New Jersey Legislature

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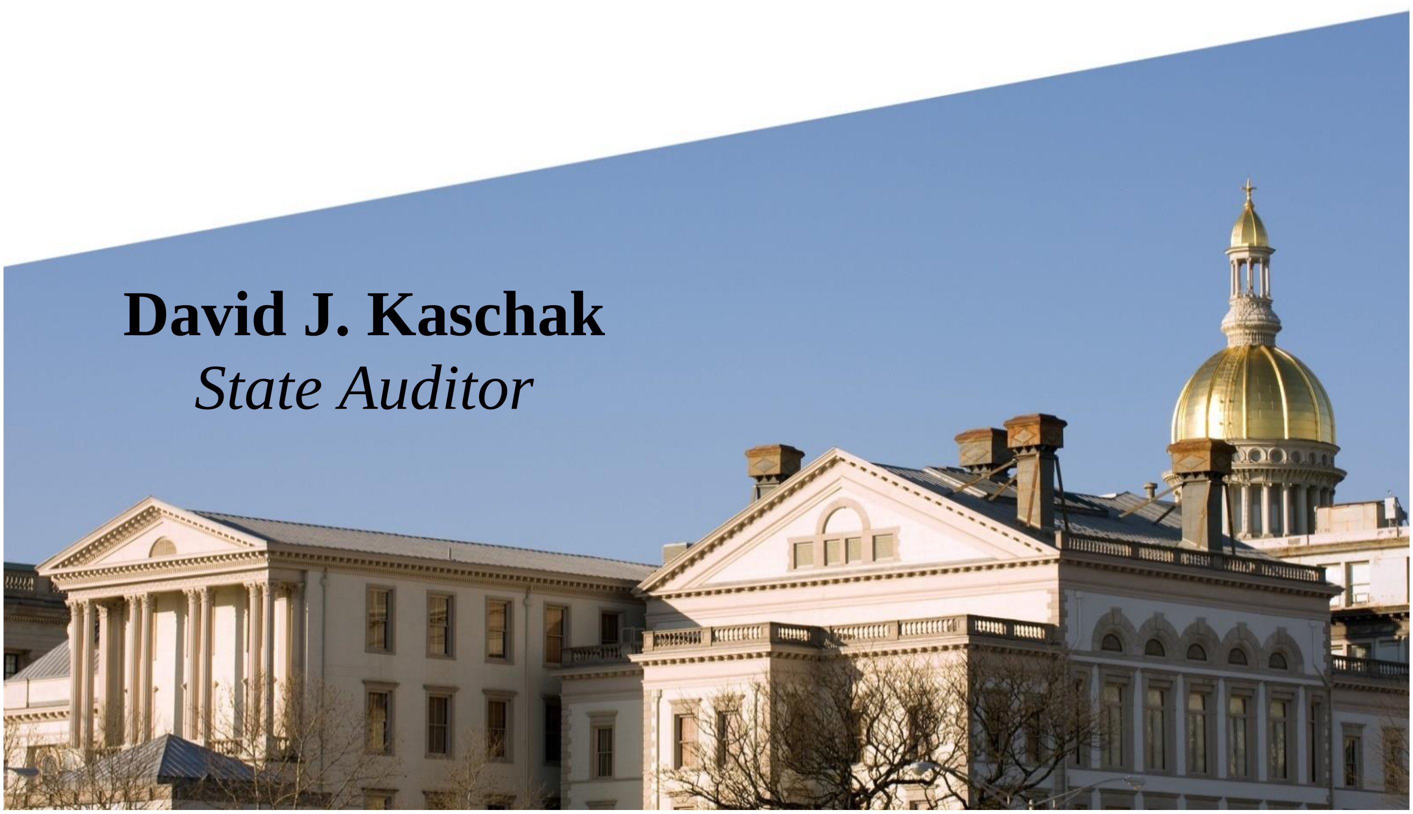
OFFICE OF THE STATE AUDITOR

Compliance Review

July 1, 2021 to June 30, 2022

David J. Kaschak

State Auditor



NEW JERSEY STATE LEGISLATURE
Office of LEGISLATIVE SERVICES

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President of the Senate

The Honorable Craig J. Coughlin
Speaker of the General Assembly

Ms. Maureen McMahon
Executive Director
Office of Legislative Services

Pursuant to the State Auditor's responsibilities set forth in N.J.S.A. 52:24-4, we have completed a review of compliance with recommendations made in our audit reports issued during the period July 1, 2021 through June 30, 2022. This review encompassed 6 audit reports containing 41 recommendations. We also reviewed the status of 105 unresolved recommendations from the audit reports included in last year's compliance review for fiscal year 2021 for which we had determined that the agencies had not achieved full compliance. This review did not include those reports completed on an annual basis, which includes the Department of Community Affairs – Section 8 Housing Program Financial Data Schedules, Schedules of Benefit Claim Payments and Expenses for the State of New Jersey, and the Report on Internal Control Over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with *Government Auditing Standards* for the state's Annual Comprehensive Financial Report. Additionally, we performed a review of our audit observations from our reports issued during the period July 1, 2021 through June 30, 2022. Our reports included nine observations, which provide stakeholders with information on various topics without having specific recommendations. Observations, where the condition still existed at the time of our review, were restated in the separate informational section of this report.

We found that 82 percent of the recommendations presented in our audit reports have been complied with, or management has taken steps to achieve compliance during our review period. There are instances where insufficient time has elapsed to make a final assessment of the effectiveness of management's changes. Over a two-year period, the rate of compliance for fiscal year 2021 recommendations rose from 71.4 percent to 87.8 percent.

We have characterized issues as items of continuing concern because of noncompliance with our recommendations. All issues of noncompliance have been communicated to the auditees. Unresolved issues relating to our fiscal year 2022 audit reports are presented on pages 3 to 9. Unresolved issues relating to our fiscal year 2021 audit reports are presented on pages 13 to 29. The informational section of this report containing restated observations is presented on pages 31 to 37. Auditee responses to our follow-up review results, if received, begin on page 38

The original audit reports containing full details on the unresolved issues can be found on our website: https://www.njleg.state.nj.us/audit-reports

If you would like a personal briefing, please call me at (609) 847-3470.

David J. Kaschak

David J. Kaschak
State Auditor
July 20, 2023

c Elizabeth Maher Muoio, State Treasurer
Tariq Shabazz, Acting Director, Office of Management and Budget

Table of Contents

*The Chief Executive's Office and Lakewood Public School District chose not to respond.

Fiscal Year 2022 – Audit Recommendations Compliance Dashboard

Report Date	Audit
7/14/2021	**Department of Community Affairs** Disaster Relief - Superstorm Sandy, Selected Contracts  **9 Recommendations**
12/20/2021 Page 3	**Chief Executive's Office**  **4 Recommendations**
5/12/2022	**Lakewood Public School District**  **2 Recommendations**
5/25/2022	**Department of the Treasury** Office of Management and Budget, New Jersey Comprehensive Financial System Application  **10 Recommendations**
6/2/2022 Page 5	**Department of Corrections** Edna Mahan Correctional Facility for Women  **9 Recommendations**
6/14/2022 Page 7	**Department of Law and Public Safety** Division of Gaming Enforcement  **7 Recommendations**

Full Compliance Partial Compliance Noncompliance N/A *

* There were a variety of circumstances why a recommendation was deemed not applicable (N/A). As an example, a program in a school district was discontinued because of the COVID-19 pandemic; therefore, no specific testing could be performed. Additionally, all recommendations deemed N/A are not included in compliance percentage calculations.

Unresolved Issues from Fiscal Year 2022 Audit Reports

Chief Executive's Office (office)

Number of Recommendations: **4**

Number of Recommendations Partially or Fully Implemented: **2**

Percent Partially or Fully Implemented: **50.0%**

Audit Recommendations by Status

In our report of the Chief Executive's Office, dated December 20, 2021, we made a total of 4 recommendations.

Full Compliance
Partial Compliance
Noncompliance
Not Applicable

Source: Office of the State Auditor

Wireless Devices

Background

New Jersey Department of the Treasury Circular No. 15-04-OMB/OIT requires the review and termination of wireless devices that are no longer necessary. This includes notifying the Office of Information Technology (OIT) when a device should be deactivated.

Summary

Internal controls over wireless devices need improvement to ensure compliance with Treasury requirements. During the audit, we noted a range of between 27 and 43 wireless devices that were unassigned in the months tested, with expenditures totaling $10,928. This included 21 wireless devices that were not on any of the monthly assignment lists.

Report Recommendation

We recommended the office reconcile its assignment list with the monthly bills and notify OIT of any unnecessary wireless devices for deactivation.

Management Corrective Action Response

The office reviews and reconciles its assignment list with billing via the Pinnacle billing system and identifies any nonactive lines to be marked for deactivation.

Chief Executive's Office (continued)

Follow-Up Review Results

Our follow-up review found the office does not reconcile its assignment list with the monthly bills and continues to pay for wireless devices that do not appear on the assignment list. There were wireless devices on the billing statement that were not on the assignment list. The office was unable to provide support documentation of deactivation requests for these devices.

Department of Corrections
Edna Mahan Correctional Facility for Women

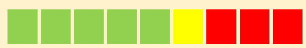
Number of Recommendations: **9**

Number of Recommendations Partially or Fully Implemented: **6**

Percent Partially or Fully Implemented: **66.7%**

Audit Recommendations by Status

In our report of Edna Mahan Correctional Facility for Women, dated June 2, 2022, we made a total of 9 recommendations.



Full Compliance
Partial Compliance
Noncompliance
Not Applicable

Source: Office of the State Auditor

iTAG Access

Background

The iTAG system is the department's computerized database used to track an inmate's incarceration from inception to conclusion. The system is used for classification, visitation, disciplinary actions, inmate bank accounts, inmate payroll, commissary activity, and other functions. Users can be assigned to profiles, such as Business Manager, Classification, or Custody, each having different authorized functions. Users can be assigned to multiple profiles.

Summary

Employees who have separated from the facility continue to have access to the iTAG system.

Report Recommendation

We recommended, in accordance with the *Statewide Information Security Manual*, separated employees in the iTAG system have their access immediately removed and the facility improve its notification process to ensure terminations are handled in a timelier manner. We also recommended the facility implement a six-month review of all access to the iTAG system.

Department of Corrections
Edna Mahan Correctional Facility for Women (continued)

Management Corrective Action Response

Department administration requested a report of all users at the facility and forms were completed to have access removed for all separated staff members. A procedure has been established for removing staff members upon separation. Human Resources will notify the Administrator's Office of a separation, a form will be completed and sent to the department’s technology unit, and the individual will be removed. The facility has implemented an audit of the iTAG system every six months.

Follow-Up Review Results

Our follow-up review found the facility continues to have separated employees with access to the iTAG system. Additionally, our review determined that the facility has not improved its notification process to ensure separated employees are removed from the iTAG system in a timely manner, and the facility has not conducted a six-month review of all access to the iTAG system.

Department of Law and Public Safety
Division of Gaming Enforcement

Number of Recommendations: **7**

Number of Recommendations Partially or Fully Implemented: **5**

Percent Partially or Fully Implemented: **71.4%**

Audit Recommendations by Status

In our report of the Division of Gaming Enforcement, dated June 14, 2022, we made a total of 7 recommendations.

Full Compliance

Partial Compliance

Noncompliance

Not Applicable

Source: Office of the State Auditor

Transactional Waivers

Background

Transactional waivers are used as a temporary Casino Service Industry Enterprise (CSIE) license for any enterprise that proposes to provide goods or services relating to casino or gaming activity to any casino license applicant or licensee in New Jersey. A waiver is typically approved for six months but can be extended.

Summary

We performed an analysis of waivers processed between July 1, 2018 and August 31, 2020 and noted there were 164 waivers for 54 companies posted online. We identified the following internal control weaknesses over waivers:

- We reviewed the most recent waiver for all agreements approved between January 1, 2019 and August 31, 2020. We noted 32 of 66 agreements did not have a previous waiver online even though the waiver indicated there should have been one. We asked the division for any evidence of the previous waivers but were not provided any.

Department of Law and Public Safety
Division of Gaming Enforcement (continued)

- In June 2020, Order 2058 extended 19 waivers until August 1, 2020 because of the pandemic. We were unable to find 3 of the 19 waiver renewals posted online. The division later provided them to us, but one covering 7 agreements was not dated or signed by the division, and one covering 10 agreements was not approved timely.

Report Recommendation

We recommended the division track transactional waivers and monitor for timeliness to ensure compliance with the administrative code.

Management Corrective Action Response

As of November 2022, the expected system implementation to track transactional waivers (TWs) has not come to fruition. As a result, the division is developing, with IT, a tracking system that can be utilized to track TWs. It is anticipated the division will have a working system in place by the end of the year.

Follow-Up Review Results

Our follow-up review found transactional waivers are not tracked in a computerized system or database. There are no written procedures for tracking and monitoring transactional waivers.

Gambling Addiction Reports

Background

The division is responsible for ensuring the vendor obtains the correct and complete data from the casino industry for them to study gaming addiction.

Summary

The reports published in 2019 and 2020 were missing birthdates, zip codes, and gender for patrons. The accounts with missing gender were excluded from the studies; therefore, an average of 27 percent of the accounts had to be excluded. The division did not verify whether all accounts and their respective information were included in the data provided to the vendor.

Report Recommendation

We recommended the division ensure the data received from the casinos is complete.

Department of Law and Public Safety
Division of Gaming Enforcement (continued)

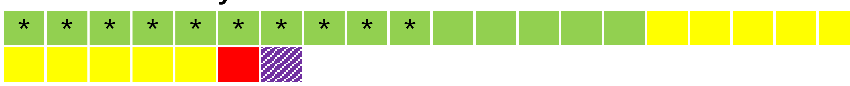
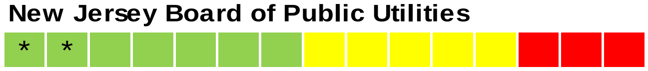
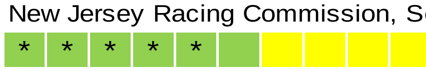
Management Corrective Action Response

The division did not provide a specific response regarding the completeness of data received from the casinos.

Follow-Up Review Results

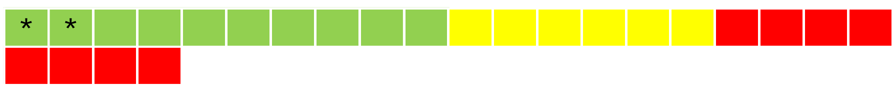
Our follow-up review found certain data was still not provided to the vendor for the 2020 gaming addiction report.

Fiscal Year 2021 – Audit Recommendations Compliance Dashboard

Report Date	Audit
7/1/2020	**Department of Human Services** Division of Medical Assistance and Health Services, New Jersey FamilyCare, Medicaid Pharmacy Program  **9 Recommendations**
7/16/2020 Page 13	**Rowan University**  **27 Recommendations**
7/30/2020	**Department of Health** Division of Behavioral Health Services, Ann Klein Forensic Center  **12 Recommendations**
8/20/2020 Page 15	**New Jersey Board of Public Utilities**  **15 Recommendations**
9/23/2020	**Department of the Treasury** Division of Purchase and Property, Procurement of Information Technology Contracts  **9 Recommendations**
1/6/2021 Page 17	**Department of Human Services** Division of Medical Assistance and Health Services, New Jersey FamilyCare, Medicaid Managed Care Rate Setting and Managed Care Organization Administrative Costs  **4 Recommendations**
2/3/2021	**Department of Law and Public Safety** New Jersey Racing Commission, Selected Programs  **10 Recommendations**
3/10/2021	**Department of Law and Public Safety** Juvenile Justice Commission, Juvenile Medium Security Center  **8 Recommendations**

Full Compliance — Partial Compliance — Noncompliance — N/A **

Fiscal Year 2021 – Audit Recommendations Compliance Dashboard (continued)

Report Date	Audit
3/24/2021	**Department of the Treasury** Division of Taxation, Taxpayer Unremitted Liability Inventory Plotting System (TULIPS) and the Generic Tax System (GENTS)  **8 Recommendations**
5/26/2021	**New Jersey Economic Development Authority** Selected COVID-19 Emergency Assistance Programs  **2 Recommendations**
5/27/2021 Page 22	**Department of the Treasury** Division of Purchase and Property, New Jersey State of The Art Requisition Technology (NJSTART) Information Technology Application  **24 Recommendations**
6/10/2021 Page 28	**Department of Human Services** Division of Developmental Disabilities, Woodbine Developmental Center  **25 Recommendations**

Full Compliance   Partial Compliance   Noncompliance   N/A **

* These recommendations were deemed full compliance during our fiscal year 2021 compliance review; no specific compliance testing was completed for these recommendations during our current review. Prior-year recommendations deemed full compliance are included to show the compliance status over the two-year period and are included in the two-year compliance rate calculations.

** There were a variety of circumstances why a recommendation was deemed not applicable (N/A). As an example, a program in a school district was discontinued because of the COVID-19 pandemic; therefore, no specific testing could be performed. Additionally, all recommendations deemed N/A are not included in compliance percentage calculations.

Unresolved Issues from Fiscal Year 2021 Audit Reports

Rowan University

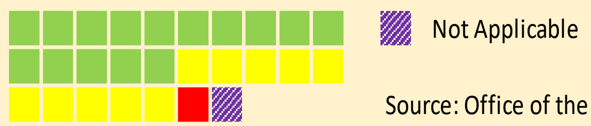
Number of Recommendations: **26**

Number of Recommendations Partially or Fully Implemented: **25**

Percent Partially or Fully Implemented: **96.2%**

Audit Recommendations by Status

In our report of Rowan University, dated July 16, 2020, we made a total of 27 recommendations.



Source: Office of the State Auditor

Employee Health and Dental Benefits

Background

Full-time employees of the university are eligible to participate in the state's Division of Pensions and Benefits, State Health Benefits Program (SHBP) for health and dental benefits, provided they make required contributions toward the cost of coverage.

Summary

The university failed to fully recover required contributions toward SHBP coverage from employees during unpaid leaves of absence.

Report Recommendation

We recommended the university seek recovery of employee contributions from individuals who were enrolled but did not make required contributions.

Management Corrective Action Response

The university human resources office has developed and implemented procedures that now require a reconciliation to be performed after an employee returns from leave of absence to ensure contributions were made accurately. If a discrepancy is noted, the university seeks recovery by providing the employee with options to pay the amount due in a lump sum or through equal payroll deductions.

Rowan University (continued)

Follow-Up Review Results

Our follow-up review found university management decided not to seek recovery of unpaid employee contributions identified during the audit because they were deemed immaterial or difficult to collect due to timing issues. Some of these unpaid contributions were for individuals no longer employed by the university.

New Jersey Board of Public Utilities

Number of Recommendations: **15**

Number of Recommendations Partially or Fully Implemented: **12**

Percent Partially or Fully Implemented: **80.0%**

Audit Recommendations by Status

In our report of New Jersey Board of Public Utilities, dated August 20, 2020, we made a total of 15 recommendations.

Full Compliance

Partial Compliance

Noncompliance

Not Applicable

Source: Office of the State Auditor

One-Call Penalty Receivables

Background

The Board’s Division of Reliability & Security (DRS) enforces the provisions of the Underground Facility Protection Act, also known as the One-Call Program. Generally, One-Call penalties are assessed to excavators and utility companies for mark-out utility violations. Penalty revenues were $1.874 million in Fiscal Year 2019. The penalty receivables as of July 15, 2019 totaled $1.886 million representing 674 open cases. If penalty cases are in default, the Board may issue a Final Order of Penalty Assessment (FOPA) to each violator and subsequently transfer the delinquent penalty debt to the Department of the Treasury, Division of Revenue and Enterprise Services (DORES).

Summary

The Board’s DRS and fiscal unit did not follow-up with delinquent violators. During the audit we identified errors in open and closed penalty cases where payment and account status were not properly posted to the accounting system and appropriate collection efforts were not pursued.

Report Recommendation

We recommended DRS correct errors for open and closed cases. We also recommended the Board issue FOPAs to delinquent violators and, when applicable, transfer the delinquent penalty debt to DORES.

New Jersey Board of Public Utilities (continued)

Management Corrective Action Response

The DRS has corrected many of the errors in open and closed cases. However, the cases that contain errors are challenging to find and must be fixed one by one. The DRS is issuing FOPAs to delinquent new violators and will set up a process to transfer the delinquent penalty debt to DORES. There is a lag between opening, investigating, issuing violations, mitigating contested cases, and issuing a FOPA if necessary.

Follow-Up Review Results

Our follow-up review found the DRS did not correct 11 of the 15 errors for open and closed cases identified during the audit. The Board did not issue FOPAs to delinquent violators, and, when applicable, transfer the delinquent penalty debt to DORES.

Department of Human Services
Division of Medical Assistance and Health Services
New Jersey FamilyCare
Medicaid Managed Care Rate Setting and Managed Care Organization (MCO) Administrative Costs

Number of Recommendations: **4**

Number of Recommendations Partially or Fully Implemented: **0**

Percent Partially or Fully Implemented: **0.0%**

Audit Recommendations by Status

In our report of Medicaid Managed Care Rate Setting and Managed Care Organization Administrative Costs, dated January 6, 2021, we made a total of 4 recommendations.

- Full Compliance
- Partial Compliance
- Noncompliance
- Not Applicable

Source: Office of the State Auditor

MCO Underwriting Margins

Background

If an MCO makes an underwriting margin in excess of the explicit provision included in the capitation rates for any given fiscal year, the capitation rates for that year cannot be recalculated to recoup any of the excess underwriting margin. Similarly, if an MCO experiences an underwriting loss, the capitation rates cannot be increased. The underwriting gains were retained by the MCOs because the MCO contract lacks terms that would limit the excess percentage of underwriting gains an MCO can retain. In an effort to identify best practices, we contacted other states and noted the State of Texas legislatively enacted Texas Government Code 533.014, which requires the Texas Health and Human Services Commission to adopt rules to ensure MCOs share profits earned through the Medicaid managed care program.

Summary

Medicaid capitation rates were actuarially sound but resulted in $516.1 million in MCO underwriting gains.

Department of Human Services
Division of Medical Assistance and Health Services
New Jersey FamilyCare
Medicaid Managed Care Rate Setting and Managed Care Organization Administrative Costs (continued)

Report Recommendation

We recommended the division include language in the MCO contract that limits MCO profits by requiring underwriting margins that exceed a defined percentage to be shared with the state.

Management Corrective Action Response

While the division agrees in principle with limiting excess profits, it disagrees with the method recommended by OSA for the reasons set forth in its initial response to the audit. However, the division has limited excess profits in other ways. It implemented a program-wide risk corridor early in the COVID-19 pandemic. Managed care capitation rates had been developed prior to the known impact of the public health emergency. The retroactive risk corridor enabled the State to recoup payments from MCOs based on pandemic-driven underutilization of discretionary health services in the second half of FY 2020. This resulted in an estimated $400 million in total Medicaid savings ($140 million state share). Further, the division continues to use the Medical Loss Ratio (MLR) requirement to protect against excessive profits. The New Jersey Medicaid minimum MLR is 85 percent of premiums paid in acute care groups and 90 percent of premiums paid for managed long-term services and supports premium groups.

Follow-Up Review Results

No action has been taken by the division on this matter. The division has not updated the MCO contract to include language that limits MCO profits by requiring underwriting margins that exceed a defined percentage to be shared with the state. The implemented program-wide risk corridor is only temporary for the period of the public health emergency related to the COVID-19 pandemic.

Department of Human Services
Division of Medical Assistance and Health Services
New Jersey FamilyCare
Medicaid Managed Care Rate Setting and Managed Care Organization Administrative Costs (continued)

Pharmacy Benefit Manager

Background

The MCOs often contract with a third-party administrator known as a pharmacy benefit manager (PBM) to provide the prescription drug benefit. During fiscal year 2018, the division identified that three of the five MCOs were incorrectly reporting PBM administrative costs as a pharmacy medical expense and not as an administrative expense in their acute care annual financial reports for fiscal years 2015, 2016 and 2017. Since the base financial data used for setting capitation rates is from the fiscal year two years prior to the rate setting period, the financial expense misclassification would have only impacted fiscal year 2018 and prior acute care capitation rates. The fiscal year 2018 capitation rates were set without knowledge of the financial expense misclassification because of the timing of the capitation rate setting process (i.e., fiscal year 2016 base financial data was used for fiscal year 2018 capitation rates). Although it was determined that the financial expense misclassification did not have a measurable impact on the overall capitation rates, the division and it's contracted actuary identified that one of the MCO's MLR would have been impacted. The division and the contracted actuary also identified that the same MCO's reported PBM administrative costs decreased from fiscal year 2017 to fiscal year 2018. With fiscal year 2017 annual financial statements and reports serving as the base data for the fiscal year 2019 capitation rates, the contracted actuary made a downward adjustment to the PBM administrative costs built into the capitation rates.

Summary

The division and the contracted actuary did not retrospectively review the MCO's reported PBM administrative costs for fiscal years 2015 and 2016 to determine if the MCO reported PBM administrative costs were considered reasonable and appropriate, and if the MCOs MLR would have been impacted. The division did not ensure the MCO was in compliance with the MLR regulations or determine if the MCO would be required to submit an MLR remittance.

Report Recommendation

We recommended the division and the contracted actuary retrospectively analyze and calculate the actual financial impact of the MCO's PBM financial expense related to the MLR. We also recommended the division and the contracted actuary retrospectively analyze and determine if the MCO's PBM administrative costs for fiscal years 2015 and 2016 were reasonable and appropriate and if the MCO's MLR would have been impacted.

Department of Human Services
Division of Medical Assistance and Health Services
New Jersey FamilyCare
Medicaid Managed Care Rate Setting and Managed Care Organization Administrative Costs (continued)

Management Corrective Action Response

The division has updated the MCO contract to provide clear direction on reporting expenses paid to the pharmacy by the PBMs. Additionally, all affected MCO's have resubmitted financials and, in the normal course of the MLR process, continue to submit a three-year lookback of financials to true-up with additional runout as per their contract. This lookback true-up was implemented to capture any prior-year re-classifications that may impact the MCO's MLR.

Follow-Up Review Results

No action has been taken by the division on this matter. The division added additional language to the MCO contract; however, it does not have an impact on our recommendation. The division did not provide documentation of a retrospective analysis or calculation of the actual financial impact of the MCO's PBM financial expense related to the MLR. Additionally, the division did not provide documentation of a retrospective analysis or determination if the MCO's PBM administrative costs for fiscal years 2015 and 2016 were reasonable and appropriate and if the MCO's MLR would have been impacted. The MCO three-year lookback of financials to true-up with additional runout was implemented during our audit, but the standard lookback would not include fiscal years 2015 or 2016.

MCO Financial Reporting

Background

Federal regulation 42 CFR 438.3(m) requires MCOs to submit audited annual financial reports specific to the Medicaid contract, while the MCO contract requires MCOs to submit both audited annual financial reports and statements specific to the Medicaid contract. The MCOs submit audited annual financial statements to the New Jersey Department of Banking and Insurance; however, these audited financials are of the MCOs' comprehensive business entity and not explicitly on the financial reporting of Medicaid revenues and expenses. The MCO contract also states MCOs must submit quarterly financial reports for Medicaid rate cell grouping costs. A rate cell is a set of mutually exclusive categories of beneficiaries that is defined by one or more characteristics for the purpose of determining the capitation rate, which must be reviewed annually by an independent public accountant in accordance with agreed upon procedures (AUPs). In general, AUPs are more focused than financial audits; however, AUPs do not provide the comprehensive assurance of audit opinions.

Department of Human Services
Division of Medical Assistance and Health Services
New Jersey FamilyCare
Medicaid Managed Care Rate Setting and Managed Care Organization Administrative Costs (continued)

Summary

The division is not in compliance with federal regulations or the MCO contract requiring audited financial statements and reports of the MCOs when setting capitation rates.

Report Recommendation

We recommended the division comply with federal regulations and the MCO contract requiring audited annual MCO financial statements and reports specific to Medicaid revenues and expenses when setting capitation rates.

Management Corrective Action Response

As stated in its initial response to the audit, the division believes that the Consolidated Level "Audited" Financials that are submitted by the MCOs to the Department of Banking and Insurance, in conjunction with the MCO's AUP submissions, satisfy the requirements of both the federal regulations and the MCO contract. The MCO contract, inclusive of the AUP requirements, is approved by the federal Centers for Medicare and Medicaid Service every year. The department believes that the AUP, a third-party independent review of the MCO's individual rate cells, is an extremely reliable approach. The division and its actuary update this process annually to maintain the integrity and strict standards of the AUP process. Lastly, the AUP requires MCOs to submit a valid corrective action plan addressing any anomalies.

Follow-Up Review Results

No action has been taken by the division on this matter.

Department of the Treasury
Division of Purchase and Property (division)
New Jersey State of The Art Requisition Technology (NJSTART)
Information Technology Application

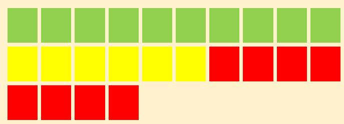
Number of Recommendations: **24**

Number of Recommendations Partially or Fully Implemented: **16**

Percent Partially or Fully Implemented: **66.7%**

Audit Recommendations by Status

In our report of NJSTART Information Technology System, dated May 27, 2021, we made a total of 24 recommendations.



Source: Office of the State Auditor

Logical Access – Authentication
Accounts That Have Never Been Accessed

Background

The *Statewide Information Security Manual* (SISM) requires state agencies to disable access for any account that is created and not accessed within 30 days of creation.

Summary

The original audit identified 1,145 user accounts that were never used and not disabled after 30 days. During the prior compliance period, 760 of these users remained.

Report Recommendation

We recommended the division perform a review of all users in the NJSTART application and work with the agencies to identify and delete accounts that have never been accessed. In addition, we recommended the division communicate the requirements and procedures for removing accounts that are created and not used within 30 days to the agency organization administrators (OAs) and monitor the agencies' compliance through periodic reviews.

Department of the Treasury
Division of Purchase and Property
New Jersey State of The Art Requisition Technology
Information Technology Application (continued)

Management Corrective Action Response

In August 2022, the division conducted the second semi-annual review of inactive accounts. A list of accounts with no activity for the prior 60 days was generated and circulated to agency OAs. In addition, the division is working with the vendor to develop a training session for agency OAs and will include the topic of accounts that have never been accessed.

Follow-Up Review Results

Our follow-up review found the report sent to agency OAs for review did not include accounts that have never been accessed; therefore, it is not effective in addressing the issue. Also, we obtained and reviewed the training materials and found the topic of accounts that have never been accessed was not included. Finally, based on the results, we determined that the division is not monitoring agencies' compliance.

Logical Access – Authentication
Duplicate User IDs

Background

The SISM requires agencies to identify and address redundant or duplicate IDs during their required periodic access reviews. Duplicate accounts could allow users to have unnecessary access to application resources that may circumvent application controls.

Summary

The original audit identified 39 duplicate accounts belonging to 33 different individuals.

Report Recommendation

We recommended that because only the division has the ability to view users across all organizations, it should include identifying duplicate accounts statewide during its periodic reviews.

Management Corrective Action Response

The division's semi-annual review will address this issue.

Department of the Treasury
Division of Purchase and Property
New Jersey State of The Art Requisition Technology
Information Technology Application (continued)

Follow-Up Review Results

Our follow-up review found 32 percent of duplicate users from the previous year's compliance review remained. Although this is an improvement, there was no evidence this issue is being addressed in the semi-annual review.

Logical Access – Authentication
Periodic Reviews

Background

The SISM requires agencies to document and implement a formal process to periodically review users' access rights to maintain effective controls over user access to information assets. To maintain these controls, agencies are required to review user access to resources at least every six months.

Summary

The account management issues we found in the areas of separated and transferred users with active access, as well as active user accounts that should be disabled or removed, indicate that periodic reviews of user access to NJSTART are not being performed by the using agencies.

Report Recommendation

We recommended the division monitor agencies' compliance through periodic verification.

Management Corrective Action Response

The division's semi-annual review will address this issue.

Follow-Up Review Results

Our follow-up review found the report run for the semi-annual review process only addresses users not logging into NJSTART for more than 60 days. Our review of the OA training material showed some aspects of the SISM are being addressed, but there was no mention of conducting periodic reviews. The division is not monitoring compliance through periodic verification.

Department of the Treasury
Division of Purchase and Property
New Jersey State of The Art Requisition Technology
Information Technology Application (continued)

Logical Access – Authorization
Proxy Rights

Background

The NJSTART application has the ability for a user to assign their application authorization rights to another user via proxy. The user being assigned the proxy rights can receive system messages for, and perform any functions of, the person assigning the rights. This includes approvals if the assigning user is on the approval path for a transaction. Proxy rights assignment is a temporary status change and is meant for limited use. Users who assign proxy rights should also be cognizant of allowing privileges that may inadvertently circumvent controls, such as segregation of duties.

Summary

Proxy rights are not being properly controlled. The original audit found 42 users who assigned proxy rights to other users. When this same analysis was re-performed thirteen months later, we found that 19 proxies had remained in place for the entire thirteen-month period.

Report Recommendation

We recommended the division perform a review of all users with proxy rights assigned by or to them and work with the agencies to remove these proxy rights if they are no longer required. We also recommended the division perform periodic reviews for the reoccurrence of this issue, address the results with the appropriate agency, and document and maintain evidence of these reviews.

Management Corrective Action Response

As part of the semi-annual review, the division reminds all agencies that the continuation of long-term proxy rights is not best practice. Proxy rights are established at the agency level and the division has limited control over the use of this option. The division's semi-annual review process serves as the periodic review.

Department of the Treasury
Division of Purchase and Property
New Jersey State of The Art Requisition Technology
Information Technology Application (continued)

Follow-Up Review Results

Our follow-up review found active proxies from the original audit and our prior year review remain. The report used by the division for the semi-annual review does not address this issue; therefore, there is no periodic review of proxy rights. The agency OAs are only informed that this is not a best practice.

Contingency Planning

Background

Contingency planning consists of technical and operational aspects. The operational aspects are the processes and procedures that will be used to put the agencies' employees and customers in a position to resume normal operations. The SISM requires agencies to develop, implement, test, and maintain contingency plans to ensure continuity of operations for all information systems that deliver or support essential or critical business functions of the state.

Summary

The operational aspect of contingency planning for the NJSTART application, also known as business continuity planning, is the responsibility of the division. The division does not have a documented business continuity plan.

Report Recommendation

We recommended the division develop, document, and implement a business continuity plan that details the procedures needed to maintain a level of service acceptable to employees and customers if a business interruption occurs.

Management Corrective Action Response

The division will continue to move forward with articulated contingency plans based on its response to the recent pandemic. It will also fully participate in the documentation effort led by the Office of the State Treasurer to establish a department-wide contingency plan for Treasury operations.

Department of the Treasury
Division of Purchase and Property
New Jersey State of The Art Requisition Technology
Information Technology Application (continued)

Follow-Up Review Results

Our follow-up review found the division had not yet documented its individual contingency plan, and no documentation was provided related to the progress of the department-wide Treasury contingency plan.

Department of Human Services
Division of Developmental Disabilities
Woodbine Developmental Center

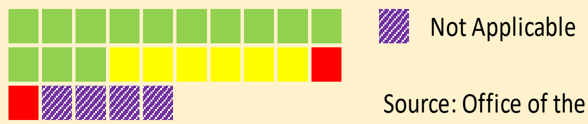
Number of Recommendations: **21**

Number of Recommendations Partially or Fully Implemented: **19**

Percent Partially or Fully Implemented: **90.5%**

Audit Recommendations by Status

In our report of Woodbine Developmental Center, dated June 10, 2021, we made a total of 25 recommendations.



Source: Office of the State Auditor

Declining Client Population

Background

The Woodbine Developmental Center (WDC or center) uses 14 cottages to house clients. Each cottage has its own staff comprised of direct care, supervisors, and food service employees. The center's client population decreased from 479 to 247 from September 2008 to September 2019 with no corresponding reduction in the number of cottages used by the center. The center's objectives could continue to be achieved with fewer cottages and an overall reduction in regular payroll and overtime costs. Additionally, the center does not maximize the use of employees meeting the definition of direct care staff by scheduling assignments to achieve operational and fiscal efficiencies.

Summary

The number of cottages used to house clients could be reduced, and employee schedules and assignments should be prepared at the center's department level to achieve operational and fiscal efficiencies with a potential annual cost savings of $7.3 million.

Department of Human Services
Division of Developmental Disabilities
Woodbine Developmental Center (continued)

Report Recommendation

We recommended the center develop and implement a plan to reduce the number of cottages in use to efficiently utilize space and employee resources. We also recommended the Residential Services, Vocational Services and Nursing departments work in conjunction to ensure a properly- sized staff for the population and number of cottages in use.

Management Corrective Action Response

The Department continues to disagree with OSA's recommendation to reduce the number of cottages and employees at WDC. It continues to be WDC's experience that smaller, quieter environments with less stimulation are optimal for the population served. Data from the past five years demonstrates that the use of psychotropic medications, behavior interventions, number of injuries and behavior support plan levels have reduced for our residents as the census in cottages has decreased. Additionally, the current smaller cottage environment allows for more social distancing in common areas and less individuals sharing bedrooms, which reduces the spread of respiratory illnesses such as COVID-19 and Influenza.

Follow-Up Review Results

The client population has continued to decline since our audit, and the center has not developed and implemented a plan to reduce the number of cottages in use. Additionally, the center did not provide documentation to support any changes to the process to ensure a properly-sized staff for the population and number of cottages in use.

Informational Section
Audit Observations from Fiscal Year 2022 Audit Reports

Observations

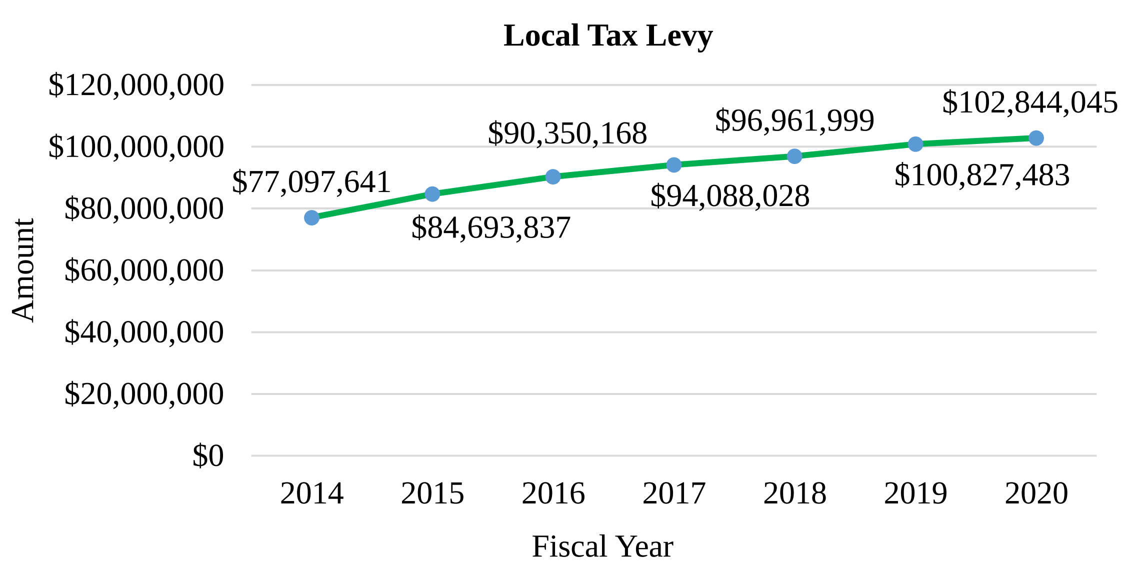
Our compliance review also included a status update of audit observations from our reports that were issued during the period July 1, 2021 through June 30, 2022. Our reports included nine observations, which are designed to provide stakeholders with information on various topics without having specific recommendations. Because observations do not have specific recommendations, a compliance assessment is not given. Observations, where the condition still existed at the time of our review, were restated and included in this report for informational purposes.

Lakewood Public School District

Limited Growth in Local Revenue from Tax Levy

Original Observation

Pursuant to N.J.S.A. 18A:7F-38, a district shall not adopt a budget with an increase in its adjusted tax levy that exceeds the sum of the pre-budget year adjusted tax levy multiplied by 2.0 percent and adjustments for increases in enrollment, health care costs, amounts for certain normal and accrued liability and pension contributions, and other external factors. This law caps the district's ability to generate a substantial amount of additional revenue from the local tax levy each fiscal year, which hinders its ability to reduce budget deficits. From fiscal year 2014 to 2020, revenue from the local tax levy increased $25.7 million (33 percent), with an average annual increase of $4.3 million (five percent). The following chart depicts the growth in the local tax levy during this period.



Lakewood Public School District (continued)

The Department of Education (DOE) provides an estimate of a district's local fair share based on equalized valuation and district income. The table below depicts the difference between the local tax levy per the district and the local fair share per the DOE.

Fiscal Year	Local Levy per District	Local Levy per DOE	Difference
2018	$ 96,961,999	$ 102,034,106	$ 5,072,107
2019	100,827,483	111,534,172	10,706,689
2020	102,844,045	123,904,450	21,060,405
Total	**$ 300,633,527**	**$ 337,472,728**	**$ 36,839,201**

From fiscal year 2018 to 2020, the district could have generated an additional $36.8 million had it been able to raise the local tax levy. This could have helped provide additional revenue to the district to eliminate the budget deficits, as well as lower the amount of loans required to balance the budgets.

Status Update

The district continued to experience limited growth in local revenue from the tax levy. Revenue from the local tax levy increased $2.1 million (2.0 percent) between fiscal years 2021 and 2022 and is expected to increase $1.5 million (1.4 percent) between fiscal years 2022 and 2023. The expected increase for fiscal year 2023 is $664,616 short of the 2 percent cap. Legislation requires the district to offset the tax levy based on savings realized from district health care plans.

Furthermore, the district could have generated an additional $51.3 million during fiscal years 2022 and 2023 had it been able to raise its local tax levy to amounts equivalent to the local fair share calculation.

Lack of Voter Authorization to Exceed Tax Levy Cap

Original Observation

Pursuant to N.J.A.C. 6A:23A-12.1, a district board of education may put to voters the matter of exceeding the tax levy cap through proposals. These proposals shall be approved if a majority of the people voting at the school election votes in the affirmative. All proposals to increase the tax levy shall include statements identifying the purposes for which the proposed funds will be used and whether approval will affect only the current year or result in a permanent increase in the tax levy. Any rejection by voters of these proposals shall be final and conclusive with no appeal.

Lakewood Public School District (continued)

In fiscal years 2016 through 2020, the district considered 13 referendums totaling $22.3 million. All of these referendums were either rejected or did not appear on the election ballots. In fiscal year 2016, there was a special election to decide whether to raise an additional $6.0 million in taxes to be used exclusively for transportation services. Of the 7,694 ballots cast, 7,586 (99 percent) voted against. If the district was able to exceed the tax levy cap without voter approval, it could help generate additional revenue to reduce budget deficits and loan needs.

Status Update

The district did not initiate voter referendums to exceed the tax levy cap in fiscal years 2022 or 2023.

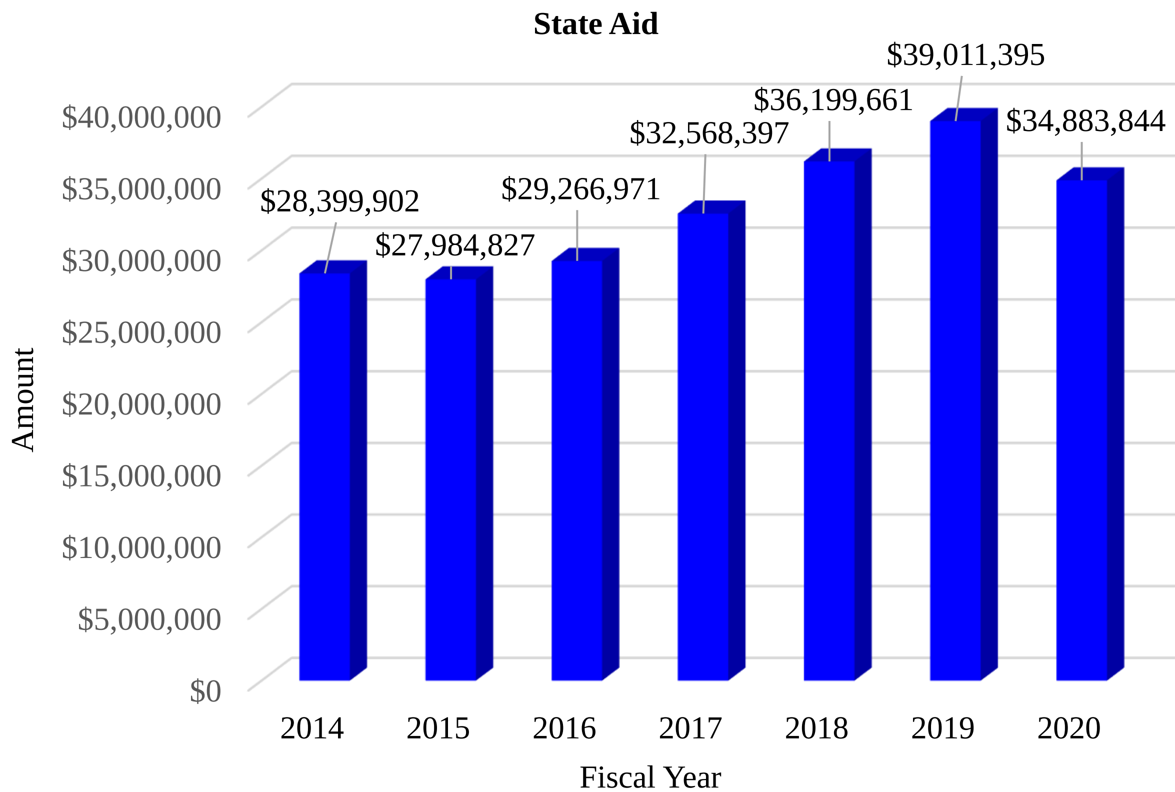
Limited Growth in Revenue from State Aid

Original Observation

State aid is provided to the district based on its public student enrollment and does not account for its nonpublic student enrollment. This has put a substantial strain on the district's finances because of the statutory requirements to provide mandated transportation of nonpublic students sent to nonpublic schools and tuition for special education students sent out of district to in-state approved private schools for students with disabilities.

In fiscal years 2014 through 2020, the district's state aid, without the inclusion of loans and non-budgeted amounts, increased by a total of $6.5 million (23 percent), with an average annual increase of $1.1 million (4 percent). From fiscal year 2019 to 2020, state aid decreased by $4.1 million. The chart on the next page depicts the trend of state aid without the inclusion of loans and non-budgeted amounts received during this period.

Lakewood Public School District (continued)



Status Update

The district continues to experience decreases in state aid. Excluding loans and non-budgeted amounts, decreases were $12,045 (.03 percent) and $1.9 million (4.0 percent) from fiscal years 2021 to 2022 and 2022 to 2023, respectively.

Department of Law and Public Safety
Division of Gaming Enforcement (DGE)

Gambling Addiction Treatment Funding

Original Observation

The Council on Compulsive Gambling of New Jersey (CCGNJ) estimates there will be 350,000 adults in New Jersey who will battle gambling problems in their lifetime. According to the Association of Professionals Treating Problem Gambling, two-thirds of compulsive gamblers undergoing treatment admit to having committed illegal acts to finance gambling or pay gambling debts.

We analyzed internet gaming revenue and noted an average increase of 26 percent from calendar years 2015 through 2018. However, internet gaming revenue increased 62 and 101 percent from calendar years 2019 and 2020, respectively.

Internet Gaming Win (Revenue)					
2015	**2016**	**2017**	**2018**	**2019**	**2020**
$ 148,880,180	$ 196,709,327	$ 245,605,982	$ 298,700,903	$ 482,695,308	$ 970,337,571

N.J.S.A. 5:12-95-29d states that "a casino licensee with an internet gaming permit shall pay annually to the division $250,000 to be deposited into the State General Fund for appropriation by the Legislature to the Department of Human Services, $140,000 of which shall be allocated to the Council on Compulsive Gambling of New Jersey and $110,000 of which shall be used for compulsive gambling treatment programs in the state." N.J.A.C. 13:69A-9.4 requires that 50 percent of the $100,000 initial sports wagering license and a minimum of $100,000 of the sports wagering license renewal should be deposited in the state's general fund for evidence-based prevention, education, and treatment programs for compulsive gambling. There are currently 8 casino licenses with internet gaming permits and 13 sports wagering licenses issued in New Jersey.

From fiscal years 2019 through 2021, $8.35 million was received from these fees, with $4 million being disbursed to treat those with compulsive gambling addictions during the same period. In budget fiscal year 2020, $2.094 million was de-appropriated based on P.L.2020, Chapter 43, Section 2. At the end of budget fiscal year 2021, there was approximately $2.95 million remaining in the appropriation unit, which was carried forward to budget fiscal year 2022.

Department of Law and Public Safety
Division of Gaming Enforcement (continued)

The following chart shows internet and sports wagering license fees and expenditures for fiscal years 2019 through 2021.

Summary of Internet and Sports Wagering License Fees and Expenditures				
	2019	2020	2021	Total
Fees Collected	$ 2,300,000	$ 2,850,000	$ 3,200,000	$ 8,350,000
Expenditures	(1,300,833)	(1,330,000)	(1,330,000)	(3,960,833)
Not disbursed	$ 999,167	$ 1,520,000	$ 1,870,000	$ 4,389,167

According to the CCGNJ, as of October 2020, substance abuse funding in New Jersey was $11.68 per person compared to gambling addiction funding of $0.11 per person. New Jersey allocates less total and per capita funding than New York, Pennsylvania, and Delaware.

Status Update

No changes have been made in terms of funding for treatment. While the DGE is aware of the differences in the funding, the DGE lacks authority to correct this disparity.

Dormant Internet Accounts

Original Observation

The Uniform Unclaimed Property Act ensures property owners never relinquish their right to abandoned or lost intangible and tangible property. A prior court ruling held that gambling casino funds in the amount of unredeemed gaming chips and slot machine tokens (currently obsolete) were abandoned intangible property under the Uniform Unclaimed Property Act. Additional gambling industry unclaimed property was addressed in the Casino Control Act; however, it does not correspond with how other unclaimed intangible and tangible property in the state are handled. There are various types of unclaimed property that occur in the gambling industry. Expired gaming vouchers and unclaimed casino sports game tickets and racetrack sports pool vouchers are distributed to the casino industry and the State of New Jersey.

Dormant online accounts are distributed 50 percent to the Casino Control Fund and 50 percent to the casinos. However, if there is a surplus in the Casino Control Fund, the surplus is returned to the casinos. Ultimately, when there is a surplus, 100 percent of the unclaimed dormant funds can be returned to casinos. From calendar year 2018 to 2020, the total amount of dormant account monies was approximately $3 million, of which approximately $1.5 million was distributed to casinos. Because there were annual surpluses in the Casino Control Fund for those years, approximately $1.5 million originally distributed to the fund was returned to the casinos.

Department of Law and Public Safety
Division of Gaming Enforcement (continued)

Status Update

The DGE has previously recommended harmonizing the statutes governing casinos and online gaming regarding dormant internet accounts to be consistent with the Unclaimed Property Act; however, no legislative changes have been made.

State of New Jersey
DEPARTMENT OF CORRECTIONS
WHITTLESEY ROAD
PO BOX 863
TRENTON NJ 08625-0863

PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

VICTORIA L. KUHN, ESQ.
Commissioner

May 12, 2023

Thomas Troutman
Assistant State Auditor
Office of the State Auditor
125 South Warren Street
P.O. Box 067
Trenton, New Jersey 08625-0067

Dear Mr. Troutman,

The New Jersey Department of Corrections (NJDOC) is in receipt of the Office of Legislative Services, Office of the State Auditor's Draft Report of the Compliance Review of Edna Mahan Correctional Facility for Women for the period July 1, 2021 to June 30, 2022.

Our understanding of the objective of the Compliance Review is to determine if the NJDOC had implemented the five (5) recommendations included in the State Auditor's Audit Report dated June 2, 2022. It was determined that the NJDOC was compliant in four (4) of the five (5) recommendations. Below is the only noncompliant item as well as our response.

iTAG Access

Background/Summary: The iTAG system is the department's computerized database used to track an incarcerated person's incarceration from inception to conclusion. Employees who have separated from the facility continue to have access to the iTAG system.

Follow-Up Review Results: Our follow-up review found the facility continues to have separated employees with access to the iTAG system. Additionally, our review determined that the facility has not improved its notification process to ensure separated employees are removed from the iTAG system in a timely manner, and the facility has not conducted a six-month review of all access to the iTAG system.

Management Response: The NJDOC would like to clarify that while some separated employees have not had their access to iTAG terminated, they are unable to access iTAG because they have been inactivated on the Network.

Upon an individual's separation from employment with the NJDOC, a DOCNet User Account Request Form must be completed to delete their account. This will disable their access to the Network. In addition, a CMIS Offender Applications Request Form must be completed to inactivate their access to iTAG. In those instances where separated employees appeared on the list of active users of iTAG, this additional form was not completed.

An email will be sent to all staff to remind them of the importance of not only completing the DOCNet User Account Request Form to inactivate a separated employee's access to the Network, but to also complete the CMIS Offender Applications Request Form to inactivate their access to the iTAG Application. In addition, the NJDOC will soon be implementing SimpliGov, a workflow automation, digital forms and electronic signature platform. These forms will be moved to this platform which should make the process of inactivating access for separated employees easier and provide an audit trail for reporting. Finally, our internal audit team will conduct periodic reviews to compare iTAG access to employee status across all facilities.

Thank you for the opportunity to respond to the compliance review. We appreciate the professionalism of the audit team and their cooperation in working with facility staff.

Please let us know if there is any additional information you require.

Regards,

Victoria L. Kuhn, Esq.
Commissioner
New Jersey Department of Corrections

c: Kristina E. Chubenko, Esq., Chief of Staff
Willie Bonds, Deputy Commissioner
Dr. Darcella Sessomes, Chief, Division of Programs & Reintegration Services
Donna M. Gies, Assistant Commissioner, Administration
Erin Nardelli, Assistant Commissioner, Division of Operations
Helena Tome, Assistant Commissioner, Office of Women's Services
Ryan O'Dea, Administrator

State of New Jersey

Philip D. Murphy
Governor

Sheila Y. Oliver
Lt. Governor

Office of the Attorney General
Department of Law and Public Safety
Division of Gaming Enforcement
1300 Atlantic Avenue
Atlantic City, NJ 08401

Matthew J. Platkin
Attorney General

David L. Rebuck
Director

March 24, 2023

Thomas Troutman, Assistant State Auditor
Office of Legislative Services
Office of the State Auditor
125 South Warren Street
P.O. Box 067
Trenton, NJ 08625-0067

Dear Mr. Troutman:

Thank you for the opportunity to provide a reply to the follow-up reviews that took place on January 18th, 2023 and January 23rd, 2023.

The responses of the Division of Gaming Enforcement (DGE) to the non-compliance findings are as follows:

Transactional Waivers:

The initial development of the in-house transactional waiver system is expected to be completed within the next few weeks. Once the system is fully operational, we expect that transactional waivers will be tracked and updated in a timely manner.

Gambling Addiction Reports:

The demographic information that DGE provides the vendor to conduct gambling addiction reports is limited to data collected as part of the "Know Your Customer" (KYC) identify verification process. This information includes date of birth and other fields. DGE will provide all relevant KYC data to the vendor as for the purpose of completing gambling addition reports.

Please note that the gender data field is not a required KYC dataset because it is not necessary for establishing identity. All gender information is collected, however, is provided to the vendor. In addition, some operators that do collect gender information have an option such as "choose not to respond" for players, which results in unusable data.

The DGE's responses to the observations are as follows:

Gambling Addiction Treatment Funding:

While DGE is aware of the differences in amounts of collections versus funding provided, it is outside the scope of DGE's authority to distribute funding, or direct other agencies to modify their distribution methods.

As of the date of this letter, there is no update to this observation.

Dormant Internet Accounts:

DGE has previously recommended harmonizing the statutes governing casinos and online gaming regarding dormant internet accounts to be consistent with the Unclaimed Property Act. DGE lacks authority to act without an amendment to the law.

As of the date of this letter, there is no update to this observation.

Sincerely,

David Rebuck

David Rebuck
Assistant Attorney General
Director, Division of Gaming Enforcement

cc:
MaryJo Flaherty, AAG, Deputy Director, Division of Gaming Enforcement
Louis S. Rogacki, AAG, Deputy Director, Division of Gaming Enforcement
Christopher Glaum, Chief of Investigations, Division of Gaming Enforcement
Afshien Lashkari, Senior Executive Service, Division of Gaming Enforcement
Joyce Juang, Chief Fiscal Officer, Division of Gaming Enforcement
Jonathan S. Garelick, AAG, Office of the Attorney General
Sara Ben-David, Deputy Attorney General, Office of the Attorney General
Kathlyn Bender, Audit Liaison, Office of the Attorney General

April 24, 2023

VIA EMAIL (CSoleau@njleg.org) AND REGULAR U.S.P.S.

Mr. Thomas Troutman, Assistant State Auditor
New Jersey State Legislature
Office of Legislative Services
Office of the State Auditor
125 South Warren Street
PO Box 067
Trenton, NJ 08625-0067

Re: Rowan University Compliance Review- Final Assessment

Mr. Troutman:

Below is Rowan University's (the "University") response to the outstanding item identified in the FY22 follow-up compliance review.

Employee Health and Dental Benefits

The University did not seek recovery of the amounts identified in the audit report from individuals who were on unpaid leave and did not make their full required contributions.

University Response

Human Resources management will not seek recovery of funds since the amount was deemed immaterial and recovery attempts would be untimely. Procedures were implemented to address the issue going forward.

We appreciate the opportunity to provide this update.

Sincerely:

Joseph F. Scully Jr.

Ray Braeunig

Joseph F. Scully, Jr.
Senior Vice President for Finance and
Chief Financial Officer

Ray Braeunig
Chief Audit, Compliance & Privacy Officer
Ethics Liaison Officer

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GOVERNOR

SHEILA OLIVER
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Dianne Solomon
Commissioner

Dr. Zenon Christodoulou
Commissioner

April 28, 2023

David J. Kaschak, State Auditor
Office of Legislative Services
Office of the State Auditor
125 South Warren Street,
Trenton, NJ 08625

Dear Mr. Kaschak,

The Board of Public Utilities (BPU) has received and reviewed the Office of Legislative Services, Office of the State Auditor compliance review report covering the period of July 1, 2021, to June 30, 2022.

Although BPU has made significant efforts to address the audit findings, the follow-up review found the following deficiencies.

- The DRS did not make a substantial effort to correct the errors for open and closed cases identified in the audit. The Board did not issue FOPAs to delinquent violators and, when applicable, transferred the outstanding penalty debt to DORES.

The Board continues to improve its operations and management of resources, especially in the Division of Reliability & Security (DRS) – the OneCall program. With the recommendations implemented, the changes are materializing, resulting in improved operations.

Thank you and your audit staff for their continued diligent work and professionalism during the compliance review.

Sincerely,

Curtis G. Elvin
Chief Financial Officer

Cc: Joseph L. Fiordaliso, President
Taryn Boland, COS

State of New Jersey
Department of Human Services
Office of Legal and Regulatory Affairs

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TRENTON, NJ 08625-0700

SARAH ADELMAN
Commissioner

GERARD HUGHES
Assistant Commissioner

May 17, 2023

Thomas Troutman, Assistant State Auditor
Office of Legislative Services
Office of the State Auditor
125 South Warren Street
P.O. Box 067
Trenton, NJ 08625-0067

SUBJECT: Department of Human Services' Response to OSA Compliance Review

Dear Mr. Troutman:

The Department of Human Services (the Department) is in receipt of the Office of the State Auditor's Compliance Review, conducted pursuant to the legislative requirement to perform follow-up reviews of all findings in OSA reports. Please accept the following responses to areas determined by OSA to be in non-compliance:

Division of Medical Assistance & Health Services (DMAHS), New Jersey FamilyCare, Medicaid Managed Care Rate Setting and Managed Care Organization Administrative Costs

Recommendation: The division should include language in the Managed Care Organization (MCO) contract that limits MCO profits by requiring underwriting margins that exceed a defined percentage to be shared with the state.

Response: While DMAHS agrees in principal with limiting excess profits, it disagrees with the method recommended by OSA for the reasons set forth in its initial response to the audit. However, DMAHS has limited excess profits in other ways. It implemented a program-wide risk corridor early in the COVID-19 pandemic. Managed care capitation rates had been developed prior to the known impact of the public health emergency. The retroactive risk corridor enabled the State to recoup payments from MCOs based on pandemic-driven underutilization of discretionary health services in the second half of FY 2020. This resulted in an estimated $400 million in total Medicaid savings ($140 million state share). Further, DMAHS continues to use the Medical Loss Ratio (MLR) requirement to protect against excessive profits. The New Jersey Medicaid minimum MLR is 85 percent of premiums paid in acute care groups, and 90 percent of premiums paid for managed long-term services and supports premium groups.

Recommendation: The division and the contracted actuary should retrospectively analyze and calculate the actual financial impact of the MCO's PBM financial expense related to the medical loss ratio (MLR). The division and the contracted actuary should retrospectively analyze and determine if the MCO's pharmacy benefit manager PBM administrative costs for fiscal years 2015 and 2016 were reasonable and appropriate, and if the MCO's MLR would have been impacted.

Response: DMAHS has updated the MCO contract to provide clear direction on reporting expenses paid to the pharmacy by the PBMs. Additionally, all affected MCO's have resubmitted financials and, in the normal course of the MLR process, continue to submit a three-year lookback of financials to true-up with additional runout as per their contract. This lookback true-up was implemented to capture any prior year re-classifications that may impact the MCO's MLR.

Recommendation: The division should comply with federal regulations and the MCO contract requiring audited annual MCO financial statements and reports specific to Medicaid revenues and expenses when setting capitation rates.

Response: As stated in its initial response to the audit, the Consolidated Level "Audited" Financials that are submitted by the MCOs to the Department of Banking and Insurance (DOBI), in conjunction with the MCO's Agreed Upon Procedure (AUP) submissions, satisfy the requirements of both the federal regulations and the MCO contract. The MCO contract, inclusive of the AUP requirements, is approved by the federal Centers for Medicare and Medicaid Service every year. DMAHS believes that the AUP, a third-party independent review of the MCO's individual rate cells, is an extremely reliable approach. DMAHS and its actuary update this process annually to maintain the integrity and strict standards of the AUP process. Lastly, the AUP requires MCOs to submit a valid corrective action plan addressing any anomalies.

<u>Division of Developmental Disabilities (DDD), Woodbine Developmental Center (WDC)</u>

Recommendation: The center should develop and implement a plan to reduce the number of cottages in use to efficiently utilize space and employee resources. The Residential Services, Vocational Services and Nursing departments should work in conjunction to ensure a properly sized staff for the population and number of cottages in use.

Response: The Division will consider feedback, but does so with the following context in mind:

- During the COVID-19 pandemic, the current smaller cottage environment allows for more social distancing in common areas and fewer individuals sharing bedrooms. A higher cottage census increases the risk of greater infection rates and more serious outcomes for WDC residents.

- Data analyzed continues to support that the use of psychotropic drugs, restraints, number of injuries and behavior support plan levels have reduced for center residents as the census in cottages has decreased. Smaller and quieter environments with less stimulation are optimal for the population served.

- In order to provide the best care for our residents, WDC is required to staff in accordance with ICF/IID guidelines of one staff person to every six residents during waking hours, and one staff person to every nine residents during overnight hours. Each building is reviewed for any required additional staff needs related to safety, which could include safety needs during toileting and bathing, and for proper body positioning of residents who spend the majority of their day in a wheelchair. Some residents receive enhanced support (1:1 ratio) which will also increase cottage staffing needs. These staffing numbers are frequently reviewed and adjusted as necessary.

- Cottage staff accompany residents to out-of-cottage programming and engage them in active treatment while out-of-cottage staff work on individual objectives with the residents. Cottage staff also assist with toileting and other general care while residents are at programming.

Thank you for the opportunity to respond to the compliance review. We appreciate OSA's review and recommendations, as well as the professionalism of your staff. If you have any questions, please do not hesitate to contact Allan Brophy at (609) 292-9752 or Allan.Brophy@dhs.nj.gov.

Sincerely,

Gerard Hughes
Assistant Commissioner
Office of Legal and Regulatory Affairs

cc: Linda Maher, OSA
Christopher Soleau, OSA
Nicole Sansone, OSA
Jennifer Langer Jacobs, DMAHS
Matthew Shaw, DMAHS
Alka Kohli, DMAHS
Robert Durborow, DMAHS
Jonathan Seifried, DDD
Michael Kelly, DDD
Horace Picou, DDD
Daniel Prupis, DHS
Allan Brophy, DHS

State of New Jersey

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April 19, 2023

Mr. David J. Kaschak
State Auditor Office of Legislative Services
Trenton, New Jersey 08625

Dear Mr. Kaschak:

I wanted to take the opportunity to respond to your recent Compliance Review.

Logical Access - Authentication
Accounts that Have Never Been Accessed

The Division of Purchase and Property (DPP) maintains that user accounts remain the purview of the Organization Administrators at each of the State departments. However, with a nod to the security concerns identified by the Office of the State Auditor, DPP has agreed to take a far more proactive role in managing user accounts. To that end, DPP has worked with the NJSTART host vendor, Periscope Holdings (Periscope) to develop a system utility to identify all accounts that have been dormant for at least 60 days. A second utility has been developed by Periscope that will, with DPP's authorization, deactivate these accounts. These utilities are running semi-annually with appropriate notification to all State departments.

However, the Office of the State Auditor has identified a specific circumstance where the utility would omit an account from the report. If the login date field is blank rather than showing a specific date, the utility would not be calculating the 60-day window. The result would allow an otherwise dormant account to remain active. DPP has contacted Periscope to request the utility be updated to find all cases where the login date field is blank and designate them as inactive accordingly. DPP offers many thanks to the Office of the State Auditor for identifying this report omission.

Logical Access - Authentication
Duplicate User IDs

From a logical perspective, end users would only use one user ID to log in to the application, leaving the other ID dormant. Therefore, the dormant ID would be identified and deleted through the utilities referenced above. However, the Office of the State Auditor has identified cases where, again, the login field is left blank, causing these accounts to remain active, as noted above. The amendment to the dormant account utility requested by DPP will identify and deactivate these accounts, as well.

Logical Access - Authentication
Periodic Reviews

DPP has offered an in-depth, two session training seminars for all current departmental Organization Administrators. Spanning a total of four hours with an additional one-hour question and answer follow up session, this training began the first of DPP's regular, quarterly meetings with the Organization Administrators. The initial in-depth seminars included a detailed PowerPoint presentation distributed to all attendees. Further, the sessions were recorded and made available to all departments for future reference.

While account maintenance was discussed in these seminars and, additionally, all departments are made aware of our semi-annual review, DPP will make a point of covering this topic with each quarterly meeting. Specifically, Organizational Administrators will be reminded that a periodic review at the departmental level to ensure all dormant accounts are deactivated remains best practice.

Logical Access - Authorization
Proxy Rights

Proxy rights are established and maintained at the organizational level. As previously indicated, DPP reminds all departments to avoid the use of long-term proxy rights with each instance of the semi-annual review and will continue to do so. Further, DPP will explore the feasibility of generating a department-specific list of long-term proxy rights holders for distribution to all Organization Administrators in an effort to assist departments in the proper maintenance of this application functionality.

Contingency Planning

DPP remains committed to participating in a department-wide effort to develop a fully robust and comprehensive business continuity and disaster recovery plan. NJSTART, as a hosted application residing in the industry-leading Amazon Web Services (AWS) data center cloud platform, is well positioned to support any business continuity or recovery effort. As a web-based application, NJSTART can be accessed from any desktop or mobile device with internet connectivity. As part of the AWS infrastructure, NJSTART is fully replicated across multiple data centers. DPP looks forward to the development and implementation of the Treasury plan.

I appreciate the opportunity to further emphasize DPP's position concerning the Compliance Review and in each documented instance will continue to strive toward full compliance where feasible.

Respectfully,

Gregg Olivera
Deputy Director
Division of Purchase and Property