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Department of Human Services
Division of Developmental Disabilities
Administrative Support Services

July 1, 2009 to May 31, 2012

Stephen M. Eells
State Auditor

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Enclosed is our report on the audit of the Department of Human Services, Division of Developmental Disabilities, Administrative Support Services for the period of July 1, 2009 to May 31, 2012. If you would like a personal briefing, please call me at (609) 847-3470.

Stephen M. Eells
State Auditor
August 30, 2012

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Scope

We have completed an audit of the Department of Human Services, Division of Developmental Disabilities, Administrative Support Services for the period July 1, 2009 to May 31, 2012. Our audit included financial activities accounted for in the state's General Fund, Waiting List Reduction Fund, Public Purpose Building Construction Fund, and Human Service Facilities Construction Fund. We did not audit the Community Programs-Grants-in-Aid, the Developmental Disabilities Council or the Intermediate Care Facility-Mental Retardation (ICF-MR) billings. The ICF-MR billings were addressed during our recent audits of developmental centers. A separate audit report will be issued on the division's Community Programs-Grants-In-Aid.

Fiscal year 2011 expenditures within our scope of review for the division were $75 million. A major component of the revenues was cost recoveries for care and maintenance including $55 million from community care residents and $18 million from developmental center residents. The revenues from the developmental center clients are recorded by the centers and were excluded from this audit.

The Division of Developmental Disabilities provides services to more than 43,000 clients with developmental disabilities including intellectual disabilities, autism, cerebral palsy, epilepsy, spina bifida, and other neurological impairments. The division funds three types of services for individuals who reside in the community: individual support services, day services, and residential services. Most clients reside with their family. Approximately 8,000 clients live in division funded group homes, supervised apartments, or in community care residences with a sponsor caregiver. Over 2,500 clients reside in the seven developmental centers operated by the division.

When a client receives residential services from the division, the client is required to contribute to the cost of care and maintenance. The requirements and determination of financial ability of the client and that of his or her legally responsible relatives to contribute to the cost of care and maintenance are set forth in N.J.A.C. 10:46D. The ability to contribute is evaluated annually. The client, legal guardian, or other responsible parties are required to provide relevant financial information.

As of March 2012, there are approximately 8,100 individuals on the division waiting list of which 4,900 are considered priority. The priority designation is given to individuals in need of a placement due to significant risk, such as when the caregiver is 55 years or older or where there is a clear risk of abuse. The average waiting time is about 12 years.

Objectives

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

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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 *Government 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 division. 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 message, reviewed financial trends, and interviewed agency personnel to obtain an understanding of the programs and the internal controls.

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 that the financial transactions included in our testing were related to the agency's programs, were reasonable, and were recorded properly in the accounting systems. In making these determinations, we noted certain internal control weaknesses and matters of compliance with laws and regulations meriting management’s attention.

During our audit, we also made an observation that contracts funded by the Office for Prevention of Developmental Disabilities appear to duplicate efforts undertaken by other state agencies. We recommended the division evaluate the continued need for the office.

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Contribution to Care and Maintenance

The division should review the current level of contribution to care and maintenance for individuals receiving residential services.

Pursuant to N.J.A.C. 10:46D, the Division of Developmental Disabilities has established guidelines and criteria for determining the financial ability of persons served and that of their legally responsible relatives to contribute to the cost of care and maintenance when the individual receives residential services from the division. Persons over the age of 18 who have no financial dependents are required to contribute 75 percent of their unearned income less personal needs allowance and other allowable expenses. Contributions for clients under age 18 are based on family income above a minimum cost of living standard, less allowable expenses. There are approximately 10,600 clients living in community care residences and the seven state developmental centers that are required to make monthly care and maintenance contributions. The contributions offset only a portion of the considerable cost of their care. Fiscal year 2011 average collections from community care residents were $6,800 per client or six percent of the average annual cost of care. Clients in the developmental centers paid an average of $7,300 or two and a half percent of the cost of care.

Our review of the contribution for care and maintenance in other states disclosed that of the 20 states surveyed, eighteen require clients to pay for room and board or to contribute 100 percent of their unearned income. The required contributions for the remaining two states are equal to or higher than New Jersey's.

Recommendation

The division should consider changes to the regulations and increase the required contribution to care and maintenance from 75 to 100 percent of unearned income. We estimated the change would provide additional revenues of $3.2 million annually, which includes the cost of client expenditures at fiscal year 2011 levels. The additional revenue generated by the change could allow the division to serve additional individuals in need of services.

Vendor Contract

The division should consider using in-house resources to perform new client assessments and maintain an accounts receivable system.

The division contracts with a vendor to perform initial assessments of a new client's financial ability to contribute to their cost of care and maintenance. The three-year contract with the vendor was renewed in January 2009 and extended for an additional six months through June 2012. The vendor was also required to establish and maintain an accounts receivable system for those clients where the division is not the designated representative payee for their monthly

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Supplemental Security Income, Social Security Administration, and other benefits. Approximately 3,000 clients fall into this designation. The vendor was no longer required to annually reassess clients where the division is the representative payee and the clients have no other source of income. That responsibility was assumed by the division, which performs reassessments for approximately 7,000 clients.

The vendor's staff includes four assessors, who generate letters to clients requesting financial information. The vendor does not have access to any state databases for income verification and relies entirely on clients providing accurate and complete data. In addition, unlike the division, the vendor is not authorized to contact the Social Security Administration directly regarding client's benefit payments.

The vendor is contractually paid $330 for each successful assessment completed and $264 for an unsuccessful assessment resulting from the vendor's inability to obtain financial information necessary to complete an assessment. The vendor was paid an average of $97,000 a month or $3.9 million for the period of January 2009 to April 2012.

The division did not extend the contract with the current vendor beyond June 2012. The division is assuming the responsibilities of initial assessments and maintenance of the accounts receivables. Based on our analysis, including the consideration for additional staffing, the division could realize annual savings of approximately $600,000.

Recommendation

The division should consider permanently assuming the responsibility for assessments and accounts receivables as a cost savings measure.

Collection of Care and Maintenance

The division should improve the collection of care and maintenance.

The Social Security Act allows for payment of an individual's monthly benefit to be sent directly to the qualified individual or to another person/organization as representative payee. The primary concern is to select the payee who will best serve the beneficiary's interest. The first preference is given to a family member, friend, or a public agency that has custody (the control, supervision and care) of the beneficiary. The main responsibility of a payee is to use the benefits to pay for the current and foreseeable needs of the beneficiary such as food, clothing, shelter, utilities, dental and medical care, and personal comfort items, and to properly save any residual benefits for future needs. A payee cannot use money for the payee's personal expenses or in a way that would leave the beneficiary without necessary items or services (housing, food, medical care). When a beneficiary lives in an institution, a payee should allot benefits for the institution's customary charges. According to the Social Security Act, the

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Commissioner of Social Security should promptly revoke a person's representative payee designation if it is determined that the representative payee has misused any benefit payments. Also, in any case where the negligent failure of the Commissioner of Social Security to investigate or monitor a representative payee results in misuse of benefits by the representative payee, the Commissioner of Social Security should repay to the qualified individual or the individual's alternative representative payee an amount equal to the misused benefits.

Federal benefits including Social Security, Supplemental Security Income (SSI) or various pensions are typically the only sources of assessable income for the majority of clients receiving division sponsored residential services. Based on the August 2011 federal benefit recipients' data obtained from the division and the accounts receivable database obtained from the vendor, we estimated the division is the representative payee for 72 percent of the recipients. The benefit payments for approximately 2,600 clients are received by other representative payees who should submit the required care and maintenance contributions to the division. However, the division is not receiving all of the assessed care and maintenance payments for these clients. Our review of the January 4, 2012 accounts receivables showed $11.8 million was owed by 3,325 clients. Thirty percent ($3.5 million) are due from 357 clients who have not made any payments since January 2009. Some clients owe the division as much as $96,000. The division has made no efforts to collect the outstanding receivables. We also noted over $314,000 in receivables from 83 deceased clients, which may no longer be collectible. Allowing clients to default on payments reduces funds for serving others.

Pursuant to N.J.A.C. 10:46D-5.1 the division has the ability to terminate services to eligible individuals within 60 days when the assessed contribution to the cost of care and maintenance is not received in a timely fashion. The administrative code states that the Social Security Administration (SSA) should also be advised when the representative payee has not made payments to the division for the care of the beneficiary. The code further states that the division should request a change in the representative payee. According to the division, the SSA has historically been reluctant to make a change to where the division would become the representative payee.

Recommendation

The division should seek a change in the New Jersey Administrative Code requiring every client who receives residential services, or their legal guardian, to designate the division as the representative payee. We also recommend the division take action to collect past due amounts for care and maintenance and pursue a discussion with the federal government to review clients whose SSI benefits have not been remitted to the division.

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Filing of liens

The division should improve the lien filing process.

Pursuant to N.J.S.A. 30:4-80.1 a lien should be filed against the real and personal property of the client or legally responsible relative for the full costs of care and maintenance. Liens are normally filed with the clerk of the county or New Jersey Superior Court. There is no charge to the agency filing the lien as set forth in N.J.S.A. 30:4-80.5. Our review identified 1,665 clients who had no lien filed as of April 2012. Lien collections from July 2009 through May 2012 for community residents amounted to $3 million. These recoveries would not have occurred had the liens not been filed by the division.

Recommendation

We recommend the division file liens against the real and personal property of all clients or legally responsible relatives.

Psychology Consulting Services

The division should utilize existing staff expertise to perform all client assessments.

In June 2008, the Division of Developmental Disabilities requested from the Department of Treasury a statutory exception permitting a waivered contract with a consultant having a background in clinical psychology and applied behavior analysis. The services provided through the waiver were to include behavior assessments and comprehensive intervention plans for several clients residing in developmental centers for the purpose of systematically reducing the one to one supervision for these clients and ultimately reducing overtime.

The division contracted with a Tennessee based consultant. Our review of vendor invoices showed that between November 2008 and October 2009 the consultant made eight visits to the developmental centers and evaluated 16 individuals at a total cost to the division of $57,750. The consultant charged the division for 525 hours of services including 229 hours for on-site observation of clients and interviews of direct care and clinical staff, and 296 hours for off-site assessments. Feedback from the developmental center's staff following the consultant's initial evaluations was negative. Staff members claimed that most of what had been reported by the consultant was already known and in most cases documented. Nevertheless, the division continued to engage the consultant to provide further services.

At the time of the consultant reviews, the developmental centers employed a behavior analyst, 54 clinical psychologists with advanced educational degrees, and 10 clinical psychiatrists at an annual cost of $5.9 million. Most of the professionals had worked extensively with these clients

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and were involved in preparing comprehensive annual behavior assessments and plans for the clients.

Recommendation

The division should rely on professional experts within the division prior to contracting for professional services.

Payment for Out of State Client

The division should only issue payments for DDD related services.

The division paid an $18,215 hospital bill in August 2009 for an individual who was not a client of the New Jersey Division of Developmental Disabilities. According to the division, the individual was placed in a New Jersey group home serving clients with developmental disabilities by another state. After the client became disruptive and left the group home, the provider refused to take the client back. The client subsequently required services at a local hospital. The cost of treatment for the individual should have been paid by the other state.

Recommendation

We recommend the division recover the payment from the sending state and issue payments only for the division related services.

Observation

Office for Prevention of Developmental Disabilities

The need for OPDD should be evaluated considering the potential for duplication of services.

The Office for Prevention of Developmental Disabilities (OPDD) was established by the legislature in the Department of Human Services in 1987. The responsibilities of the office include developing long-range comprehensive plans for the prevention of developmental disabilities. Its mission is to reduce occurrence of severe chronic mental or physical disabilities that originate during pregnancy or early childhood.

Beginning in fiscal year 2010, OPDD started receiving appropriated funds through the Division of Developmental Disabilities. The office expended $549,000 in fiscal year 2010 and $534,000 in 2011 to 11 contract vendors. The services included educating adults and children about lead

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poisoning, pedestrian and bike safety, HIV and teen sexuality, and prevention of fetal alcohol syndrome.

There is a wide range of cooperative preventive, educational, and regulatory efforts in the area of lead poisoning, fetal alcohol syndrome, pedestrian and bike safety, and HIV and teen sexuality, performed by at least eight other state agencies, as well as various community agencies. It appears that OPDD contracting for these type services is a duplication of effort. The continued need for the office should be evaluated. The Appendix summarizes related activities performed by other state agencies.

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Appendix

State Agency	Services/Programs
Department of Education	Comprehensive Health and Physical Education Standards revised in 2009 require the curriculum to incorporate systematically introduced and expanded programs on personal health and safety strategies. These include self-help skills and personal hygiene skills; safe practices indoors and out that reduce the number of injuries to self and others; procedures associated with pedestrian, bicycle, and traffic safety (e.g. bike helmets, car seats and seat belts use); fire safety; poison safety; accident prevention; sex and sexual diseases education; drug and alcohol use; and fetal alcohol syndrome education.
Department of Health and Senior Services, in collaboration with two outside vendors and the additional sponsorship of the Department of Education and Department of Human Services	The New Jersey Teen Prevention Education Program (Teen PEP), a school-based initiative that promotes sexual health among New Jersey high school students.
Department of Health and Senior Services, Division of HIV/AIDS, STD and TB Services	The division helps community-based networks deliver comprehensive services including prevention and risk reduction through education, training, and research.
Department of Health and Senior Services, Division of Family Health Services	The division provides support to a system of Fetal Alcohol Spectrum Disorders risk reduction and perinatal addiction services.
Department of Health and Senior Services	The department is responsible for screening children for lead poisoning and case management and regulating of lead inspectors and abatement workers.
Department of Community Affairs	The department is responsible for lead certification, training, and providing financial assistance to home and property owners for reducing lead-based paint hazards.
Department of Law and Public Safety, Division of Highway Traffic Safety	The division provides federal grant funding to municipal, county, state government, and other agencies that wish to undertake programs designed to reduce motor vehicle crashes, injuries, and fatalities on the roads in the state. The division also assists county, municipal and law enforcement agencies with education, public awareness, and enforcement of the bicycle helmet law and other bicycle safety issues. The division produces numerous informative booklets, pamphlets, and flyers. It also sponsors various websites and programs devoted to seat belt and child seat safety; vehicle, motorcycle, bike and pedestrian safety; and prevention of brain injuries.
Department of Transportation	The department provides funding for non-infrastructure projects including activities such as public awareness campaigns; walk and bike to school events and training, traffic education and enforcement; and student lessons on bicycle and pedestrian safety, health, and the environment.

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DEPARTMENT OF HUMAN SERVICES
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CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

JENNIFER VELEZ
Commissioner

August 17, 2012

Mr. Stephen M. Eells
State Auditor
Office of the State Auditor
PO Box 067
Trenton, New Jersey 08625-0067

Dear Mr. Eells:

Enclosed you will find the response to the Division of Developmental Disabilities, Administrative Support Services Audit, for July 1, 2009 to May 31, 2012 conducted by your office. This response was prepared by staff from the New Jersey Division of Developmental Disabilities. If you have any questions, please contact Janet Hand at 609-631-2269.

Sincerely,

Dawn Apgar

Dawn Apgar
Deputy Commissioner

Enclosure

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DEPARTMENT OF HUMAN SERVICES

DIVISION OF DEVELOPMENTAL DISABILITIES

ADMINISTRATIVE SUPPORT SERVICES

AUDIT RESPONSE

AUGUST 15, 2012

Contribution to Care and Maintenance:

The division should consider changes to the regulations and increase the required contribution to care and maintenance from 75 to 100 percent of unearned income.

Response: The Division is collaborating with contracted provider agencies that provide community group home and supervised apartment residential services to individuals in New Jersey to become representative payees for the individuals' benefits. As representative payees, the agencies will collect the benefits and monitor the client funds to ensure that payments for contribution to care are made. In FY2014, the Division intends to move the room and board costs out of contract and the payers will be required to pay the agencies directly. This change moves the funding of room and board costs for these services from the Division to the agencies and is expected to relieve both a cost and administrative burden on the Division.

Vendor Contract Recommendations:

The division should consider permanently assuming the responsibility for assessments and accounts receivables as a cost savings measure.

Response: The vendor contract ended effective June 30, 2012 and the operation has been assumed by the Division. The first year of this move will result in a savings in excess of $600,000.

Collection of Care and Maintenance Recommendation:

The division should seek a change in the New Jersey Administrative Code requiring every client who receives residential services, or their legal guardian, to designate the division as the representative payee. We also recommend the division take action to collect past due amounts for care and maintenance and pursue a discussion with the federal government to review clients who SSI benefits have not been remitted to the division.

Response: The Division is collaborating with provider agencies that are providing community group home and supervised apartment residential services to individuals in New Jersey to become representative payee. This change will enable the agencies to more closely monitor

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the client funds and ensure that payments for contribution to care are made. As the Division has recently assumed the role previously performed by the vendor, it now has access to necessary data and files to research individuals determined to have "past due" balances and to begin collection proceedings, when possible. The Division will also contact the Social Security Administration to determine what assistance can be provided to review the status of clients whose SSI benefits have not been remitted to the Division.

Filing of Liens Recommendation:

We recommend the division file liens against the real and personal property of all clients or legally responsible relatives.

Response: The Division agrees with this recommendation and has been reviewing the process. The present system is completely manual and requires that staff go to multiple sources to determine if a lien is needed. The Division is in the process of creating an automated system for processing liens. It is expected that this process will create the lien 30 days after placement, as well as identify those individuals in need of a lien. The automated process should be completed by the end of this calendar year. In the meantime, the Division is developing an interim process in order to address the current backlog.

Psychology Consulting Services Recommendations:

The division should rely on professional experts within the division prior to contracting for professional services.

Response: A contract with the consultant in question does not currently exist. The Division utilizes all expertise available within our existing staffing structure in almost all instances. Occasionally, an individual has a unique clinical need which requires an outside expert. Use of such experts is cost effective as hiring such a person would be wasteful given the uniqueness of the clinical specialty.

Payment for Out of State Client Recommendation:

We recommend the division recover the payment from the sending state and issue payments only for the division related services.

Response: The Division has investigated this isolated incident to determine the circumstances surrounding this payment for a non-DDD consumer. The consumer was placed with a New Jersey provider by the State of Maryland who was funded at the time by the Harford County Public School District in Bel Air, Maryland. When the consumer's behaviors became too difficult to handle in their group home setting, the consumer was sent to Trinitas Hospital for intensive crisis intervention. The sending state (MD) and the New Jersey group home provider both refused to pay the Trinitas invoice, which was then sent to the Division and incorrectly authorized for payment. A formal request for reimbursement has been sent to the Superintendent of the Harford County Public School District to solicit reimbursement. Remittance of reimbursement is due to the Division by September 15, 2012.

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Office of Prevention of Developmental Disabilities Recommendation:

The need for OPDD should be evaluated considering the potential for duplication of services.

Response: The Division acquired oversight over the Office for Prevention of Developmental Disabilities beginning with Fiscal Year 2010. Many grants were multi-year commitments. Once we garnered a full understanding of the programs being funded by these grants, the Division undertook a formal Request for Proposal process to re-award the funding to ensure appropriated funds were used for service gaps and priorities identified by the Division. The Request for Proposal was constructed after examining the existing grants and any related programs across other Departments to ensure the grants issued under the new proposal process were not duplicative of other, already funded programs or services.

In addition to the issuance of a Request for Proposal, the Division also (1) chose not to backfill the Office of Prevention's Director position after retirement and (2) absorbed the contract administration of these contracts within the Division's current administrative structure. As a result of these actions, all appropriated funds go directly to the proposal grantees with no funding allocated to the administration of the Office.