Act 120 of 2020) regarding charges and fees paid to the PBM by the pharmacies, or pharmacy service organizations, as compared to the corresponding amounts billed to the applicable HealthChoices managed care organizations (MCOs) to ensure transparency, compliance, and accountability for the HealthChoices Medicaid Program.

The audit period was January 1, 2022, through December 31, 2022.

Our audit results are contained in three findings with 17 recommendations. DHS is in general disagreement with *Finding 1* and general agreement with *Finding 2*. See *DHS' Response and Auditor's Conclusion* section of this audit report. PerformRx is in general agreement with *Finding 3's* facts but disagrees with the audit's interpretation of the transmission fees being spread pricing and the audit's implication that the transmission fees are not justifiable. For further detail, see *PerformRx LLC's Response and Auditor's Conclusion* section of this audit report.

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Finding 1 – DHS did not effectively monitor pharmacy drug claims which resulted in undisclosed spread pricing, overstated pharmacy data, and a lack of transparency.

Our audit found that DHS had an inaccurate perception that it lacked authority to audit PBMs; ineffectively monitored MCOs' pharmacy data reports; and ineffectively monitored spread pricing due to not validating pharmacy data to source documents resulting in DHS' unawareness of the existence of spread pricing. DHS therefore failed to effectively monitor the HealthChoices program's pharmacy expenditures of \$4.6 billion in calendar year 2022. Additionally, DHS declined to provide MCO financial reports preventing the auditors from determining whether the transmission fees charged by PBMs were properly accounted for in the MCOs' Medical Loss Ratio (MLR) calculations or properly accounted for in setting future capitation rates for the HealthChoices program.

The following deficiencies noted during the audit, if left unresolved, could put the program's federal funding at risk:

- DHS' lack of written policy and procedures for its monitoring of pharmacy encounter data to ensure encounter data submitted to the Centers for Medicare and Medicaid Services (CMS) is a complete and accurate representation of the services provided to the Medicaid members;
- DHS' lack of validation that encounter data provided to CMS is correct; and
- DHS' lack of oversight that the encounter records on PROMISE™ were actually reporting the amount the PBMs paid pharmacies.

We offer seven recommendations to DHS to assist in monitoring pharmacy claims and two recommendations to the General Assembly to amend Act 120 of 2020.

Finding 2 – DHS did not effectively monitor contracts between the Physical HealthChoices managed care organizations and pharmacy benefit managers.

DHS did not adequately monitor the contracts between MCOs and PBMs in the HealthChoices program. DHS does not have policies and procedures for its contract monitoring efforts, and it does not verify the current PBM contracts comply with the current HealthChoices contract.

DHS is the Pennsylvania's Medicaid oversight agency and has the responsibility to ensure compliance with the federal and state laws and its HealthChoices agreement. Reliance on the MCOs to monitor the program compliance is insufficient. For instance, although DHS banned spread pricing and implemented pass-through pricing effective January 1, 2020; by not

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monitoring the PBMs, our audit found that seven of the eight PBMs charged pharmacies transmission fees which created a spread between what the MCO paid the PBM and what the PBM paid the pharmacy for the same drug claim. This spread pricing practice, although allowable by Act 120 of 2020, requires transparency and disclosure to the pharmacies during adjudication of a pharmacy claim.

DHS' lack of effective oversight of the MCOs' PBM contracts provided little to no assurance that PBMs' contracts or practices comply with the current HealthChoices agreements, Act 120 of 2020, or specific state and federal regulations, potentially putting the Medicaid program at risk for noncompliance.

We offer five recommendations to DHS to assist in monitoring PBM contracts.

Finding 3 – PerformRx, LLC was transparent and accountable to the pharmacies for transmission fees but was not transparent to the MCOs and DHS regarding the fees which resulted in undisclosed spread pricing.

During calendar year 2022, PerformRx was the PBM for three of the HealthChoices MCOs. Our performance audit determined that PerformRx was partially compliant with Act 120 of 2020 by providing transparency to the pharmacies regarding transmission fees during adjudication. However, PerformRx failed to disclose the transmission fees to the three MCOs and DHS which violated the transparency requirements set forth by Act 120 of 2020. To remedy the noncompliance found by our audit, PerformRx submitted the required information dated back to 2019.

We offer three recommendations to PerformRx for transparency and monitoring of its pharmacy adjustments, like reversals.