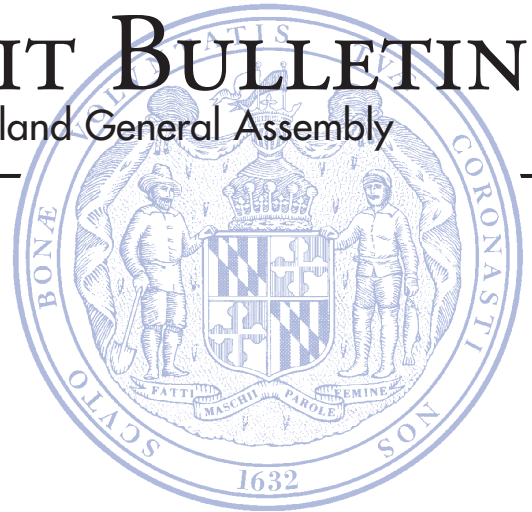


LEGISLATIVE AUDIT BULLETIN

Publication for Members of the Maryland General Assembly



Maryland Department of Health (MDH) – Office of the Secretary and Other Units

MDH did not provide adequate guidance and oversight to its administrations to ensure interagency agreements with State universities, which are not competitively procured, are appropriate and represent the best value to MDH.

A number of these agreements allowed MDH administrations to augment their staff beyond their authorized positions. It appears that 102 of the 304 agreements, in effect during a three-year period, totaling \$122.7 million and \$329.5 million, respectively, were used for this purpose.

102 interagency agreements with State universities were used by MDH administrations to augment their staff beyond authorized levels.

In addition, those State universities typically charged administration fees ranging up to 31 percent of the agreement value, and MDH did not have a process to evaluate those fees for reasonableness. Administration fees totaled \$25.6 million for the 304 agreements.

MDH did not always comply with State procurement regulations when awarding sole source and emergency procurements. For example, MDH had not negotiated pricing for any of the six sole source contracts tested totaling \$17.1 million and the sole source justifications for three of these contracts did not meet State procurement requirements.

Supervisory reviews of federal fund reimbursement requests were not always effective. Our review of 20 of these requests totaling \$3 billion disclosed that 5 requests contained errors totaling \$27.2 million of which only one of these errors, totaling \$1.3 million, was identified through the review for correction.

MDH had not completed timely and/or comprehensive audits of private providers, which received \$196 million

from MDH during fiscal year 2016. There were also a number of deficiencies with MDH's security and control over its information systems and network.

MDH – Medical Care Programs Administration (MCPA)

MCPA did not have adequate procedures and controls over the Medicaid enrollment and eligibility process. MCPA did not enroll 11,153 new recipients in a Managed Care Organization (MCO) in a timely manner resulting in MCPA paying certain recipients' claims on a fee-for-service basis rather than the claims being paid by an MCO.

Although MCPA could not determine the fiscal impact of these delays without an analysis, our test of the 10 highest fee-for-service claims paid during fiscal year 2015 disclosed that 4 claims totaling \$826,000 would have been paid by an MCO had the recipient been enrolled in an MCO timely.

MCPA's memoranda of understanding (MOU) with the two State entities responsible for processing the majority of Medicaid eligibility determinations were not sufficiently comprehensive. For example, the MOUs with the Department of Human Services and the Maryland Health Benefit Exchange did not contain provisions for quality assurance procedures to ensure that recipient eligibility determinations were proper.

Inside this issue:

DHS – Social Services Administration

DHS – Office of the Secretary and Related Units

Department of Juvenile Services

Department of Transportation – Motor Vehicle Administration

Selected Audit Report Findings and Other Issues

Reports Issued Since the Last Bulletin

MCPA did not conduct timely follow-up on potentially ineligible Medicaid recipients it identified, including 2,721 instances identified at three local departments of social services that had been outstanding for an average of 79, 125, and 194 days.

MCPA did not take certain actions or establish adequate processes to maximize recoveries from other sources to reduce Medicaid payments to providers. For example, according to its records, MCPA paid claims during fiscal year 2015 totaling \$85.4 million for 4,133 recipients who were age 65 or older and were not enrolled in Medicare, despite being potentially eligible.

MCPA did not timely enroll 11,153 new recipients into MCOs.

MCPA did not adequately monitor vendors contracted to assist in its administration of the Medicaid program including processing claims and/or

verifying billings by hospitals, and long-term care, behavioral health, and dental providers. Audits of hospital claims processed after 2007 had not been conducted.

Department of Human Services (DHS) – Social Services Administration (SSA)

SSA had not established a comprehensive quality assurance program to ensure that child welfare programs, such as foster care, were being properly administered by the 24 local departments of social services (LDSSs). LDSSs are responsible for case management functions, including the monitoring of child placements and providers, and investigating reports of child abuse and neglect. According to SSA records, approximately 17,000 children participated in SSA programs and were served by 9,000 providers/parents at a cost of approximately \$270 million during fiscal year 2016.

Oversight of local departments of social services was insufficient to ensure that critical child welfare services were rendered.

SSA had not established LDSS oversight or the oversight was insufficient in eight areas including foster care placement record keeping; medical and dental exams for foster care children; approval, monitoring, and continued eligibility of family foster care providers and adoptive parents and guardians; and child abuse and neglect investigations.

In each of these areas, we identified instances in which the LDSSs were not complying with SSA requirements, State regulations, or law. For example, based on a judgmental selection of 57 foster care children monitored by 10 different LDSSs, we determined that evidence was lacking regarding compliance with 31 percent of five required attributes tested, such as medical exams.

According to reports generated by SSA's case management system, 28 percent of the investigations of child abuse and neglect that were completed during a three-month period were not completed within the required 60-day period.

SSA failed to recover federal funds of \$1 million for 18 cases.

SSA did not maximize the recovery of federal reimbursement for eligible children in foster care, as well as those in adoption and guardianship programs. Eligibility decisions were not subject to effective supervisory reviews. Our test of 36 children for which federal funding was not being received identified 18 cases for which children were incorrectly identified as ineligible, resulting in the failure to recover \$1 million in federal funds.

Financial information from providers of child placement services, such as group homes, were not reviewed timely to identify and recoup overpayments. Our tests also identified instances in which, contrary to SSA's policy, adoption assistance payments continued even though the applicable children had entered foster care, potentially resulting in inappropriate payments for the children.

For several of the issues above, SSA disagreed with the finding, but accepted and agreed with the related recommendations.

DHS – Office of the Secretary and Related Units

DHS did not effectively administer contract terms and task order activity under a \$125 million information technology contract resulting in a lack of assurance that services and costs proposed by the vendor were reasonable.

DHS paid \$4 million more than necessary for an IT contract that was ultimately cancelled.

DHS also changed the billing process for this contract from a deliverable to a fixed-price installment basis which was not consistent with contract terms and resulted in DHS paying \$4 million more than necessary for one project that was ultimately cancelled.

DHS issued and paid for \$8.4 million in task orders beyond the \$10 million authorized in the contract for fiscal year 2015 without a contract modification, which created an unfunded liability totaling \$4.5 million that was not reported as required at year-end.

DHS did not properly plan and administer other task order projects for this contract, resulting in payments totaling approximately \$10.1 million (including the \$4 million referenced above) for an information system modernization project that was subsequently cancelled.

DHS guaranteed a minimum compensation to two of the eight legal firms awarded emergency contracts resulting in approximately \$616,000 more being paid than if the firms had been reimbursed on a per-case fee basis, which was the reimbursement method used for the other six firms.

DHS also did not have adequate procedures to ensure payments made to the legal firms were proper and did not follow up on deficiencies regarding services provided that were noted during annual site visits of the firms.

The audit also disclosed numerous issues related to the lack of protection and security of DHS information systems.

Department of Juvenile Services (DJS)

DJS entered into intergovernmental agreements with non-private entities to obtain certain youth care services. However, in certain instances, all youth care services were subcontracted to other providers with the non-private entities receiving administrative fees to provide subcontractor oversight. DJS had not determined that obtaining these

services under these arrangements was more cost effective than other options, such as competitively procuring these services directly from the providers.

The six agreements tested, valued at \$7.6 million for which DJS paid administrative fees totaling \$523,000, did not require the non-private entities to report to DJS on subcontractor monitoring efforts, nor had DJS performed any related monitoring of the entities to ensure oversight services were performed.

There was inadequate oversight and monitoring of youth care service providers, with contracts valued at \$7.6 million.

DJS financial examinations of youth care service providers were not sufficient to ensure funds were spent on allowable costs and that excess payments were recovered. DJS allowed certain providers to retain excess payments without justification, including four that were permitted to retain approximately \$380,000.

DJS circumvented State procurement regulations, including Board of Public Works and control agency approvals, by artificially dividing procurements to certain vendors so that each was for \$15,000 or less, the threshold under which procurements do not require public solicitation of bids and public notification of the awards.

During fiscal years 2014 through 2016, DJS paid 22 vendors \$9 million, of which \$7.5 million was for procurements of \$15,000 or less. For example, of the 204 DJS purchases made from one vendor valued at \$1.5 million, 202 were for \$15,000 or less.

These conditions also allowed certain questionable purchasing activity to occur without detection since DJS employees, under delegated authority, were able to directly

solicit, receive, and evaluate bids and select vendors without extensive involvement of DJS procurement personnel.

Department of Transportation – Motor Vehicle Administration (MVA)

MVA did not expand its investigation that identified 270 fraudulent federally non-compliant driver's licenses and identification cards (products) that had been issued based on counterfeit documents at one branch over a six-month period. Our analysis identified 329 additional products that may have been improperly issued and, accordingly, further investigation is warranted. MVA also did not alter its procedures to address the related control deficiencies.

MVA had not established sufficient controls over its inventory stock of driver's license and identification cards and could not account for 7,500 cards received in June 2016, which could be used for improper purposes.

MVA did not review certain driving records with traffic offenses for possible administrative action. After our inquiries, MVA determined that certain cases in which the driver had already accumulated 8 or 12 points were being incorrectly excluded from MVA established review procedures. Such records should be reviewed for a possible extension of the suspension or revocation period. Our test of 31 excluded records disclosed that required administrative action, such as license suspension, was not taken against 8 drivers.

MVA did not ensure that a \$21.4 million information technology (IT) contract was procured using the most favorable labor rates available. MVA's procedures for monitoring IT contracts and for reviewing the related billings did not ensure hours billed were reasonable, the receipt of all deliverables, and compliance with all contract terms.

Effective controls were not established over MVA's virtual servers associated with its *eStore*, which provides online services to customers, and numerous employee workstations were not adequately secured.

Selected Audit Report Findings and Other Issues

Unsatisfactory Audit Accountability and Compliance Levels

During calendar year 2017, OLA issued three audit reports for which we determined, primarily due to the significance of our audit findings and the number of repeat findings, that the agency's accountability and compliance level was unsatisfactory in accordance with the rating system we established in conformity with State law.

Hundreds of federally non-compliant driver's licenses and identification cards may have been improperly issued.

Those three audit reports are summarized in this Audit Bulletin: Maryland Department of Health (MDH) – Office of the Secretary, MDH – Medical Care Programs Administration, and Department of Human Services – Social Services Administration. These agencies will undergo a six-month follow-up review to assess their corrective action efforts.

State Board of Elections (SBE)

SBE did not adequately authenticate certain voters who requested absentee ballots during primary and general elections. Depending on the process used, certain voters were only required to authenticate themselves by providing information (first and last name, date of birth, and address) that is publicly available. Consequently, the risk exists that an individual or group could submit fraudulent absentee ballots in an attempt to influence the results of a specific election or could cause legitimate voters to vote by a provisional ballot on election day (which might be later invalidated).

Special Review – Department of Public Safety and Correctional Services (DPSCS) – Inmate Medical Healthcare Service Contract

DPSCS' Office of Inmate Health Clinical Services had not established processes to pursue liquidated damages from its inmate medical healthcare contractor when inmates' initial reception/intake examinations and medication administration were not performed timely as specified in the contract. The five-year contract was valued at \$600 million. With the exception of contractor staffing requirements, DPSCS had not established a process to review, or prioritize for review, contractor performance for 38 other contract requirements with liquidated damages provisions.

Department of Health and Mental Hygiene – Regulatory Services

The Board of Professional Counselors and Therapists did not properly track and monitor complaints received against licensees, resulting in complaints not being investigated and submitted to the Office of the Attorney General (OAG) for administrative and/or criminal action in a timely manner. We noted untimely action for 9 of the 15 complaints tested, including 3 that had not been submitted to OAG even though the Board recommended at least ten months earlier that they should have been referred to OAG for administrative action.

As of November 2016, 136 complaints were still under investigation or not yet investigated, including 91 that had been open for more than one year. The timely investigation and resolution of complaints is critical since licensed counselors and therapists continue to practice until any action deemed necessary is taken.

Baltimore City Community College (BCCC)

BCCC's Facilities Planning and Operations Department circumvented State regulations in the procurement of certain goods and services. Department employees directly solicited, received, and evaluated bids and selected vendors to supply maintenance goods and services with many of these purchases artificially divided to avoid competitive public solicitations or the use of statewide contracts as well as the involvement of BCCC's central procurement personnel.

During a three-year period, the Department made 178 payments to the same seven vendors totaling \$420,000, each below the \$15,000 threshold requiring central personnel to perform procurement tasks. These procurement practices allowed certain questionable purchasing activity to occur within the Department without detection.

Special Review – Maryland Health Care Commission (MHCC)

MHCC lacked assurance that sensitive information (including protected health information and personally identifiable information) obtained and maintained by the State-Designated Health Information Exchange (HIE) was properly secured. Instead of obtaining a security and confidentiality review of HIE using industry-recognized authoritative guidance, MHCC obtained an audit for which the scope and results did not appear to be comprehensive.

The HIE is responsible for building and maintaining a technical infrastructure to enable the Maryland health care community to appropriately and securely share electronic health information for approximately 9.2 million individuals.

Multi-Agency Audit Issue – Protection of Sensitive Information

In nine fiscal compliance audit reports issued during calendar year 2017, we identified findings related to the inadequate safeguarding of sensitive personally identifiable information (PII) on State agency databases. These included five of the audit reports described elsewhere in this Bulletin (DJS, MDH-O/S, MDH-MCPA, DHS-O/S, and BCCC).

For example, DHS did not properly secure its information systems, as PII stored on several databases was not properly protected, including a table in one of these databases that contained sensitive PII for 1,605,558 individuals in clear text. Criminals commonly seek PII, which can include an individual's full name, social security number, and date of birth for use in identity theft.

The State of Maryland *Information Security Policy* specifies that agencies must protect confidential data using encryption technologies and/or other substantial mitigating controls. A similar common issue was reported in the *Winter 2017 Legislative Audit Bulletin*.

LEGISLATIVE AUDIT BULLETIN

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The Legislative Audit Bulletin is periodically issued by the Office of Legislative Audits (OLA) to inform the General Assembly of audits or reviews completed and to provide a summary of significant findings from selected reports. Unless specifically noted, the agencies generally agreed with the audit findings and recommendations, although some follow-up of the report response may have been necessary. Copies of reports can be obtained from the web site or by contacting either OLA or the Department of Legislative Services, 90 State Circle, Annapolis, Maryland 21401, 410-946-5400 - 301-970-5400. For further details about any report or finding, please contact OLA at the listed numbers. We welcome your comments and suggestions.

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