

Audit Report

**Maryland Department of Health
Health Regulatory Commissions**

April 2019



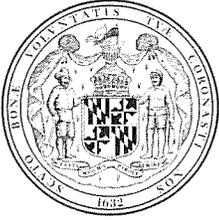
OFFICE OF LEGISLATIVE AUDITS
DEPARTMENT OF LEGISLATIVE SERVICES
MARYLAND GENERAL ASSEMBLY

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DEPARTMENT OF LEGISLATIVE SERVICES
OFFICE OF LEGISLATIVE AUDITS
MARYLAND GENERAL ASSEMBLY

Victoria L. Gruber
Executive Director

Gregory A. Hook, CPA
Legislative Auditor

April 5, 2019

Senator Craig J. Zucker, Co-Chair, Joint Audit Committee
Delegate Shelly L. Hettleman, Co-Chair, Joint Audit Committee
Members of Joint Audit Committee
Annapolis, Maryland

Ladies and Gentlemen:

We have conducted a fiscal compliance audit of the Health Regulatory Commissions of the Maryland Department of Health (MDH) for the period beginning July 1, 2014 and ending July 8, 2018. The Health Regulatory Commissions consists of the following independent commissions:

- Maryland Health Care Commission (MHCC)
- Health Services Cost Review Commission (HSCRC)
- Maryland Community Health Resources Commission (MCHRC)

These three independent commissions are responsible for health-related functions, including directing and administering the State's health planning functions, developing health care cost-containment strategies, reviewing and approving hospital rates, and increasing health care access for low-income, underinsured, and uninsured Marylanders.

Our audit disclosed that MHCC did not have adequate controls over the Maryland Trauma Physician Services Fund. Specifically, we noted that supervisory reviews of Fund disbursements were not sufficiently comprehensive resulting in improper payments to two trauma centers going undetected. In addition, MHCC did not have formal procedures for recovering overpayments to the trauma centers identified during periodic audits resulting in the failure to recover overpayments totaling \$136,000. Furthermore, we noted that two individuals had excessive control over the Fund's recordkeeping, collections, and payments.

Finally, our audit included a review to determine the status of the two findings contained in our preceding fiscal compliance audit report on the Commissions and the one finding contained in our *Special Review on Maryland Health Care Commission's Security Monitoring of Patient Information Maintained by the State-Designated Health Information Exchange*. We determined that the Commissions satisfactorily addressed one of the fiscal compliance findings as well as the special report finding. The remaining fiscal compliance finding is repeated in this report.

MDH's response to this audit, on behalf of the Commissions, is included as an appendix to this report. We reviewed the response to our findings and related recommendations, and have concluded that the corrective actions identified are sufficient to address all audit issues.

We wish to acknowledge the cooperation extended to us during the audit by the Commissions. We also wish to acknowledge MDH's and the Commissions' willingness to address the audit issues and implement appropriate corrective actions.

Respectfully submitted,

A handwritten signature in cursive script that reads "Gregory A. Hook".

Gregory A. Hook, CPA
Legislative Auditor

Background Information

Agency Responsibilities

The Health Regulatory Commissions is a budgetary unit of the Maryland Department of Health that comprises three independent commissions established by law: the Maryland Health Care Commission (MHCC), the Health Services Cost Review Commission (HSCRC), and the Maryland Community Health Resources Commission (MCHRC).

MHCC is responsible for directing and administering the State's health planning functions, developing health care cost-containment strategies, and maintaining a database of all non-hospital health care services. HSCRC is responsible for establishing, reviewing, and approving hospital billing rates; monitoring hospital compliance with approved billing rates; collecting data on hospital utilization and quality; and administering the Hospital Uncompensated Care Fund, which compensates hospitals for services provided to individuals unable to pay. MCHRC is responsible for increasing health care access for low-income, uninsured, and underinsured Marylanders by providing grants to community health resources.

MHCC and HSCRC also jointly administer the Maryland Trauma Physician Services Fund, which reimburses trauma physicians who provided uncompensated care and is funded by a \$5 surcharge on all Maryland vehicle registrations. In addition, MHCC is responsible for certain Fund recordkeeping and accounting processes.

According to the State's records, fiscal year 2018 operating expenditures for the Commissions totaled approximately \$54.6 million. Additionally, approximately \$94.8 million was paid to hospitals from the Hospital Uncompensated Care Fund during fiscal year 2018. The operating expenditures and Fund expenditures are primarily funded by user fees assessed to hospitals and other entities.

New Hospital Budget and Rate Setting System

On July 9, 2018, the State and the federal Centers for Medicare and Medicaid Services entered into a contract to enact a new all-payer model that builds on HSCRC's existing hospital global budget and rate setting system. The goal of this new model, which went into effect on January 1, 2019 and was not within the scope of our current audit, is to find additional health cost savings through better coordination of care between hospitals, physicians, and other health care providers.

Status of Findings From Preceding Audit Reports

Our audit included a review to determine the status of the two findings contained in our preceding audit report dated February 5, 2015. We determined that the Commissions satisfactorily addressed one of these findings. The remaining finding is repeated in this report as Finding 1.

Our audit also included a review to determine the status of the one finding contained in our September 5, 2017 *Special Review on Maryland Health Care Commission's Security Monitoring of Patient Information Maintained by the State-Designated Health Information Exchange*. We determined that MHCC satisfactorily addressed this finding.

Findings and Recommendations

Maryland Trauma Physician Services Fund

Finding 1

The Maryland Health Care Commission (MHCC) did not have sufficient procedures and controls over the Maryland Trauma Physician Services Fund payments and related collections.

Analysis

The MHCC did not have sufficient procedures and controls over the Maryland Trauma Physician Services Fund payments and related collections. The Fund provides payments to offset the cost of uncompensated medical care provided by trauma physicians to patients at Maryland's designated trauma centers and to offset the trauma centers' on-call expenses. According to MHCC's records, during fiscal year 2018, uncompensated medical care payments and trauma centers' on-call expenses totaled approximately \$1.6 million and \$8.5 million, respectively.

- Supervisory reviews of payments to trauma centers for on-call service expenses were not sufficiently comprehensive, resulting in improper payments going undetected. Trauma centers submit the number of hours and related costs of on-call trauma services, which is used by MHCC staff to calculate the amount of the reimbursement. Although the staff reimbursement calculations were subject to supervisory reviews, our test of 10 payment calculations during fiscal years 2016 through 2018 totaling \$5 million disclosed that 2 were incorrectly calculated. Specifically, one payment was underpaid by

\$89,688 and the other was overpaid by \$78,626. MHCC management acknowledged that the payments were improper and could not readily explain why the errors were not detected by the supervisory reviews.

- MHCC did not have formal procedures to ensure that all overpayments from trauma physicians and centers were collected. MHCC contracted with an auditor to perform payment reviews to verify, post-payment, that select reimbursement requests for uncompensated medical care and on-call expenses were proper.¹ However, other than an initial letter notifying the medical provider of the auditor's determination of a reimbursement error, MHCC did not have a documented process in place to recover all outstanding overpayments identified by the auditor's reviews, such as by withholding future payments or sending subsequent dunning letters.

According to MHCC's records, the auditor performed 50 payment reviews during fiscal years 2014 through 2018 and identified \$290,000 in overpayments (related to 27 reviews). However, as of November 2018, \$136,000 remained uncollected, related to 14 payment reviews. Of those 14, 4 were identified in the 2014 reviews and totaled \$53,000. We found that MHCC lacked adequate documentation of any subsequent follow-up efforts to collect the \$136,000 in outstanding overpayments. State regulations require three written demands for payment be made at 30-day intervals after which the account is to be sent to CCU.

- Two individuals had excessive control over the Fund's recordkeeping, collections, and payments relating to uncompensated care. These individuals maintained certain Fund records, processed claim payments, and received checks for claim overpayments, which totaled approximately \$87,000 during fiscal year 2018. Under these conditions, funds could be misappropriated without detection. A similar condition was commented upon in our preceding audit report.

MHCC management advised us that these employees were provided access to incompatible functions so they may serve in a backup capacity, if needed. However, we do not believe this to be sufficient justification to allow these employees to have access to incompatible duties on a routine basis. The Comptroller of Maryland's *Accounting Procedures Manual* requires the segregation of the cash receipts and accounts receivable record keeping, billing, and reconciliation functions.

¹ This audit process was on a test basis and the two erroneous payments previously identified by us, were not subject to this audit process.

Recommendation 1

We recommend that MHCC

- a. ensure supervisory reviews of Fund payments are sufficiently comprehensive and corrective action is taken for any improper payments, including those noted above;**
- b. establish formal procedures and take timely collection action for overpayments identified by MHCC's auditors including those noted above; and**
- c. separate the duties for Fund recordkeeping, payment, and collection functions, including for individuals serving in a backup capacity (repeat).**

We advised MHCC on accomplishing the necessary separation of duties using existing personnel.

Audit Scope, Objectives, and Methodology

We have conducted a fiscal compliance audit of the Health Regulatory Commissions of the Maryland Department of Health (MDH) for the period beginning July 1, 2014 and ending July 8, 2018. The Commissions consists of the Maryland Health Care Commission, the Health Services Cost Review Commission, and the Maryland Community Health Resources Commission. 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 the Commissions' 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 hospital rate monitoring, the Maryland Trauma Physician Services Fund, grant programs, contract procurement and monitoring, and hospital uncompensated care. We also determined the status of the findings contained in the Commissions' preceding audit report. Finally, we determined the status of the finding contained in our September 5, 2017 *Special Review on*

Maryland Health Care Commission's Security Monitoring of Patient Information Maintained by the State-Designated Health Information Exchange.

Our audit did not include certain support services provided to the Commissions by MDH. These support services (such as payroll, maintenance of accounting records, and related fiscal functions) are generally included within the scope of our audit of MDH's Office of the Secretary and Other Units.

To accomplish our objectives, our audit procedures included inquiries of appropriate personnel, inspections of documents and records, observations of the Commissions' 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) and the State's Central Payroll Bureau (payroll 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 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 audit objectives. The reliability of data used in this report for background or informational purposes was not assessed.

The Commissions' 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 a finding relating to conditions that we consider to be significant deficiencies in the design or operation of internal control that could adversely affect the Commissions' ability to maintain reliable financial records, operate effectively and efficiently, and/or comply with applicable laws, rules, and regulations. This finding is also considered a significant instance of non-compliance with applicable laws, rules, and regulations. A less significant finding was communicated to the Commissions that did not warrant inclusion in this report.

The response from MDH, on behalf of the Commissions, 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 K. Rutherford, Lt. Governor · Robert R. Neall, Secretary

April 2, 2019

Mr. Gregory A. Hook, CPA
Legislative Auditor
Office of Legislative Audits
State Office Building, Room 1202
301 West Preston Street
Baltimore, MD 21201

Dear Mr. Hook:

We are providing the attached responses to the draft report from your fiscal compliance audit of the Maryland Department of Health – Health Regulatory Commissions for the period beginning July 1, 2014 and ending July 8, 2018. If you have any questions, please feel free to contact me or Inspector General Frederick D. Doggett at 410-767-0885.

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

Robert R. Neall, Secretary

A handwritten date "4/3/19" written in black ink, positioned above a horizontal line.

Date

cc. Frederick D. Doggett, Inspector General, MDH
Sha S. Brown, Assistant Inspector General – Audits, MDH
Ben Steffen, CEO, Health Regulatory Commissions

Health Regulatory Commissions
July 1, 2014 to July 8, 2018

Agency Response Form

Finding 1
The Maryland Health Care Commission (MHCC) did not have sufficient procedures and controls over the Maryland Trauma Physician Services Fund payments and related collections.

We recommend that MHCC

- a. ensure supervisory reviews of Fund payments are sufficiently comprehensive and corrective action is taken for any improper payments, including those note above;
- b. establish formal procedures and take timely collection action for overpayments identified by MHCC’s auditors including those noted above; and
- c. separate the duties for Fund recordkeeping, payment, and collection functions, including for individuals serving in a backup capacity (repeat).

Agency Response			
Analysis	Factually Accurate		
Please explain any concerns with factual accuracy.	No explanations needed.		
Recommendation a	Choose an item	Estimated Completion Date:	July 31, 2019
Please provide details of corrective action or explain disagreement.	The MHCC concurs with the audit finding and will immediately implement corrective actions. MHCC will ensure supervisory reviews of Fund payments are sufficiently comprehensive and corrective action will be taken for any improper payments, including those noted above. There were 2 on-call payments that were calculated incorrectly, the MHCC staff has already corrected the underpayment and will collect the overpayment with the next round of on-call payments to be processed in July 2019. This will give MHCC ample time to notify the trauma center of the finding and fully implement the process by July 31, 2019.		
Recommendation b	Choose an item	Estimated Completion Date:	Complete
Please provide details of corrective action or explain disagreement.	The MHCC concurs with the audit finding and will immediately implement corrective actions. MHCC will establish a formal procedure and take timely collection action for overpayments identified by MHCC’s auditors, including those noted above. MHCC has completed the creation of a database to track current and future audits and to take timely corrective action regarding under and over payments. This corrective action includes 3 written demands for payment in 30-day intervals. The process mirrors the process for the		

Health Regulatory Commissions
July 1, 2014 to July 8, 2018

Agency Response Form

	MHCC assessment to the industries. MHCC has fully implemented this process as of March 21, 2019.		
Recommendation c	Choose an item	Estimated Completion Date:	Complete
Please provide details of corrective action or explain disagreement.	The MHCC concurs with the audit finding and will immediately implement corrective actions. MHCC will separate the duties for Fund recordkeeping, payment, and collection functions, including for individuals serving in a backup capacity. Corrective action had been taken previously on segregation of duties with the administrative staff on the day-to-day. Those segregated duties had been interrupted. The interruption is no longer an issue and staff has also trained another staff member on the trauma program, in case of unforeseen circumstances. MHCC has fully implemented this process as of March 21, 2019.		

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