



# Department of Civil Service

## Request For Proposal #RX-2018-1

### “Pharmacy Benefit Services for The Empire Plan, Excelsior Plan, Student Employee Health Plan, and NYS Insurance Fund Workers’ Compensation Prescription Drug Programs”

**RELEASE DATE: May 29, 2018**

**PROPOSAL DUE DATE: July 13, 2018**

**IMPORTANT NOTICE:** A Restricted Period under the Procurement Lobbying Law is currently in effect for this Procurement and it will remain in effect until State Comptroller approval of the resultant Contract. During the Restricted Period for this Procurement ALL communications must be directed, in writing, solely to the Department’s Procurement manager as listed below and shall be in compliance with the Procurement Lobbying Law and the NYS Department of Civil Service “Rules Governing Conduct of Competitive Procurement Process” (refer to Section II: Procurement Protocol and Process).

**Department of Civil Service Contact for  
Inquiries and Submissions for this Solicitation:**

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## **SECTION I: INTRODUCTION**

### **A. Purpose**

The purpose of this Request for Proposals (RFP or Procurement), entitled “Pharmacy Benefit Services for The Empire Plan, Excelsior Plan, Student Employee Health Plan and the New York State Insurance Fund Workers’ Compensation Prescription Drug Programs,” is to secure the services of a qualified organization (Offeror) to administer The Empire Plan, Excelsior Plan, Student Employee Health Plan Prescription Drug Programs, and New York State Insurance Fund Workers’ Compensation Prescription Drug Programs (collectively referred to as the “Programs”).

It is the Department of Civil Service’s (Department or DCS) and the New York State Insurance Fund’s (Fund or NYSIF) (also hereafter collectively referred to as the “Procuring Agencies”) intent to enter into separate Contracts (Agreements) with the Offeror selected as a result of this RFP for the period January 1, 2019, through December 31, 2023, under which the selected Offeror shall be responsible for administering the Programs in accordance with the specifications in this RFP. This Agreement is subject to approval by the NYS Office of the Attorney General and the NYS Office of the State Comptroller.

The Offeror must agree to be bound by its Proposal which will be explicitly incorporated by reference into the executed Agreements. After Agreements are separately executed with the Contractor and DCS and NYSIF, any change to the scope of the Agreement, including but not limited to the inclusion of any individual Network Pharmacy(ies), requested by one Procuring Agency shall have no impact on the other Procuring Agency Agreement or cost thereunder, unless the other Procuring Agency likewise agrees to said change(s). The Department and NYSIF will only contract with a single Offeror, which will be the sole contact with regard to all provisions of the Agreements. If the Offeror’s Proposal includes Key Subcontractors or Affiliates, the Offeror will be considered the Prime Contractor, and the Offeror shall assume full responsibility for the fulfillment of all of the responsibilities under the Agreements. The Department reserves the right to approve (or disapprove) any or all Key Subcontractors. This RFP and other relevant information may be reviewed at: [www.cs.ny.gov/RxBenefit2018RFP/index.cfm](http://www.cs.ny.gov/RxBenefit2018RFP/index.cfm)

**Note:** Refer to Section VIII: Glossary of Terms, for definitions of terms used throughout this RFP.

### **B. Overview of the NYS Health Insurance Program and the NYS Insurance Fund**

The New York State Health Insurance Program (NYSHIP) was established by the New York State Legislature in 1957 to provide essential health insurance protection to New York State (NYS)

employees, retirees, and their eligible dependents. Civil Service Law allows the New York State Health Insurance Program the option to be self-funded, which occurred in 2014. Public authorities, public benefit corporations, and other quasi-public entities, such as the NYS Thruway Authority and the Dormitory Authority may choose to participate in NYSHIP; those that do are called Participating Employers (PEs). Article XI of the NYS Civil Service Law also allows local units of government such as school districts, special districts, and municipal corporations to participate in NYSHIP; those local government units which choose to participate in NYSHIP are called Participating Agencies (PAs). At present, there are roughly 100 Participating Employers and about 800 Participating Agencies in NYSHIP. Under Article XI of the Civil Service Law, as amended and 4 New York Code of Rules and Regulations (NYCRR) Part 73, as amended, the President, who also serves as the Commissioner of the Department, through the Department's Employee Benefits Division (EBD) is responsible for the ongoing administration of NYSHIP.

NYSHIP currently covers over 616,000 NYS, PA and PE Employees and Retirees. Eligible covered Dependents bring the total number of covered lives to about 1,241,000.

NYSHIP currently provides health insurance coverage through The Empire Plan, a Participating Provider Organization (PPO) with managed care components, and eight (8) Health Maintenance Organizations (HMOs). The Excelsior Plan is a lower cost version of The Empire Plan available only to PAs. Additionally, the Student Employee Health Plan (SEHP) is administered through The Empire Plan contracts. SEHP is a health insurance plan for graduate student employees of the New York State and New York City University systems. NYS and PE Employees and Retirees may elect to enroll in either The Empire Plan or in HMOs offered through NYSHIP. NYSHIP offers only The Empire Plan and the Excelsior Plan to PAs. PAs may, and frequently do, offer HMOs directly to their own employees and retirees as an alternative to Empire Plan coverage.

### **NYSIF**

The New York State Insurance Fund (NYSIF) was established in 1914 as part of the original enactment of the New York Workers' Compensation Law. The Fund's mission is to guarantee the availability of workers' compensation insurance at the lowest possible cost to employers, while maintaining a solvent fund, as well as to provide timely and appropriate indemnity and medical payments to injured workers. NYSIF is a self-supporting insurance carrier that competes with private insurers in both the workers' compensation and disability benefits markets in New York State. With 160,000 policyholders, NYSIF is the largest workers' compensation carrier in the state and among the top five largest workers' compensation carriers in the nation. NYSIF provides

disability benefits coverage for off-the-job injuries to more than 61,000 New York employers and offers Paid Family Leave to its disability customers.

**C. Overview of The Empire Plan, Excelsior Plan, and Student Employee Health Plan**

The Empire Plan, Excelsior Plan, and SEHP (collectively referred to as the DCS Program(s)) are comprehensive health insurance programs for New York's Public Employees and their families. The DCS Programs are sponsored by the Council on Employee Health Insurance (CEHI). The Council is composed of the President of the Civil Service Commission, the Director of the Governor's Office of Employee Relations (GOER), and the Director of the Division of the Budget (DOB). The Department holds the contracts with the DCS Programs third party administrators. All components of the DCS Programs are self-funded.

This RFP seeks to secure the services of a qualified Offeror under a self-funded Administrative Services Only (ASO) arrangement for The Empire Plan, Excelsior Plan, Student Employee Health Plan, and NYS Insurance Fund Workers' Compensation Prescription Drug Programs. The Employee Benefits Division (EBD) within the Department is responsible for the administration of the DCS Programs. The Empire Plan currently has over 540,000 Enrollees with roughly 1,089,000 covered lives. The Empire Plan benefit design has four (4) main parts including:

1. Hospital Program benefits that include coverage for drugs dispensed and administered by the hospital. This program is currently administered by Empire BlueCross BlueShield;
2. Medical Program benefits include drugs when dispensed and administered by a physician in an office setting. This program is currently administered by UnitedHealthcare Insurance Company (UHC) of New York;
3. Mental Health and Substance Abuse Program benefits that include coverage for drugs when dispensed by an approved facility, residential or day treatment program. This Program is currently administered by Beacon Health Options;
4. Prescription Drug Program benefits that includes coverage for prescription drugs dispensed through retail network pharmacies, through the Mail Service Pharmacy Process, through the Specialty Pharmacy Program, and through non-network pharmacies. This program is currently administered by CVS Caremark.

The benefit design of The Empire Plan is the result of collective bargaining between NYS and the various unions representing its employees. Benefits are administratively extended to non-

represented NYS employees, employees of PAs and PEs, and retirees. Therefore, the benefit design is subject to change from time to time as the result of those negotiations, and there are variations in The Empire Plan's benefit design among the bargaining units. The benefit design cannot deviate from that which has been collectively bargained. The majority of the active workforce is represented by various unions, and union participation in the design and oversight of NYSHIP is active and ongoing. The Excelsior Plan, available to NYS local governments who participate with NYSHIP, is a more affordable version of The Empire Plan. It offers many of the same features and benefits of The Empire Plan, with a higher degree of cost sharing by covered individuals. The collective bargaining units and the unions representing the collective bargaining units are identified in Exhibit II.C, DCS/NYSIF Prescription Drug Program Copayment Matrix, as well as the other groups that participate in The Empire Plan, the Excelsior Plan, and the SEHP.

The Empire Plan also provides benefits to members of the SEHP through the various Empire Plan contracts with the carriers/third party administrators. The SEHP was established in 1994 through collective bargaining. The SEHP became part of NYSHIP in 2002 to provide basic health insurance protection to graduate student Employees of the State University of New York and their eligible Dependents. This benefit was extended to the graduate student Employees of the City University of New York (CUNY) on January 1, 2009. Like The Empire Plan, the SEHP includes hospital, medical, managed mental health and substance abuse benefits, and prescription drug benefits. SEHP covers roughly 5,400 employees; their eligible covered Dependents bring the total number of average covered lives to about 6,500.

#### **D. Overview of the DCS and NYSIF Prescription Drug Programs**

The Programs utilize The Empire Plan, Excelsior Plan, SEHP, and State Insurance Fund identification cards to access retail network pharmacies and the mail service pharmacy, including designated specialty pharmacy(ies). The Programs include a number of utilization management controls including mandatory generic substitution, prior authorization, physician education, and various other cost containment provisions. For a detailed description of the Programs, refer to Section IV of this RFP. The Empire Plan, Excelsior Plan, and the SEHP provides benefits to Enrollees and covered Dependents and the NYSIF provides benefits to injured workers (Claimants) for covered drugs subject to applicable copayments (DCS Programs only), days' supply limits and benefit maximums. The Programs cover up to a ninety (90) day supply of covered drugs through retail pharmacies, the mail service pharmacy, and the specialty pharmacy program, with refills up to one (1) year. For SEHP enrollees, a thirty (30) day supply limitation applies at retail network pharmacies. Exhibit II.C, DCS/NYSIF Prescription Drug Program

Copayment Matrix, of this RFP provides the applicable copayments, supply limits, and benefit maximums by plan. Also for information purposes, a link to the Department's current *NYSHIP General Information Book, Empire Plan Certificate of Insurance, Empire Plan At A Glances* and *2017 NYSHIP Benefit Plan Comparison*, is included as Exhibits II.D through Exhibit II.D.5 of this RFP.

DCS Program Enrollees who receive a covered drug from a network pharmacy incur out-of-pocket costs that are, in most instances, limited to the applicable copayment. DCS Program Enrollees who receive a covered drug from a non-network pharmacy, or who do not use their identification card and pay the full amount for a prescription at a network pharmacy, receive specific reimbursement based on whether the drug is categorized as a Level 1 (usually Generic), Level 2 (usually Preferred Brand) or Level 3 (usually Non-Preferred Brand) drug. These provisions are set forth in claims processing within Section IV of this RFP.

The DCS Programs currently have three (3) formulary benefit designs that the Offeror must administer:

1. **Flexible Formulary Drug List(s)** – The three-level Flexible Formulary is a Preferred Drug list in which Brand Drugs may be assigned to different copayment levels based on clinical judgment and value to the Program. Drugs may be excluded from coverage if a therapeutic equivalent is on the Flexible Formulary or a therapeutically equivalent over-the-counter drug is available. It features Level 1 drugs that are assigned the lowest copayment and generally include all covered Generic Drugs and certain Brand-Name drugs. Level 2 drugs are assigned a higher copayment and include Preferred Brand-Name Drugs that have been selected because of their overall healthcare value. Level 3 drugs have the highest copayment and include Non-Preferred Brand-Name Drugs and Multi-Source Brand-Name drugs (with a generic equivalent). In addition, copayments differ depending on whether a prescription is filled at retail or by mail order, and according to the number of days' supply. The Flexible Formulary drug list also has a "Brand for Generic" feature. With this feature, a brand-name drug may be placed on Level 1, or excluded, and the generic equivalent placed on Level 3, or excluded. The Offeror must ensure that drugs excluded from the Formulary meet the **List 1** or **List 2** criteria specified in Section IV, B.15. With State approval, these placements may be revised mid-year when such changes are advantageous to the DCS Program. Empire Plan and SEHP enrollees have this Plan design;

2. **Empire Plan Medicare Rx** – The Empire Plan also has a Center for Medicare and Medicaid Services (CMS)-approved and compliant Employer Group Waiver Plan (EGWP), which is referred to as Empire Plan Medicare Rx. Empire Plan Medicare Rx is the EGWP for Medicare-primary Empire Plan enrollees and dependents that is a Medicare Part D Prescription Drug Plan (PDP) with supplemental wrap coverage and that, to the extent possible, mirrors the benefits and drug coverage available to the Empire Plan’s non-Medicare-primary enrollees and dependents; and
3. **Excelsior Plan Drug List** – This three-level formulary is for employees enrolled in the Excelsior Plan. This formulary may exclude certain drugs in a therapeutic category as well as have certain generic drugs subject to a Level 2 or 3 copayment. Under the Excelsior Plan’s benefit copayment design, Level 1 drugs have the lowest copayment, Level 2 drugs have the mid-range copayment, and Level 3 drugs have the highest copayment. The goal of the Excelsior Plan Drug List is to offer a therapeutically sound formulary that costs 15% less than The Empire Plan formularies (currently .01% of enrollee contracts have this plan). The Offeror’s proposed Book of Business PDL is used for this program.

### **NYSIF**

NYSIF provides prescription coverage to injured workers who are employed by individuals and companies that have workers’ compensation policies with NYSIF. All medically necessary and appropriate drugs that are causally related to the loss are covered. NYSIF was created by Section 76 of the New York State Workers’ Compensation Law (WCL). Responsibility for the daily operations and policy making of NYSIF rests with the Executive Director and his staff. The Board of Commissioners (Commissioners) oversees the administration of NYSIF.

NYSIF services over 40,000 Workers’ Compensation claimants who fill roughly 525,000 prescriptions annually. Of this number, about 75% are dispensed through the services of a Pharmacy Benefits Management (PBM) provider. NYSIF Claimants do not incur copayments or out-of-pocket costs when utilizing network or non-network pharmacies. The NYSIF Program currently employs a single formulary benefit design that the Contractor must administer.

### **NYSIF PDL**

The NYSIF PDL generally features Generic Drugs on the first level, Preferred Brand Drugs on the second level, and Non-Preferred Brand Drugs on the third level. The PDL proposed for the NYSIF Program must include all drugs meeting the definition of Covered Drugs in this RFP. The selected

Offeror is required to effectively communicate the content and requirements of the Program's PDL to Network Pharmacies, medical providers, and Enrollees. The design of the NYSIF Program does not require a Brand Drug in every therapeutic category. For the purpose of preparing a response to this RFP, if an Offeror proposes a Preferred drug list which does not include a Preferred Brand Drug in every therapeutic category, the Offeror must include the clinical rationale and financial implications of the Offeror's determination. Offerors will submit cost information as required in Section V, Cost Proposal of this RFP.

#### **E. Covered Drugs under the DCS and NYSIF Prescription Drug Programs**

The DCS and NYSIF Programs cover medically necessary prescription drugs and insulin dispensed by a licensed pharmacy. The Programs cover prescription oral drugs, self-injectables and infusion drugs dispensed by a licensed pharmacy.

The following prescription drugs are covered when they are medically necessary and dispensed by a licensed retail pharmacy or through the mail service pharmacy:

1. **FDA-Approved Drugs** that must bear the legend RX Only;
2. **State Restricted Drugs**: Drugs that can be dispensed in accordance with New York State Law (or by the laws of the state or jurisdiction in which the prescription is filled) by prescription only;
3. **Compounded Drug(s)/Medication(s)** A drug with two or more ingredients (solid, semi-solid, or liquid), at least one of which is a covered drug with a valid National Drug Code (NDC) and FDA approved requiring a prescription for dispensing, combined together in a method specified in a prescription issued by a medical professional. The end result of this combination must be a prescription medication for a specific patient that is not otherwise commercially available in that form or dose/strength from a single manufacturer. The prescription must identify the multiple ingredients in the compound, including active ingredient(s), diluents(s), ratios or amounts of product, therapeutic use, and directions for use. The act of compounding must be performed or supervised by a licensed pharmacist. Any commercially available product with a unique assigned NDC requiring reconstitution or mixing according to the FDA-approved package insert prior to dispensing will not be considered a compound drug prescription by this Program;
4. **Injectable Insulin**;



5. **Oral, Injectable, or Surgically Implanted Contraceptives** that bear the legend RX Only and contraceptive devices (e.g., diaphragms and cervical caps) that require a Physician's order;
6. **Vitamins** that are FDA-approved prescription drugs and bear the legend RX Only;
7. **Prescription Drugs** dispensed by on-premises pharmacies to patients in a Skilled Nursing Facility; rest home; sanitarium; extended care facility; convalescent hospital; or similar facility;
8. **Drugs dispensed outside of the U.S.** that have an available U.S. FDA-approved equivalent;
9. **Oral Cancer Drugs** – orally administered anticancer medication used to kill or slow the growth of cancerous cells;
10. **Smoking Cessation Drugs** – including over-the-counter drugs for which there is a written order, and prescription drugs prescribed by a physician or other provider; and
11. **Vaccinations** – certain preventive vaccinations in accordance with the Affordable Care Act (ACA) mandates, administered at a vaccination network pharmacy, will be covered at no cost. The covered preventive vaccines are: influenza, pneumococcal, meningococcal, and herpes zoster (shingles)\*.

Effective April 1, 2018, Shingrix is paid in full for enrollees and dependents age 50 and older. Zostavax is paid in full for enrollees and dependents age 60 or older and is subject to a Level 1, 30-day supply Copayment for enrollees and dependents age 55 up to the age of 60.

**F. DCS and NYSIF Prescription Drug Program Exclusions and Limitations**

Coverage for the following drugs are excluded or limited under the Programs:

1. Drugs obtained with no prescription order, including over-the-counter products (except insulin, smoking cessation drugs and over-the-counter preventive drugs or devices in accordance with guidelines supported by the Health Resources and Services Administration or with an "A" or "B" rating from the United States Preventive Services Task Force);
2. Drugs administered, dispensed and billed by the Doctor;

3. Drugs dispensed by an approved facility, residential or day treatment program to a covered individual who, at the time of dispensing, is receiving inpatient services for mental health and/or substance abuse care at that approved facility;
4. Drugs provided or required by any governmental program or statute (other than Medicaid) unless there is a legal obligation to pay;
5. Drugs for which there is no charge or legal obligation to pay in the absence of insurance;
6. Any drug refill that is more than the number approved by the Doctor or other health professional;
7. Therapeutic devices or appliances (e.g., hypodermic needles, syringes, support garments, or other non-medicinal substances) regardless of their intended use;
8. The administration of any drug or injectable insulin with the exception of covered preventive vaccines administered at a vaccination network pharmacy;
9. Any drug refill which is dispensed more than one (1) year after the original date of the prescription order;
10. Any drug labeled "Caution: Limited by Federal Law to Investigational Use," or experimental drugs except for drugs used for the treatment of cancer as specified in Section 3221(k)(12) of New York State Insurance Law as may be amended from time to time. Prescribed drugs approved by the U.S. Food and Drug Administration for the treatment of certain types of cancer shall not be excluded when the drug has been prescribed for another type of cancer. However, coverage shall not be provided for experimental or investigational drugs or for any drug that the Food and Drug Administration has determined to be contraindicated for treatment of the specific type of cancer for which the drug has been prescribed;

Experimental or investigational drugs shall also be covered when approved by an External Appeal Agent in accordance with an external appeal. If the External Appeal Agent approves coverage of an experimental or investigational drug that is part of a clinical trial, only the costs of the drug will be covered. Coverage will not be provided for the costs of experimental or investigational drugs or devices, the costs of non-health care services, the costs of managing research, or costs not otherwise covered by the Programs for nonexperimental or noninvestigational drugs provided in connection with such clinical trial;

11. Immunizing agents, biological sera, blood or blood plasma, except immune globulin;
12. Any drug that a Doctor or other health professional is not authorized by his or her license to prescribe;
13. (Exclusive to DCS) Drugs for an injury or sickness related to employment for which benefits are provided by any state or Federal Workers' Compensation, employer's liability or occupational disease law, or under Medicare or other governmental program;
14. Drugs purchased prior to the start of coverage or after coverage ends. However, if the person is totally disabled on the date coverage ends, benefits for the disabling condition will be provided on the same basis as if coverage had continued, with no change in coverage effective until the day the person is no longer totally disabled or for three (3) months after the date his/her coverage ended, whichever is earlier;
15. Any drug prescribed and/or dispensed in violation of NYS or Federal Law;
16. Drugs furnished solely for the purpose of improving appearance rather than physical function or control of organic disease, which include, but are not limited to:
  - a. Nonamphetamine anorexiant, except when prescribed for morbid obesity;
  - b. Products used to promote hair growth;
  - c. Products (ex., Retinoic Acid) used for prevention of skin wrinkling;
17. Any non-medically necessary drugs;
18. Drugs administered by a facility while the patient is in a licensed hospital. This limit applies only if the hospital in which the member is a patient operates on its premises, or allows to be operated on its premises, a facility that dispenses pharmaceuticals, and dispenses such drugs administered to the patient by the hospital;
19. Coverage for drugs where the amount dispensed exceeds the supply limit;
20. Coverage for drugs as a replacement for a previously dispensed drug;
21. Products for which the primary use is nutrition; and
22. Foreign drugs for which there is no available U.S. equivalent approved by the FDA.