

Audit Report

Maryland Department of Health

**Prevention and Health Promotion Administration
Office of Population Health Improvement
Office of Preparedness and Response**

April 2018



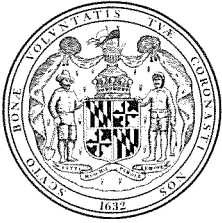
**OFFICE OF LEGISLATIVE AUDITS
DEPARTMENT OF LEGISLATIVE SERVICES
MARYLAND GENERAL ASSEMBLY**

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DEPARTMENT OF LEGISLATIVE SERVICES
OFFICE OF LEGISLATIVE AUDITS
MARYLAND GENERAL ASSEMBLY

Victoria L. Gruber
Executive Director

Thomas J. Barnickel III, CPA
Legislative Auditor

April 4, 2018

Senator Craig J. Zucker, Co-Chair, Joint Audit Committee
Delegate C. William Frick, Co-Chair, Joint Audit Committee
Members of Joint Audit Committee
Annapolis, Maryland

Ladies and Gentlemen:

We have conducted a fiscal compliance audit of the Maryland Department of Health (MDH) – Prevention and Health Promotion Administration (PHPA), Office of Population Health Improvement (OPHI), and Office of Preparedness and Response (OPR) for the period beginning October 28, 2013 and ending August 8, 2016.

Our audit identified certain issues related primarily to three programs administered by PHPA: the Maryland AIDS Drug Assistance Program (MADAP), the Maryland AIDS Drug Assistance Program – Plus (MADAP-Plus), and the Breast and Cervical Cancer Diagnosis and Treatment Program (BCCDTP). MADAP (including MADAP-Plus) and BCCDTP had fiscal year 2016 expenditures totaling approximately \$46.3 million and \$13.2 million, respectively.

PHPA did not ensure that all rebates from approximately 170 prescription drug manufacturers for drugs dispensed to clients under MADAP were received and were accurate. As of March 2017, PHPA had not recognized that one of ten manufacturers we selected for review had not paid rebates for a six-month period ended June 2016. Subsequently, this manufacturer remitted the \$49,300 rebate to PHPA. Furthermore, we estimated that PHPA was underpaid by as much as \$2 million for 20 drugs dispensed to MADAP clients for one quarter in 2016. According to PHPA records, drug rebates received during fiscal year 2016 totaled approximately \$52.4 million.

PHPA did not have adequate procedures and controls over applicant eligibility for BCCDTP and MADAP. For example, for the majority of our audit period, PHPA

did not use an available independent source to help verify applicant income, which is a critical element of eligibility.

Our audit also disclosed that PHPA did not sufficiently restrict access to the automated system used for MADAP eligibility determinations and the system which contained information on all patients diagnosed with sexually transmitted diseases in the State. Additionally, PHPA did not have adequate processes to ensure the propriety of certain manually processed MADAP pharmacy claims, and did not recover pharmacy claim overpayments totaling \$425,000 that were identified during pharmacy audits.

Finally, PHPA lacked adequate procedures and controls over collections and did not always conduct timely inspections of food-processing facilities to ensure that they were complying with applicable food safety laws and regulations.

MDH's response to this audit is included as an appendix to this report. We wish to acknowledge the cooperation extended to us during the course of this audit by MDH.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "TJ Barnickel III". The signature is written in a cursive style with a large initial "TJ".

Thomas J. Barnickel III, CPA
Legislative Auditor

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Background Information

Agency Responsibilities

The Prevention and Health Promotion Administration (PHPA), the Office of Population Health Improvement (OPHI), and the Office of Preparedness and Response (OPR) are units within the Maryland Department of Health (MDH).

- PHPA protects, promotes, and improves the health and well-being of Marylanders and their families through the provision of public health leadership and community-based public health efforts, including partnerships with local health departments, with special attention to at-risk and vulnerable populations. PHPA provides State grant funding to the local health departments for various purposes, including support for their operational costs. Programs administered by PHPA include the Maryland AIDS Drug Assistance Program (MADAP), the Maryland AIDS Drug Assistance Program – Plus (MADAP-Plus), and the Breast and Cervical Cancer Diagnosis and Treatment Program (BCCDTP).
- OPHI seeks to transform public health through stewardship of data, partnerships, and funding initiatives to develop innovative health policy and improve the health infrastructure of Maryland.
- OPR organizes and prepares for public health and medical emergencies through statewide partnerships with public, private, and government agencies to coordinate an effective emergency response for the health and safety of all Maryland residents.

According to the State's records, during fiscal year 2017, expenditures for PHPA, OPHI, and OPR totaled \$346.7 million, \$55.8 million, and \$17.6 million, respectively.

Organizational Change

During the period between January and July 2015, MDH reorganized certain program responsibilities underneath the Deputy Secretary for Public Health Services. OPHI assumed most functions previously performed by the Health Systems and Infrastructure Administration (HSIA), which was phased out. In addition, the Office of Primary Care Access, previously under HSIA, was transferred to PHPA.

Status of Findings from Preceding Audit Report

Our audit included a review to determine the status of the five findings contained in our preceding audit report dated March 18, 2015. We determined that MDH satisfactorily addressed three of these five findings. The remaining two findings are repeated in this report.

Findings and Recommendations

Drug Rebates

Background

The Maryland Department of Health (MDH) – Prevention and Health Promotion Administration (PHPA) receives prescription drug rebates from drug manufacturers for covered outpatient drugs dispensed to its approved clients under the Maryland AIDS Drug Assistance Program (MADAP). MADAP helps low to moderate income individuals pay for certain HIV/AIDS related drugs.

The U.S. Omnibus Budget Reconciliation Act of 1990 set a statutory rebate mechanism for pharmacy reimbursement systems under state Medicaid programs. Subsequently, the U.S. Veterans Health Care Act of 1992 authorized the 340B Drug Pricing Program which requires drug manufacturers to provide outpatient drugs to eligible health care organizations for eligible clients at significantly reduced prices, and established a ceiling price for covered drugs for specified programs (including MADAP) and entities (hospitals, and freestanding health centers). In addition, supplemental rebates exist on certain drugs based on the difference between the net Medicaid rate paid for the drugs and nationally negotiated prices.

PHPA receives rebates on a quarterly basis. According to PHPA records, drug rebates received during fiscal year 2016 from all manufacturers under MADAP totaled approximately \$52.4 million.

Finding 1

PHPA did not ensure that all rebates from drug manufacturers were received and were accurate. Our tests disclosed one manufacturer did not pay rebates for six months, and rebates for 20 drugs were underpaid by as much as \$2 million for one quarter in 2016.

Analysis

PHPA had not established monitoring and verification procedures to ensure drug rebates due from drug manufacturers under MADAP were received and that the amounts paid were accurate. Our testing disclosed that one manufacturer did not pay rebates for a six-month period and that the rebates for 20 drugs were underpaid for the period tested.

- PHPA did not compare the quarterly rebates received from prescription drug manufacturers with a listing of the specific manufacturers who were required

to pay rebates for that quarter to ensure all rebates were submitted. According to agency records, for the quarter ending June 30, 2016, there were approximately 170 drug manufacturers. We tested 10 of these manufacturers who, based on reports of drugs purchased for clients under MADAP, were required to pay rebates for drugs sold during the quarter. Our review disclosed that, as of March 9, 2017, one manufacturer had not submitted rebates for the June 30, 2016 quarter or for the preceding quarter ending March 31, 2016. PHPA was unaware of the delinquent rebate payments until we brought the delinquencies to its attention. Subsequent to our testing, PHPA received a \$49,300 rebate from the manufacturer for the two quarters. The payments from the other tested drug manufacturers for the June 30, 2016 quarter were received between August and October 2016.

- PHPA did not independently calculate the quarterly rebates due from each manufacturer to ensure the rebates calculated and paid by the manufacturer were proper. PHPA management advised us that it could not perform a verification because it did not have access to the necessary information, such as the supplemental drug prices, and because the calculations would be complicated. However, we were able to obtain the necessary information from various sources that PHPA also could have accessed. We recalculated certain rebates which identified as much as \$2 million in underpayments.

Specifically, we independently recalculated 20 rebates received from eight manufacturers for the quarter ending June 30, 2016, and noted that all 20 rebates appeared to have been underpaid. For the 20 rebates tested, we estimated that PHPA should have received \$14.2 million instead of the \$12.2 million paid by these eight manufacturers for this quarter. Based on discussions with PHPA management, our calculation of the rebate underpayments reflects adjustments we made for certain limits manufacturers placed on the supplemental rebates in instances in which PHPA was the third-party payer. PHPA management advised that there may be other rebate limits not considered in our calculation; however, as of December 2017, they were not able to provide us with any other limits that should have been considered in our calculation.

Recommendation 1

We recommend that PHPA

- a. establish procedures to ensure that all required manufacturers pay rebates and that the rebates paid are accurate;**
- b. recalculate rebates received in prior periods, and pursue collection of any underpayments, including those noted above.**

Client and Provider Eligibility

Background

PHPA is responsible for administering the Breast and Cervical Cancer Diagnosis and Treatment Program (BCCDTP), the Maryland AIDS Drug Assistance Program (MADAP), and the MADAP-Plus program, including determining client and provider eligibility.

BCCDTP pays for certain medical costs on behalf of low-income individuals who have a qualifying medical condition. According to the State's records, BCCDTP spent approximately \$13.2 million in special funds (primarily from the Cigarette Restitution Fund) on behalf of approximately 1,480 recipients during fiscal year 2016.

MADAP helps low to moderate income individuals pay for certain HIV/AIDS drugs, and MADAP-Plus helps some of these individuals pay for their health insurance premiums, providing access to inpatient and outpatient health care, as well as prescription coverage. According to the State's records, during fiscal year 2016, MADAP and MADAP-Plus expenditures totaled approximately \$46.3 million. As of June 30, 2016, MADAP was serving a total of 5,773 clients, of which 2,324 were also enrolled in MADAP-Plus. These two programs were funded by special funds (primarily MADAP drug rebates) and federal funds.

Finding 2

PHPA did not use available independent resources to help verify applicant income for certain programs and to identify possible third-party insurance coverage.

Analysis

PHPA did not use available independent resources to help verify reported income of applicants for BCCDTP, MADAP, and MADAP-Plus and to identify possible third-party insurance coverage.

- For the majority of our audit period, PHPA did not use the Maryland Automated Benefits System (MABS)¹ to verify that new and renewal applicants submitted complete and accurate income information. PHPA required applicants to submit documentation of income reported (for example, pay stubs, signed federal tax returns), but did not begin using MABS to

¹ MABS is maintained by the Department of Labor, Licensing and Regulation – Division of Unemployment Insurance (DLLR – DUI). MABS tracks payments to, and amounts due from, unemployment insurance claimants and utilizes claimant data such as earned wage data collected by DLLR – DUI.

manually verify the income information submitted by applicants until April 2016 for BCCDTP and March 2016 for MADAP and MADAP-Plus. MABS is used by other State entities, such as the Department of Human Services, to verify applicant income for programs such as the Food Supplement Program.

Furthermore, our test of 10 applications that were processed and approved after April 2016 disclosed that, for 5 applications, PHPA lacked evidence that MABS was used to verify either the applicant's or the applicant's spouse's income information. Both incomes are to be considered as part of household income for assessing eligibility.

- Although PHPA required BCCDTP and MADAP applicants to provide documentation of any third-party insurance coverage they maintained, PHPA had no procedure in place to independently identify the existence of third-party insurance for its clients. Effective July 1, 2016, PHPA was included, by amendment, in the contract with the vendor used by MDH's Medical Care Programs Administration (MCPA) to search for possible third-party insurance for Medicaid applicants and recipients. However, as of February 2017, PHPA management personnel advised us that PHPA had not begun using this vendor's services because of technical difficulties in transferring its data to the vendor. According to PHPA's records, it collected approximately \$280,000 from third parties for program clients during the audit period.

Because applicant income must be considered when determining an applicant's eligibility, and the existence of third-party insurance may affect the amount of program payments made for a recipient, it is critical that steps be taken to ensure the complete and accurate reporting of this information. Similar conditions were commented upon in our preceding audit report.

Recommendation 2

We recommend that PHPA

- a. use MABS to independently verify applicant household income (repeat); and**
- b. take appropriate action, including the use of MCPA's vendor, to identify applicants and recipients who have third-party insurance coverage (repeat).**

MADAP Client Services

Finding 3

PHPA did not adequately restrict user access to the MADAP system. In addition, PPHA did not adequately review overrides of rejected MADAP pharmacy claims and manually processed MADAP-Plus insurance premium payments.

Analysis

PHPA did not adequately restrict user access to the MADAP system which maintained critical information on individuals eligible for MADAP and MADAP-Plus. This information interfaced with PPHA's claims adjudication and point-of-sale system used by pharmacies to check the MADAP eligibility of individuals requesting medications as well as to initiate payment for the related claims. PPHA also did not adequately review system overrides of rejected MADAP pharmacy claims and MADAP-Plus insurance premium payments that were manually processed and entered into the MADAP system for payment. Consequently, there was a lack of assurance that only valid payments were made for eligible persons.

- Our review of access capabilities as of December 13, 2016 disclosed that 23 of the 31 users of the MADAP system could enter applications and record individuals as eligible for MADAP and MADAP-Plus without any independent approval. While an employee reviewed 10 percent of the eligibility determinations for propriety, the employee was not independent because the employee also had the capability to record an individual as eligible. This employee, as well as an additional 4 of the 23 users did not need this access based on their job responsibilities. A similar condition was commented upon in our preceding audit report.
- Overrides of rejected pharmacy claims were not independently reviewed for propriety. According to PPHA's records, there were 4,626 overrides of rejected claims totaling approximately \$4.8 million during fiscal year 2016. PPHA contracted with a pharmacy benefits manager to process claims submitted by pharmacies through the claims adjudication and point-of-sale system on behalf of MADAP clients. Claims that were rejected due to certain system edits were forwarded to PPHA employees who investigated the claims and overrode the edits for any claims that were determined to be proper. For example, a claim could be rejected if the client had another insurance provider that may be responsible for the claim and then subsequently approved if that insurance policy was not currently in effect. However, these overrides were not subject to any independent review and approval. Our test of 10 overrides

totaling approximately \$212,000 did not disclose any instances where claims were improperly overridden and processed for payment.

- PHPA approved insurance premium payments without verifying the accuracy and propriety of the amounts paid. Specifically, MADAP-Plus clients submitted insurance premium invoices to PHPA for manual entry into the MADAP system for payment processing. While an independent PHPA employee approved the payments, the approver did not review any supporting documentation to ensure the payments were accurate and proper. In fiscal year 2016, according to PHPA's records, insurance premium payments totaled \$9.3 million. Our test of 5 payments totaling approximately \$21,000 did not disclose any improper payments.

Recommendation 3

We recommend that PHPA

- a. eliminate the capability of the employee who reviews eligibility determinations to enter and approve applications on the MADAP system;**
- b. eliminate capabilities to ensure employees can only perform duties required as part of their job responsibilities (repeat); and**
- c. independently review and approve, at least on a test basis, pharmacy claim overrides and insurance premium payments by examining supporting documentation.**

Finding 4

PHPA did not recover pharmacy claim overpayments totaling \$425,000 that were identified during pharmacy audits.

Analysis

PHPA did not recover pharmacy claim overpayments totaling \$425,000 that were identified by a vendor during the two most recent pharmacy claim audits that were performed for calendar years 2014 and 2013. PHPA contracted with a vendor to perform audits of pharmacies participating in MADAP to verify the propriety of claims submitted and paid. The vendor analyzed all pharmacy claims data for each year to identify policy and billing violations as well as any potential fraud, waste, and abuse. Based on this analysis, the vendor requested pharmacies to provide support for selected claims.

Our review of the audit reports disclosed that, as of February 2017, PHPA had not recovered any of the \$270,000 in overpayments that were identified in the 2014 audit that was issued in February 2016. Furthermore, PHPA had not recovered \$155,000 of the \$162,000 in overpayments that were identified in the 2013 audit

that was issued in October 2014. PHPA management advised us that it lacked the resources to follow up on the audit results in a timely manner; nevertheless, after our audit, PHPA advised us that certain of these overpayments were reduced based on follow-up actions and appeals by the pharmacies.

Recommendation 4

We recommend that PHPA take timely action to recover claim overpayments identified by pharmacy audits.

Cash Receipts

Finding 5

PHPA lacked adequate procedures and controls over MADAP collections.

Analysis

PHPA lacked adequate procedures and controls over MADAP collections which, according to its records, totaled approximately \$52.7 million during fiscal year 2016. MADAP receives collections primarily from drug manufacturers for rebates relating to the prescription drugs provided MADAP clients. Our review disclosed the following conditions:

- PHPA did not immediately restrictively endorse checks upon receipt and did not maintain strict accountability over the funds. The employee who first received and recorded the checks transferred them to another employee, at which time the checks were restrictively endorsed. Furthermore, PHPA did not document the transfer of collections between these two employees to maintain accountability over the funds. According to the Comptroller of Maryland's *Accounting Procedures Manual*, agencies are required to restrictively endorse checks immediately upon receipt.
- The employee who was responsible for verifying deposits did not use the initial record of cash collections received directly from the preparer for verification purposes. Rather, this employee used a record of collections that was maintained in a database that could be altered by another employee with cash handling duties. As a result, loss or misappropriation of funds could occur without detection. The *Accounting Procedures Manual* requires an independent verification of collections to deposit using proper documentation.
- PHPA did not comply with certain requirements pertaining to the destruction and safeguarding of remotely deposited checks. Specifically, we were advised by management personnel that checks scanned into the remote deposit system

by PHPA were maintained for approximately one year before being destroyed. Consequently, sensitive banking information recorded on these checks was unnecessarily retained, increasing the risk of unauthorized disclosure. The Office of the State Treasurer's *Policy on the Use of Remote Deposit Services by Maryland State Agencies* requires that scanned checks be destroyed within 30 days of deposit.

Recommendation 5

We recommend that PHPA establish adequate controls over MADAP collections. Specifically, we recommend that PHPA

- a. restrictively endorse checks immediately upon receipt as required;**
- b. document the transfer of funds from one employee to another;**
- c. use the initial record of cash receipts, received directly from the preparer, for deposit verification purposes as required; and**
- d. destroy remotely deposited checks within 30 days as required.**

Confidential Information

Finding 6

Numerous PHPA employees had unnecessary access to the confidential demographic and health information of certain patients.

Analysis

Numerous PHPA employees had unnecessary access to the confidential demographic and health information of all patients maintained in PHPA's Sexually Transmitted Disease (STD) Patient Reporting Investigation and Surveillance Manager (PRISM) system. PHPA did not have a process to periodically review user access to PRISM to ensure that access was necessary for each user's job duties. PRISM includes information on all patients diagnosed with STDs in the State, including both personally identifiable information (PII) and protected health information (PHI). As of December 14, 2016, PRISM contained PII and PHI for 486,676 unique patient records, and there were 217 active users with access to PRISM, including data entry personnel, data analysts, and health investigators.

Our review of PRISM activity as of January 5, 2017 disclosed that 28 of these users had not accessed PRISM since its creation in March 2015. We also noted that 18 users had not accessed PRISM within six months of the date of our test and, therefore, we question the need for these employees to have access to these confidential data.

The State of Maryland *Information Security Policy* requires that agencies must ensure that access to confidential information is strictly controlled and audited and that it supports the concepts of least possible privilege and need to know. Furthermore, the MDH *Information Technology, Technical Security Policy, Standards, and Requirements* states that access to confidential information should be limited to those employees with explicit need to know.

Recommendation 6

We recommend that PHPA

- a. conduct periodic documented reviews of user access to PRISM to ensure such access is necessary for the employee’s job duties, and**
- b. restrict access to confidential PRISM data to employees who require the data for their job duties.**

Food Protection

Finding 7

PHPA did not conduct timely inspections to ensure food-processing facilities were operating in accordance with State regulations.

Analysis

PHPA did not conduct timely inspections of food-processing facilities to ensure the facilities were complying with applicable food safety laws and regulations. PPHA licenses and inspects food-processing facilities to promote the safety of food processed in Maryland. These facilities include wholesale food manufacturing plants, warehouses, canneries, soft drink and bottled water facilities, crabmeat plants, shellfish plants, and food transportation vehicles.

As of December 2016, there were 1,267 active licensees for which inspections were delinquent for 288 food-processing facilities, according to delinquency reports produced at our request. Our subsequent testing disclosed that, due to the failure to accurately record inspection data in the applicable system, these reports were not reliable. Nevertheless, our tests disclosed a number of facilities for which inspections were delinquent.

We tested inspections for 19 food-processing facilities for which PPHA’s December 2016 reports indicated that the inspections were delinquent. Our test disclosed that, for 12 of the facilities, required inspections were overdue from 3 months to 4.6 years, including one facility that did not receive a pre-opening inspection. For the remaining 7 facilities, the inspection dates recorded on the delinquency reports did not agree with the dates reflected on the hard copy

inspection reports and the inspections were not, in fact, delinquent as indicated by the reports. These inaccuracies restricted PHPA's ability to effectively monitor the timeliness of inspections conducted.

State regulations generally require inspections to be performed semi-annually, annually, or biennially, based upon the risk associated with the type of food processing facility. For example, 306 facilities are required to be inspected annually and 701 are required to be inspected semi-annually. As a result, there was a lack of assurance that these facilities complied with applicable food safety laws and regulations.

Recommendation 7

We recommend that the PHPA take the necessary actions to ensure that food-processing inspections are conducted timely, in accordance with State regulations, and to ensure the accuracy of its inspection data.

Audit Scope, Objectives, and Methodology

We have conducted a fiscal compliance audit of the following units of the Maryland Department of Health (MDH) for the period beginning October 28, 2013 and ending August 8, 2016.

Prevention and Health Promotion Administration
Office of Population Health Improvement
Office of Preparedness and Response

The audit was conducted 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. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

As prescribed by the State Government Article, Section 2-1221 of the Annotated Code of Maryland, the objectives of this audit were to examine MDH's financial transactions, records and internal control, and to evaluate its compliance with applicable State laws, rules, and regulations.

In planning and conducting our audit, we focused on the major financial-related areas of operations based on assessments of significance and risk. The areas addressed by the audit included contracts and grants (except as described below), client and provider eligibility and related claims, cash receipts, food protection, and system access. We also determined the status of the findings contained in our preceding audit report.

Our audit did not include certain support services provided by MDH's Office of the Secretary. These support services (such as payroll, purchasing, contract procurement, maintenance of accounting records, and related fiscal functions) are included within the scope of our audit of the MDH's Office of the Secretary and Other Units. Furthermore, responsibilities related to grants awarded to local health departments are divided between the MDH – Office of the Secretary and the various administrations. Our audit included a review of the calculations of amounts awarded which is the responsibility of the administrations, but did not include other responsibilities related to these grant awards such as ensuring the grant funds are expended in accordance with the related agreements which is within the scope of our audit of MDH – Office of the Secretary. In addition, our audit did not include an evaluation of internal controls over compliance with federal laws and regulations for federal financial assistance programs and an

assessment of MDH's compliance with those laws and regulations because the State of Maryland engages an independent accounting firm to annually audit such programs administered by State agencies, including MDH.

To accomplish our audit objectives, our audit procedures included inquiries of appropriate personnel, inspections of documents and records, observations of MDH's operations, and tests of transactions. Generally, transactions were selected for testing based on auditor judgment, which primarily considers risk. Unless otherwise specifically indicated, neither statistical nor non-statistical audit sampling was used to select the transactions tested. Therefore, the results of the tests cannot be used to project those results to the entire population from which the test items were selected.

We also performed various data extracts of pertinent information from the State's Financial Management Information System (such as revenue and expenditure data). The extracts are performed as part of ongoing internal processes established by the Office of Legislative Audits and were subject to various tests to determine data reliability. We determined that the data extracted from these various sources were sufficiently reliable for the purposes the data were used during this audit. Finally, we performed other auditing procedures that we considered necessary to achieve our objectives. The reliability of data used in this report for background or informational purposes was not assessed.

MDH's management is responsible for establishing and maintaining effective internal control. Internal control is a process designed to provide reasonable assurance that objectives pertaining to the reliability of financial records, effectiveness and efficiency of operations including safeguarding of assets, and compliance with applicable laws, rules, and regulations are achieved.

Because of inherent limitations in internal control, errors or fraud may nevertheless occur and not be detected. Also, projections of any evaluation of internal control to future periods are subject to the risk that conditions may change or compliance with policies and procedures may deteriorate.

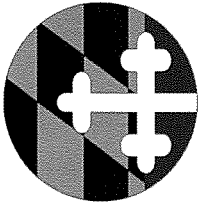
Our reports are designed to assist the Maryland General Assembly in exercising its legislative oversight function and to provide constructive recommendations for improving State operations. As a result, our reports generally do not address activities we reviewed that are functioning properly.

This report includes findings relating to conditions that we consider to be significant deficiencies in the design or operation of internal control that could adversely affect MDH's ability to maintain reliable financial records, operate

effectively and efficiently, and/or comply with applicable laws, rules, and regulations. Our report also include findings regarding significant instances of noncompliance with applicable laws, rules, or regulations. Other less significant findings were communicated to MDH that did not warrant inclusion in this report.

MDH's response to our findings and recommendations is included as an appendix to this report. As prescribed in the State Government Article, Section 2-1224 of the Annotated Code of Maryland, we will advise MDH regarding the results of our review of its response.

APPENDIX



MARYLAND
Department of Health

Larry Hogan, Governor · Boyd Rutherford, Lt. Governor · Dennis Schrader, Secretary

March 27, 2018

Mr. Thomas J. Barnickel III, CPA
Legislative Auditor
Office of Legislative Audits
301 W. Preston Street
Baltimore, MD 21201

Dear Mr. Barnickel,

Thank you for your letter regarding the draft audit report on the Prevention and Health Promotion Administration, Office of Population Health Improvement, and Office of Preparedness and Response for the period beginning October 28, 2013 and ending August 8, 2016. Enclosed is the Department's response and plan of correction that addresses each audit recommendation. I will work with the appropriate Deputy Secretary to promptly address all audit exceptions. In addition, the OIG's Division of Audits will follow-up on the recommendations and responses to ensure compliance.

If you have any questions or require additional information, please do not hesitate to contact me at 410-767-4639 or Frederick D. Doggett, Inspector General, at 410-767-0885.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert R. Neall", written over a light blue horizontal line.

Robert R. Neall
Secretary

Enclosure

cc: Howard M. Haft, M.D., Deputy Secretary, Public Health Services, MDH
Donna L. Gugel, Director, Prevention and Health Promotion Administration
Dennis R. Schrader, Chief Operating Officer

**Prevention and Health Promotion Administration,
Office of Population Health Improvement, and
Office of Preparedness and Response
Audit Responses**

Background Information

Agency Responsibilities

The Prevention and Health Promotion Administration (PHPA), the Office of Population Health Improvement (OPHI), and the Office of Preparedness and Response (OPR) are units within the Maryland Department of Health (MDH).

- PHPA protects, promotes, and improves the health and well-being of Marylanders and their families through the provision of public health leadership and community-based public health efforts, including partnerships with local health departments, with special attention to at-risk and vulnerable populations. PHPA provides State grant funding to the local health departments for various purposes, including support for their operational costs. Programs administered by PHPA include the Maryland AIDS Drug Assistance Program (MADAP), the Maryland AIDS Drug Assistance Program – Plus (MADAP-Plus), and the Breast and Cervical Cancer Diagnosis and Treatment Program (BCCDTP).
- OPHI seeks to transform public health through stewardship of data, partnerships, and funding initiatives to develop innovative health policy and improve the health infrastructure of Maryland.
- OPR organizes and prepares for public health and medical emergencies through statewide partnerships with public, private, and government agencies to coordinate an effective emergency response for the health and safety of all Maryland residents.

According to the State’s records, during fiscal year 2017, expenditures for PHPA, OPHI, and OPR totaled \$346.7 million, \$55.8 million, and \$17.6 million, respectively.

PHPA's Response

PHPA concurs with the summary of agency responsibilities.

OPHI's Response

OPHI concurs with this assessment of OPHI's responsibilities.

OPR's Response

OPR concurs with the background information.

Findings and Recommendations

Drug Rebates

Background

The Maryland Department of Health (MDH) – Prevention and Health Promotion Administration (PHPA) receives prescription drug rebates from drug manufacturers for covered outpatient drugs dispensed to its approved clients under the Maryland AIDS Drug Assistance Program (MADAP). MADAP helps low to moderate income individuals pay for certain HIV/AIDS related drugs.

The U.S. Omnibus Budget Reconciliation Act of 1990 set a statutory rebate mechanism for pharmacy reimbursement systems under state Medicaid programs. Subsequently, the U.S. Veterans Health Care Act of 1992 authorized the 340B Drug Pricing Program which requires drug manufacturers to provide outpatient drugs to eligible health care organizations for eligible clients at significantly reduced prices, and established a ceiling price for covered drugs for specified programs (including MADAP) and entities (hospitals, and freestanding health centers). In addition, supplemental rebates exist on certain drugs based on the difference between the net Medicaid rate paid for the drugs and nationally negotiated prices.

PHPA receives rebates on a quarterly basis. According to PHPA records, drug rebates received during fiscal year 2016 from all manufacturers under MADAP totaled approximately \$52.4 million.

PHPA's Response

PHPA concurs with the background information.

Drug Rebates

Finding 1

PHPA did not ensure that all rebates from drug manufacturers were received and were accurate. Our tests disclosed one manufacturer did not pay rebates for six months, and rebates for 20 drugs were underpaid by as much as \$2 million for one quarter in 2016.

Recommendation 1

We recommend that PHPA

- a. establish procedures to ensure that all required manufacturers pay rebates and that the rebates paid are accurate;**
- b. recalculate rebates received in prior periods, and pursue collection of any underpayments, including those noted above.**

PHPA's response

- a. PHPA concurs with the recommendation. In April 2018, MADAP established and began to implement procedures to verify that all required manufacturers pay rebates and, on a test basis, that the rebates paid are accurate.
- b. PHPA concurs with the recommendation. As of February 2018, PHPA began recalculating rebates received in prior periods starting from 2015 and pursuing collections of underpayments.

Client and Provider Eligibility

Finding 2

PHPA did not use available independent resources to help verify applicant income for certain programs and to identify possible third-party insurance coverage.

Recommendation 2

We recommend that PHPA

- a. use MABS to independently verify applicant household income (repeat); and**
- b. take appropriate action, including the use of MCPA's vendor, to identify applicants and recipients who have third-party insurance coverage (repeat).**

PHPA's response

- a. PHPA concurs with the recommendation. MADAP and BCCDTP began using the Maryland Automated Benefits Systems (MABS) beginning in March 2016 and will continue using the system. PHPA's procedures were updated effective December 2017 to include MABS verification of a spouse's income when the spouse's Social Security Number is provided in the application
- b. PHPA concurs with the recommendation. As of October 2013, PHPA has actively pursued inclusion in the contract with the vendor used by MCPA to search for possible third-party insurance. The vendor has subsequently encountered multiple problems providing the deliverables specified in the contract, further delaying PHPA's ability to obtain files containing third party insurance information of the programs' participants. On March 1, 2018, BCCDTP and MADAP received the first deliverable file from the vendor that met program requirements. PHPA anticipates fully implementing the process of verifying third-party insurance beginning in May 2018.

MADAP Client Services

Finding 3

PHPA did not adequately restrict user access to the MADAP system. In addition, PHPA did not adequately review overrides of rejected MADAP pharmacy claims and manually processed MADAP-Plus insurance premium payments.

Recommendation 3

We recommend that PHPA

- a. eliminate the capability of the employee who reviews eligibility determinations to enter and approve applications on the MADAP system;**
- b. eliminate capabilities to ensure employees can only perform duties required as part of their job responsibilities (repeat); and**
- c. independently review and approve, at least on a test basis, pharmacy claim overrides and insurance premium payments by examining supporting documentation.**

PHPA's response

- a. PHPA concurs with the recommendation. Effective November 2017, PHPA established a policy in which employees who review eligibility determination no longer have access to enter and approve applications on MADAP's system.
- b. PHPA concurs with the recommendation. Effective November 2017, all employees access to the MADAP system were evaluated and adjusted to their duties as required as part of their job responsibilities. In January 2018, MADAP management implemented a documented monthly verification procedure to review employees' access capabilities.
- c. PHPA concurs with the recommendation. Effective January 2018, MADAP management implemented, on a monthly test basis, an independent review and approval procedure of pharmacy claim overrides. MADAP management also, on a test basis, examines the supporting documentation for insurance premium payments to ensure payments were accurate and proper.

Finding 4

PHPA did not recover pharmacy claim overpayments totaling \$425,000 that were identified during pharmacy audits.

Recommendation 4

We recommend that PHPA take timely action to recover claim overpayments identified by pharmacy audits.

PHPA's response

PHPA concurs with the recommendation. In January 2018, PHPA established procedures in which overpayment recoveries will be pursued within 90 days following the receipt of the final pharmacy audit report. Furthermore, the recovery process for the prior audits have been completed; and the subsequent years are being reviewed.

Cash Receipts

Finding 5

PHPA lacked adequate procedures and controls over MADAP collections.

Recommendation 5

We recommend that PHPA establish adequate controls over MADAP collections. Specifically, we recommend that PHPA

- a. restrictively endorse checks immediately upon receipt as required;**
- b. document the transfer of funds from one employee to another;**
- c. use the initial record of cash receipts, received directly from the preparer, for deposit verification purposes as required; and**
- d. destroy remotely deposited checks within 30 days as required.**

PHPA's response

- a. PHPA concurs with the recommendation. Effective November 2017, PHPA implemented a procedure that require all staff who first receives checks to endorse the checks upon receipt.
- b. PHPA concurs with the recommendation. Effective November 2017, PHPA implemented a procedure that require all staff involved in the check receipt and deposit process to sign/date transfer logs each time checks are transferred to one another.
- c. PHPA concurs with the recommendation. Effective November 2017, PHPA began using the initial record of cash receipts, received directly from the preparer, to verify deposit.
- d. PHPA concurs with the recommendation. Effective November 2017, PHPA implemented procedures that will ensure the destruction of remotely deposited checks no later than 30 days from the date of deposit.

Confidential Information

Finding 6

Numerous PHPA employees had unnecessary access to the confidential demographic and health information of certain patients.

Recommendation 6

We recommend that PHPA

- a. conduct periodic documented reviews of user access to PRISM to ensure such access is necessary for the employee's job duties, and**
- b. restrict access to confidential PRISM data to employees who require the data for their job duties.**

PHPA's response

- a. PHPA concurs with the recommendation. As of November 2017, the Data Manager, who oversees the PRISM data system, will be conducting semiannual reviews of the necessity of user's access to PRISM.
- b. PHPA concurs with the recommendation. As of January 2018, monthly review will be performed to determine if access to PRISM is no longer required or warranted by an employee; and action will be taken to inactivate accounts as appropriate. Reviews are documented by the Data Manager and reviewed by the Deputy Chief.

Food Protection

Finding 7

PHPA did not conduct timely inspections to ensure food-processing facilities were operating in accordance with State regulations.

Recommendation 7

We recommend that the PHPA take the necessary actions to ensure that food-processing inspections are conducted timely, in accordance with State regulations, and to ensure the accuracy of its inspection data.

PHPA's response

PHPA concurs with the recommendation. PHPA is in the process of designing and implementing a new electronic system to manage the permitting, licensing, and inspection functions of the Office of Food Protection in the Environmental Health Bureau. PHPA anticipates that the new system will be partially implemented by the end of 2018, with full implementation by the end of Fiscal Year 2019. Prior to the implementation of that new system, PHPA's Office of Food Protection will conduct quality checks quarterly using the current information management system to ensure facilities are being inspected in accordance with their State schedule.

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