



**New Jersey State Legislature
Office of Legislative Services
Office of the State Auditor**

**Judiciary
Adult Drug Court Program**

July 1, 2011 to December 31, 2012

**Stephen M. Eells
State Auditor**

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Enclosed is our report on the audit of the Judiciary, Adult Drug Court Program for the period of July 1, 2011 to December 31, 2012. If you would like a personal briefing, please call me at (609) 847-3470.

Stephen M. Eells
State Auditor
June 26, 2013

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Scope

We have completed an audit of the Judiciary, Adult Drug Court Program (program) for the period July 1, 2011 to December 31, 2012. The Judiciary has partnered with the Department of Human Services, Division of Mental Health and Addiction Services (DMHAS) to administer the program. The program provides court supervised treatment for carefully screened, non-violent offenders with addictions. The program's mission is to break the cycle of drug-driven crime through the treatment and close supervision of eligible offenders by a drug court team. A standard team includes a judge, prosecutor, public defender, team leader, drug court coordinator, probation official, substance abuse evaluator, court clerk, and treatment provider. As of October 1, 2012 there were 4,692 active participants in the program.

Our audit included financial activities accounted for in the state's General Fund. The program expended \$43 million in fiscal year 2012. Judiciary drug court operations totaled \$17.5 million while drug treatment and aftercare services provided through the DMHAS totaled \$25.5 million.

Objectives

The objectives of our audit were to determine whether the financial transactions were related to the program, were reasonable, and were recorded properly in the accounting systems.

This audit was conducted pursuant to the State Auditor's responsibilities as set forth in Article VII, Section I, Paragraph 6 of the State Constitution and Title 52 of the New Jersey Statutes.

Methodology

Our audit was conducted in accordance with *Governmental Auditing Standards*, issued by the Comptroller General of the United States.

In preparation for our testing, we studied legislation, the administrative code, circular letters promulgated by the Department of the Treasury, and policies of the Judiciary and the Department of Human Services, Division of Mental Health and Addiction Services. Provisions we considered significant were documented and compliance with those requirements was verified by interview, observation, and through our testing of financial transactions. We also read the budget messages, reviewed financial trends, and interviewed program personnel to obtain an understanding of the administrative and operating processes.

A nonstatistical sampling approach was used. Our samples of financial transactions were designed to provide conclusions about the validity of transactions, as well as internal control and compliance attributes. Sample populations were sorted and transactions were judgmentally selected for testing.

Conclusions

We found the financial transactions included in our testing were related to the program, were reasonable, and were recorded properly in the accounting systems. In making these determinations, we noted internal control weaknesses and another matter meriting management's attention. We also observed an opportunity for cost savings through the use of participants' health insurance.

Inadequate DMHAS Fiscal Controls

The DMHAS fiscal controls need improvement.

An agreement exists between the Judiciary and the Division of Mental Health and Addiction Services (DMHAS) to collaborate on the resource management of the program funds. The DMHAS contracts with a fiscal agent to manage claim data. We noted internal controls within the DMHAS's purview that require improvement.

State Bureau of Identification (SBI) Numbers

The program identifies each participant with a SBI number. Claims data from the DMHAS and its fiscal agent include only the participants' SBI numbers and not their names. We found 481 of 4,050 SBI numbers did not match a name in the Judiciary's program participant roster. Charges to the unmatched SBI numbers totaled \$1.4 million for fiscal year 2012. Upon our notification, the DMHAS stated they will investigate and determine the validity of these charges.

Contracted Residential Bed Utilization

In fiscal year 2012, the DMHAS contracted with nine treatment providers to provide 223 beds reserved exclusively for drug court program participants at a cost of \$5.3 million. The DMHAS records disclosed these providers had vacant reserved beds costing \$300,000, while simultaneously submitting fee-for-service claims for like services.

Inadequate Review of Claim Data

The DMHAS reimburses fee-for-service providers through the fiscal agent. Contracted provider beds, reserved exclusively for program participants, are paid for monthly through the state accounting system. The DMHAS also pays for the participants' prescriptions through the state accounting system. The DMHAS is not adequately reviewing claim data. Our testing disclosed the following during fiscal year 2012.

- Total payments through the fiscal agent were \$18 million. Fee-for-service treatment providers submitted 1,060 claims totaling \$63,000 through the fiscal agent for 21 participants no longer in the program.
- Fee-for-service providers submitted 485 claims totaling \$34,000 for participants that were simultaneously occupying a contracted bed, indicating a duplication of payment per the claim data.
- The DMHAS records disclosed three participants no longer in the program occupying contracted beds a total of 58 days at a cost of \$3,300.

- The DMHAS records disclosed five participants no longer in the program received 200 prescriptions.

Recommendation

We recommend the Department of Human Services, Division of Mental Health and Addiction Services implement the following controls.

- Require SBI numbers are matched to a participant on the Judiciary Adult Drug Court Program participant roster prior to authorization.
- Ensure providers are not submitting fee-for-service charges when contracted beds are available.
- Improve the review of claim data and charges to prevent claims for participants no longer in the program and consider providing participants' claim summaries to the applicable vicinage monthly as a method to review claim data more effectively.



Graduation Rate

The program's published graduation rate was overstated.

We determined the graduation rate for the program as presented on the New Jersey Adult Drug Court Program website was overstated. The 57 percent rate presented included the current participants as "graduates," although not all will complete the program. Our calculation of the graduation rate, using only those that completed the program, resulted in a 35 percent graduation rate. An accurate rate is important to allow for informed budgetary and operational decisions regarding the program and its future. Upon our notification, the Judiciary changed the title "graduation rate" to "retention rate" and maintained the 57 percent figure. The actual graduation rate is not included on the website.

Recommendation

We recommend the Judiciary maintain an accurate graduation rate to allow for informed budgetary and operational decisions.



Observation

The Adult Drug Court Program may realize savings through the use of, or reimbursement from, participants' health insurance.

There is no process by which the Division of Mental Health and Addiction Services uses participants' own health insurance to cover program costs. According to a report, "A Model for Success: A Report on New Jersey's Drug Courts October 2010", upon entry into the program, 17 percent of participants have health insurance. While not all health insurers will cover all treatments or services, the potential exists for savings through the use or reimbursement of rehabilitation services from these insurers. Program personnel state there are impediments to the use of participant health insurers.

The Judiciary and the Division of Mental Health and Addiction Services should evaluate the cost benefit versus program issues in regards to using participant health insurance to defray state costs.



CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

State of New Jersey
DEPARTMENT OF HUMAN SERVICES
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JENNIFER VELEZ
Commissioner

June 25, 2013

John J. Termyna
Assistant State Auditor
Office of the State Auditor
Office of Legislative Services
PO Box 067
Trenton, NJ 08625-0067

Dear Mr. Termyna:

In response to the draft audit report of the *Judiciary Adult Drug Court Program* for the period of July 1, 2011 to December 31, 2012, please accept the following responses to the recommendations made:

State Bureau of Identification (SBI) Numbers

Finding: The program identifies each participant with a SBI number. Claims data from the Division of Mental Health and Addiction Services (DMHAS) and its fiscal agent include only the participants' SBI numbers and not their names. We found 481 of 4,050 SBI numbers did not match a name in the Judiciary's program participant roster. Charges to the unmatched SBI numbers totaled \$1.4 million for fiscal year 2012. Upon our notification the DMHAS stated they will investigate and determine the validity of these charges.

Recommendation: Require SBI numbers be matched to a participant on the Judiciary Adult Drug Court Program participant roster prior to authorization.

Response: After receiving notification of this audit finding, DMHAS conducted an extensive internal review of the Drug Court data. Utilizing three (3) Drug Court participant identifiers: name, social security number and date of birth, we were able to match all but 65 of the 481 SBI numbers; the total claim associated with these unmatched numbers is \$227,770.

Effective December 2012, DMHAS has implemented a process whereby SBI information is received from the Administrative Office of the Courts (AOC) on a monthly basis. This information is matched against NJ Substance Abuse and Monitoring System (NJSAMS) data for drug court clients. Discrepancies are noted and sent to the

John J. Termyra
June 25, 2013
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DMHAS Drug Court Coordinator for resolution with AOC. Upon verification, corrections are then made to SBI numbers in NJSAMS.

Contracted Residential Bed Utilization

Finding: In fiscal year 2012, the DMHAS contracted with nine treatment providers to provide 223 beds reserved exclusively for drug court program participants at a cost of \$5.3 million. The DMHAS records disclosed these providers had vacant reserved beds costing \$300,000, while simultaneously submitting fee-for-service (FFS) claims for like services.

Recommendation: Ensure providers are not submitting fee-for-service charges when contracted beds are available.

Response: In order to address the contract bed utilization finding, DMHAS implemented a data entry system as of January 1, 2013 for Drug Court contract providers whereby they request an authorization with a zero dollar amount in NJSAMS to reflect the fact that contract slots are occupied.

In addition, Computer Sciences Corporation (CSC) (DMHAS's fiscal agent) is developing for DMHAS a real-time bed utilization report by contract provider, which will allow DMHAS to easily see the utilization rate for each provider. If it falls below 95% and the provider has FFS claims, appropriate corrective action can be taken. Prior to final development of the CSC bed utilization report, DMHAS will monitor contract bed utilization rosters submitted by the contract providers.

Beginning July 1, 2013, DMHAS will manually correlate DC FFS paid claims with contract slot occupancy information to identify situations where a FFS claim was paid at the same time there was a vacant slot in a slot based contract, and pursue overpayment recovery accordingly.

DMHAS' contract permits for the recovery of any unallowable funds; therefore, every effort will be made to recoup any unallowable funds.

Inadequate Review of Claim Data

Finding: The DMHAS reimburses fee-for-service providers through the fiscal agent. Contracted provider beds, reserved exclusively for program participants, are paid for monthly through the state accounting system. The DMHAS also pays for the participants prescriptions through the state accounting system. The DMHAS is not adequately reviewing claim data. Our testing disclosed the following during fiscal year 2012.

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June 25, 2013
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- Total payments through the fiscal agent were \$18 million. Fee-for-service treatment providers submitted 1,060 claims totaling \$63,000 through the fiscal agent for 21 participants no longer in the program.
- Fee-for-service providers submitted 485 claims totaling \$34,000 for participants that were simultaneously occupying a contracted bed indicating a duplication of payment per the claim data.
- The DMHAS records disclosed three participants no longer in the program occupying contracted beds a total of 58 days at a cost of \$3,300.
- The DMHAS records disclosed five participants no longer in the program received 200 prescriptions.

Recommendations:

- Require SBI numbers be matched to a participant on the Judiciary Adult Drug Court participant roster prior to authorization.
- Ensure providers are not submitting fee-for-service charges when contract beds are available.
- Improve the review of claim data and charges to prevent claims for participants no longer in the program and consider providing participants' claim summaries to the appropriate vicinage monthly as a method to review claim data more effectively.

Response:

- \$63,300 out of \$18 million claims is .0035 or 3.5 tenths of one percent, which is a small proportion of claims. It does, however, point to an important opportunity to improve controls in our system to minimize or eliminate payment for services provided to clients no longer enrolled in the program.
- Similarly \$34,000 out of \$18 million claims is a small proportion, but again, the audit finding does point to an important opportunity to improve controls over the relationship of contracted slot based services and the FFS system. Our response to the second finding regarding FFS payments for vacant slots, applies equally to FFS payments for occupied slots. In either instance, DMHAS has paid for services under the contract slot based system and the FFS system. As noted in the response above, DMHAS will be manually correlating occupancy in slot based contracts with FFS payments to identify potential duplicate payments and pursuing recovery accordingly. Moreover, the movement to managed care, should DC services be part of that initiative,

John J. Termyra
June 25, 2013
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will eliminate the possibility given the elimination of slot based contracts in favor of FFS compensation and the management of all services. In the interim, the new CSC bed utilization report will help with this process.

- In July 2013, as a corrective action measure, DMHAS will begin to receive weekly termination reports from AOC, per recent communication. This will be a system resource intensive process for AOC. This information will then be matched against the NJSAMS and CSC data to determine if claims have been made after the client was terminated from Drug Court. DMHAS IT will develop an application so FFS- or DMHAS Drug Court- staff can manually enter a cancellation of the authorization, once it has been verified that the client is actually terminated. Prescription payments are not made through the CSC FFS system but rather are made manually and tracked through a stand-alone database. Prior to manual prescription payments, client status will be checked to assure payments are not made for medications for clients who were terminated subsequent to the date the medication was filled.
- DMHAS' contract permits for the recovery of any unallowable funds; therefore, every effort will be made to recoup any unallowable funds.

Graduation Rate: The program's published graduation rate was overstated.

Finding: We determined the graduation rate for the program as presented on the New Jersey Adult Drug Court Program website was overstated. The 57 percent rate presented included the current participants as "graduates," although not all will complete the program. Our calculation of the graduation rate, using only those that completed the program, resulted in a 35 percent graduation rate. An accurate rate is important to allow for informed budgetary and operational decisions regarding the program and its future. Upon our notification, the Judiciary changed the title "graduation rate" to "retention rate" and maintained the 57 percent figure. The actual graduation rate is not on the website.

Recommendation: We recommend the Judiciary maintain an accurate graduation rate to allow for informed budgetary and operational decisions.

Response: The Executive Branch does not have the oversight in calculating the Drug Court retention rates.

Sincerely,



Jennifer Velez
Commissioner

JV:03:jc



GLENN A. GRANT, J.A.D.
Acting Administrative Director of the Courts

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June 17, 2013

John Termyna, Assistant State Auditor
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Subj: Draft OLS Audit Report – Judiciary, Adult Drug Court Program
(your May 30, 2013 letter)

Dear Mr. Termyna:

This will acknowledge receipt of your May 30, 2013 letter to me forwarding the draft audit report by OLS regarding the Judiciary's Adult Drug Court Program. Thank you for providing the Judiciary with the opportunity to review and comment on the draft report. We proudly note that the draft audit findings confirmed the proper protection and safeguard of the Adult Drug Court Program funds.

New Jersey's Adult Drug Court Program is a national model for statewide program operations, successfully diverting non-violent drug-addicted offenders from state prison into an effective court-supervised treatment program. In New Jersey, the same opportunity for substance abusing offenders is provided in every one of the state's 15 court vicinages. This program has improved the lives of thousands of addicted offenders, their families and their communities through an innovative collaboration of judicial oversight, close supervision and substance abuse treatment services. The program's success in providing otherwise prison bound offenders with an opportunity to instead repair and rebuild their lives, is the result of the dedication and hard work of everyone involved.

We are pleased that the draft audit report confirmed that "financial transactions included in [their] testing were related to the program, were reasonable, and were recorded properly in the accounting systems," (draft audit report at page 2), thus not only validating the Judiciary's internal control procedures but also ensuring the proper use of the State's significant public funding allocated to the Judiciary for this very successful program. In making that determination, the auditors "noted internal control weaknesses and another matter meriting management's attention." Draft audit report at page 2. The remaining portion of this letter will address those points as identified in the draft report.

Identification of Department of Human Services, Division of Mental Health and Addiction Services (DMHAS) Internal Control Weaknesses (pages 3-4)

The Judiciary has no responsibility regarding DMHAS fiscal controls. However, the Judiciary maintains a collaborative relationship with DMHAS in the management of the drug court treatment dollars. To that end, the Judiciary and DMHAS have developed an enhanced reconciliation system for new admissions to the drug court program. The Judiciary will continue to work with DMHAS to improve the electronic identification of program participants to ensure that program funds are spent only on active drug court participants.

Audit Conclusion that the Program's Published Graduation Rate Was Overstated (page 4)

Prior to receipt of the draft audit report, though in response to concerns raised by State Auditor staff during the audit process, the Judiciary removed from its website any reference to a "cumulative graduation rate," replacing it with the "cumulative retention rate" (which measure actually is what was intended by "cumulative graduation rate," as explained below).

The intention of this measure was to reflect the currently active (retained) program participants and graduated participants over the three to five year length of New Jersey's Adult Drug Court program. The New Jersey program is unique in that it is much longer than other programs across the country, which average only between one and three years. Most other drug court programs use one-year retention rates as the primary program performance measure. While the Judiciary does track participant retention at yearly intervals, the Judiciary uses two indicators to measure drug court program performance: (a) the rate of program retention (percentage of participants who remain in the program or have graduated divided by the number of participants who enrolled); and (b) the rate of recidivism of program graduates. The three-year rate of program retention is 72.4% respectively, that is, 72.4% of the participants after three years have either graduated or are still in the program.

In terms of recidivism, approximately 11% of all active participants are re-arrested while in the drug court program; for program graduates, the rate of re-arrest for indictable crimes and re-conviction in New Jersey within three years from their graduation is 14% and 5% respectively. In comparison, the re-arrest rate for drug offenders previously incarcerated in a New Jersey state correctional facility is 54% and the re-conviction rate is 43%. These statistics demonstrate that the New Jersey adult drug courts save lives, save money, and help communities by rehabilitating offenders so they can become productive members of society.

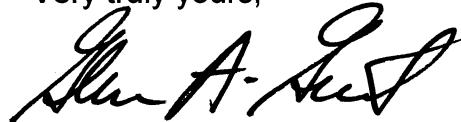
Audit Observation – The Adult Drug Court Program May Realize Savings through the Use of, or Reimbursement from, Participants' Health Insurance (page 5)

Auditor staff used information from participants during the time of intake to suggest that savings could be realized by using the health insurance of 17% of the participants who stated that they had some health insurance at the time of their arrest. Although 17% were covered by some basic medical insurance at the time of their arrest, most lost that benefit because of that arrest and subsequent incarceration, and almost none stated that they had insurance that would cover the cost of residential treatment services.

The Judiciary continues to engage in discussions with DMHAS about taking full advantage of the opportunities provided by both the Affordable Care Act implementation and mental health parity laws to stretch the limited drug court treatment dollars to provide greater services to more participants.

Again, thank you for providing the Judiciary with the opportunity to provide input into this draft audit report.

Very truly yours,

A handwritten signature in black ink, appearing to read "Glenn A. Grant".

Glenn A. Grant, J.A.D.
Acting Administrative Director

cc: Commissioner Jennifer Velez, DHS
Assistant Commissioner Lynn Kovich, DMHAS
Steven D. Bonville, Chief of Staff
Robert W. Smith, Director
Shelley R. Webster, Director
James S. Agro, Assistant Director
Joseph J. Barraco, Assistant Director
Carol A. Venditto, Statewide Drug Court Mgr.