Performance Audit

FINAL REPORT

DHHS Contracting for Cost Shared Non-MaineCare Human Services — Cash Management Needs Improvement to Assure Best Use of Resources

Report No. SR-CHSS-07

a report to the
Government Oversight Committee
from the
Office of Program Evaluation & Government Accountability
of the Maine State Legislature

July

2008

EXECUTIVE SUMMARY

DHHS Contracting for Cost Shared Non-MaineCare Human Services — Cash Management Needs Improvement to Assure Best Use of Resources

The Maine Legislature's Office of Program Evaluation and Government Accountability (OPEGA) has completed a performance audit of contracting for human services at the Department of Health and Human Services (DHHS). OPEGA conducted this audit at the direction of the joint legislative Government Oversight Committee (GOC), in accordance with 3 MRSA §§991-997 and the Government Auditing Standards set forth by the United States Government Accountability Office.

OPEGA focused on the financial close-out phase of cost shared non-MaineCare human services contracts.

The Department reported planned expenditures of approximately $187 million in fiscal year 2007 and $185 million in fiscal year 2008 for agreements with community based agencies for delivery of human services. This review focused on identifying potential General Fund opportunities related to the financial close-out phase of a specific group of these agreements: cost shared non-MaineCare agreements for human services.

OPEGA estimates DHHS could improve cash flow by $2.6 million annually through enhanced cash management. In addition, assertive collection efforts could realize a one time infusion of $960,660.

OPEGA has concluded that there are opportunities associated with the agreements reviewed. We conservatively estimate that improving cash management practices for cost shared agreements could result in DHHS retaining approximately $2.6 million annually that may otherwise have been overpaid to providers and could instead be used immediately to support other services. Assertive collection efforts could produce faster collection of future overpayments and result in a one time infusion of $960,660 from full collection of balances already owed.

Specific findings noted in this report include the following:

- Cash management was inadequate and resulted in providers owing balances back to the State.
- Collections of amounts due to the State were not timely.
- Financial data for decision makers was lacking, but recent improvements have been made and more are planned.
- Appeals of cost settlements consume resources and may be avoidable.

DHHS needs to better balance financial management and service delivery. This is being addressed as part of the Department's ongoing transformation, but additional work remains.

The Department acknowledges its fiscal stewardship role and has been working, since early 2007, on a financial transformation plan. OPEGA observed that culture change is needed at DHHS to better balance fiscal management and service delivery and to bridge the historical gap between the Department's program and financial staff. This culture change has been part of DHHS' transformation plan, but significant challenges remain and must be addressed if the transformation is to be successful.

Findings and Observations

Finding 1 - Inadequate Cash Management

Good cash management practices include stewardship of cash assets to ensure collections and disbursements are managed to maximize the utility of every dollar. Cash management associated with cost shared agreements for DHHS non-MaineCare human services is currently weak.

Cash is disbursed to providers based on their budgeted (anticipated) costs rather than actual costs. DHHS makes disbursements on a regular basis (such as quarterly) regardless of when costs are actually incurred. There has historically been no systematic process for regularly adjusting scheduled disbursements if the actual costs, once realized, begin to show the budget may have been overstated.

As a result, these agreements typically end with amounts due back to the State. OPEGA reviewed recently completed cost-settlements for a sample of 28 out of 381 auditable providers[1]. We found that a majority of settlements (25, or 89%) showed money was due back to the State. The median amount owed by those providers, not including interest, was 3.4% of the total original agreement amount. The total amount providers owed for the current period settled[2], prior to any appeals and including interest, was $2,935,746. Nine cost-settlement audits also found the provider still owed the State from agreements settled in prior years, for an additional total owed of $1,191,095 including interest.

Conversely, auditors determined that the State owed providers for the current period in only 5 of the 28 cost-settlement audits (18%) for a total of $62,095. The State also still owed four providers a total of $33,065 for prior periods. See Table 3 for a summary of cost-settlement results.

Table 3. Summary Results of Cost Settlements Reviewed

	Current Period Settlements			Prior Period Settlements		
Settlement Status	# of Providers	Agreement $	Interest $	# of Providers	Agreement $	Interest $
Provider Owes State	25	$2,681,582	$254,164	9	$1,111,506	$79,589
State Owes Provider	5	$62,095	N/A[3]	4	$33,065	N/A

[1] DHHS Division of Audit does not audit all providers with cost shared contracts. For example, cost settlements are not performed on providers with less than $25,000 in cost shared contracts.

[2] As DHHS has not been performing cost settlements until about two years after agreements end, the period settled for those in our sample was mainly State fiscal year 2004.

[3]The State does not pay interest on amounts it owes to providers.

Note: Some providers from OPEGA's sample are represented in this table more than once because they both owe the State and are owed by the State.

As discussed in the Methods and Scope section of this report, our sample was not statistically random, and so can not be assumed to represent the Department's agreements in total. Nonetheless, the results of our testing suggest an opportunity to avoid distributing excess funds on cost shared agreements. Avoiding situations where providers owe substantial dollars back to the State would:

- potentially free up dollars that could be used to support other programs;
- minimize resources required for collection efforts; and
- protect providers from having to pay related interest.

Management Action:

The Department has instituted or improved some cash management controls already, and is continuing to improve others as it pursues its financial transformation strategy. The Division of Audit has been training Department program staff and the Purchased Services group to recognize funding streams for cost sharing and determine allowable costs before the agreement is finalized. Seven of these trainings were given over the past year with a total of 245 attendees.

Future actions agreed to by management are described below.

1. The Purchased Services group is developing a quarterly "true up" based on reports submitted by providers. This true-up will match agreement payments to the quarterly actual expenses and will be in place by the first quarter of FY 2009. When true-ups reveal that a provider has not expended all that they received in a quarter, DHHS staff will take appropriate action to avoid significant overpayments on the agreement. A written protocol is being developed to guide this true-up process and will be completed by FY 2010.

2. The Department is working with the DAFS Service Center on a memorandum of understanding (MOU) focused on defining roles, responsibilities, and expectations regarding cash management, grants management, and timeliness of invoicing and collections. This MOU will be in place by September 1, 2008.

Finding 2 – Collection of Amounts Due Not Timely

OPEGA noted that amounts due to the State are not collected in a timely fashion, with payments being made to providers on new agreements before old receivables are resolved. As of February 2008, nine providers from our sample of 28 had not paid balances due to the State, even though the agreement periods had been closed since at least FY 2003-2004 and the cost-settlements were completed prior to November 2007. The DHHS Service Center records indicate the total amount due from providers in our sample at that time was $1,629,524 in current and prior period balances plus interest of $162,076. One of the providers was no longer in business, and according to DHHS' Division of Audit, $700,897 of these balances were still under appeal and could be adjusted as a result.

Full collection of amounts due the State is hindered by the fact that DHHS has not always recorded receivables for agreements even after the agreements have had a final cost-settlement. As a result, there are some balances technically owed to the Department which have never been entered in the State's accounting system. Because of this, the total of all outstanding receivables related to cost shared non-MaineCare agreements for human services could not be determined at the time of our review. In addition, there appears to be some uncertainty about the accuracy of what has been recorded. When inquiring about how much remained due on an agreement included in our sample, OPEGA received two different answers from DHHS' Service Center and Division of Audit. One reported that the provider owed no balance, while the other reported that the State's accounting system showed a balance of over $200,000.

Collection efforts are also complicated by the fact that many receivables are already a year or more old by the time active collection efforts begin. This time lag affects collectability. Delays in collection, or failure to collect the funds, are particularly problematic when the funds owed represent a repayment of federal funds. In these cases, DHHS may have already repaid the federal government out of the General Fund. The General Fund is, thus, not replenished unless the provider repays the State.

Although our sample was not statistically random[4], it is reasonable to expect that uncollected amounts owed the State on cost shared agreements for human services currently exceed those in our sample. Regular recording of receivables and more assertive collection efforts would improve collection rates and timely recovery of these amounts – making more resources available for the State's use.

Management Action:

1. DHHS' Medicaid Finance group had previously been established to focus on collecting Medicaid-related receivables. The group's responsibility will now expand to include resolving past due receivables and managing collections of all DHHS agreement-related receivables. The receivables group anticipates having a complete record of all amounts owed the

[4] The Methods and Scope section of this report has more information on the sample selection.

Department, including those well overdue, by September 30, 2008. The group will also initiate daily collection efforts for non-MaineCare agreements by the end of September, including: establishing repayment plans; noticing the debt; offset of future payments; withholding of agreements; and, withholding the next scheduled payment to a provider until the balance is paid or the provider has arranged a payment plan.

2. Beginning with agreements for fiscal year 2006, an agency must submit a check no later than 90 days after the end of the agreement period for any surplus balances identified on their final financial report. As of September 2008, the Department will begin consistently enforcing this requirement. In the event that a check is not submitted with the final report, the Department will contact and invoice the provider, thereby establishing the receivable that will be tracked and collected by the Medicaid Finance group.

Finding 3 –Improving Financial Data for Decision-Makers

Decision-makers need sound financial data to drive consideration of programmatic value and efficiency. At the beginning of our audit, DHHS' financial data for agreements was inadequate and hindered decision-making, agreement management, and oversight of the dollars spent on contracted services.

For example, we requested data showing the total budgeted versus actual costs for all DHHS agreements, but the Department was unable to provide this data. The account coding in place at that time allowed the Department to compare budget to actual for individual agreements, but not across agreements at a program or department level. When surveyed, some DHHS program managers reported that the absence of this financial data compromised their ability to accurately report on their operations and manage their funds.

The Department's new Division of Program and Fiscal Coordination has been working to address this issue since fall of 2007. They have made progress, and as of April 2008 they are now able to produce budget versus actual reports for all DHHS agreements, as well as total actual expenditure reports for all agreements cumulatively. Standard reports available to DHHS fiscal and program managers now include:

- monthly reports of agreements listed alphabetically by provider with current fiscal year encumbrances, year-to-date expenditures, and remaining balances by agreement and total for provider; and

- monthly reports of agreements by appropriation and reporting unit with current fiscal year encumbrances, year-to-date expenditures, and remaining balances by agreement and total for reporting unit and fund.

Management Action:

Additional planned improvements include the development of more detailed reports that will allow program managers to review up-to-the-minute comparisons of budget to actual for individual accounting lines within agreements. This enhanced reporting will be in place by the end of the second quarter of FY 2009.

Finding 4 – Appeals Consume Resources and May Be Avoidable

Providers appealed DHHS Division of Audit findings in 11 of the 28 cost-settlement audits we reviewed (39%). Resolution of appeals can be time consuming for both the Division of Audit and the provider involved depending on the complexity of the issue under appeal and the level of the appeal.

Despite the resources consumed, however, it appears that appeals do not typically result in significant changes to the cost-settlement findings. Audit settlements were changed in 7 of the 11 audits appealed[5], but the changes were typically minor and totaled less than 1% ($27,568) of the surplus amounts found due the State from the appealed cost-settlements. Interest appears more likely to be adjusted significantly, and our sample had a total of $28,958 in interest declared no longer due as a result of appeal – a reduction of 14%. Table 4 summarizes the changes resulting from appeals in our sample.

Table 4. Summary of Results of Appeals of Cost Settlements in OPEGA's Sample

	Amount Found Due to the State	$ Change as a Result of Appeal	% Change as a Result of Appeal
Surplus Agreement Funds	$2,441,395	$27,568	1%
Interest on Surplus Funds	$213,292	$28,958	14%

Reducing the number of appeals would free up resources in the Division of Audit, perhaps allowing cost-settlement audits to be completed more timely. It would also conserve resources and reduce costs for providers. We examined the reasons for the 31 issues raised in the 11 appealed cost-settlements and noted the following:

- 6% stemmed from provider errors in the reporting of their costs;
- 13% stemmed from Division of Audit errors;
- 23% were related to communications issues between DHHS and the provider; and
- 58% were the result of genuine disagreement between Division of Audit and the provider.

Exploring these root causes more fully could lead DHHS to establish new practices that would reduce the number of appeals. For example, most of the communication issues seemed to stem from providers receiving conflicting information from DHHS agreement managers and the Division of Audit. In a few cases, the Division of Audit reported a finding that was later appealed by the provider on the basis that Departmental program staff had written a letter or email specifically allowing the expenditure in question. Unfortunately, the communication had never reached the Division of Audit, so they had no way of knowing that the expenditure had been allowed.

[5] Three appeals resulted in no changes and one appeal was still unresolved at the time of our review.

These situations could be avoided with better sharing of information between the Division and agreement managers. A shared network drive where all correspondence related to agreements is kept, or some other way of maintaining shared information about allowances/alterations made during the agreement's life, might be helpful. Another option would be to have the Division of Audit sign-off on an agreement allowance or adjustment before it is issued to the provider.

Management Action:

The management actions specified under Findings 1 and 2—continued training of program staff and providers, and the creation of the Division of Program and Fiscal Coordination—should help reduce the number of appeals. In addition, the DHHS Division of Audit is rewriting the Maine Uniform Accounting and Auditing Practices for Community Agencies rules. As part of this rewriting effort the Division will seek to clarify parts of the rules that are areas of frequent appeal. The rules will be rewritten by January 1, 2009.

Observation – Culture Change Critical to Successful Transformation

While DHHS management acknowledges its stewardship role, historically the Department has had a culture more focused on service delivery than adequate financial management. This imbalance resulted in an inability to connect fiscal data with program activities in an area of State government that represents 32% of the General Fund budget. Lacking this critical information hindered policy and decision-makers in their efforts to evaluate the resources being dedicated to specific programs.

> *"There is nothing more difficult to take in hand, more perilous to conduct, or more uncertain in its success than to take the lead in the introduction of a new order of things."*
>
> Jean-Jacques Rousseau

DHHS recognized the need for change and is now well into a plan to transform its financial management practices. Successful transformation, however, will require more than establishing new internal controls, reporting tools, and organizational structures. It will also require changing the underlying and long standing culture within and outside of the organization – the attitudes, perceptions and behaviors of employees at all levels and the outside stakeholder groups that influence them.

During our review, we found top management at DHHS committed to the financial transformation and able to articulate a plan and a vision. However, we also made the following observations.

- Some staff members surveyed or interviewed seemed to feel that service delivery is the primary focus of the Department and that fiscal management may interfere with that delivery rather than work in conjunction with it.

- Significant frustration exists within DHHS' staff about the clarity of roles and responsibilities and the quality of intradepartmental communications. Fourteen percent of respondents to our survey of DHHS staff involved in agreement administration indicated unclear or poorly defined roles and responsibilities hindered agreement administration and possibly caused some duplication of effort. Another thirty-six percent noted poor intradepartmental communications interfered with their productivity and made it difficult for them to quickly resolve any issues encountered.
- Management and staff described situations where political pressures and influence interfered with their ability to make decisions or take actions they felt to be in the Department's best interest.

These observations are not surprising at this point in the Department's long term transformation process. However, they do illustrate the significant challenge of the culture change that needs to occur – a challenge that can only be overcome with adequate resources, strong and consistent leadership, and active oversight and support of the Executive and Legislative branches.

Agency Response

In accordance with 3 MRSA §996, OPEGA provided the Department of Health and Human Services an opportunity to submit comments on the draft of this report. The response letter can be found at the end of this report.

Department of Health
and Human Services

Maine People Living
Safe, Healthy and Productive Lives

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July 7, 2008

Beth Ashcroft, Director
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Dear Ms. Ashcroft:

The Department appreciates the manner in which OPEGA conducted its performance audit, providing executive management with several opportunities to respond to its findings, offer context, and add supplemental information. The report validates the financial management issues the Department had previously identified, and we welcome the opportunity to present this brief update on the significant progress already made.

The Department continues to pursue a comprehensive restructuring in the management of its financial affairs. For example, the creation of a new Division of Program and Fiscal Coordination, and the reorganization of the Rate Setting Unit and the Division of Purchased Services under the umbrella of the Deputy Commissioner for Finance are complete. The design provides for a more integrated balance between the delivery of social services and management of the resources required to provide them.

By connecting the contracting, accounting and audit functions, the Department has strengthened internal controls, increased training opportunities, and enhanced its communication with community service agencies. Clearer understanding has led to an improved recognition of funding streams available for cost sharing and the determination of allowable costs – before a contract is executed.

Community agencies have responded by filing more accurate quarterly compliance reports. The Division of Purchased Services has developed a quarterly "true up" using these reports to match contract payments with actual expenses and to take steps, if necessary, to ensure that significant overpayment on an agreement is avoided.

Perhaps the greatest shift in organizational culture began with the addition of Program Fiscal Coordinators in each Office. As more and better financial reporting tools are made available, increased transparency and accountability has occurred. Managers at all levels are pleased with the results and have responded well to the changes. The Department recognizes the need to balance its fiscal management responsibilities with ensuring the continuation of vital services to Maine people.

The most significant efforts currently underway are in the area of cash management.

DHHS has established an Accounts Receivable group charged with collecting amounts due to the Department. The group has focused primarily on Medicaid-related receivables in the past. Their charge has been expanded, however, to include recoveries from settled contracts, program integrity, and any other receivables due the Department. Routine collection efforts include: the noticing of debt, establishing repayment plans, with-holding new contract awards, making offsets to current payments, and holding scheduled future payments in abeyance until an outstanding obligation is satisfied or some other arrangement has been made.

The track record of the Medicaid finance team in managing large and complex collections endeavor is noteworthy. Over $500 million has been recovered, which represents 90% of interim overpayments caused by well-documented issues with the MeCMS claims processing system. This indicates that by applying the lessons learned, and by leveraging the systems and processes developed in managing that effort, the group is capable of collecting on amounts due the Department resulting from the agreement closeout process.

Please note that while this effort will increase cash flow, collection of these obligations does not necessarily represent a budget savings initiative, since most of the overpayments identified in the OPEGA report are already included in the baseline budget assumptions of the Department.

In partnership with the DAFS Service Center and the Office of the State Controller, new payables processes are being developed to improve accuracy and timeliness through better matching of payment obligations with available funds.

An on-going challenge has been the limited number of people available to do the work. The Department gratefully acknowledges and very much appreciates the funding provided by the Legislature to create ten new positions in the Service Center who will be deployed to help implement the Department's improvement plan. However, the recent loss of a key Department leader in the drive to improve financial results, the Deputy Commissioner for Finance, poses an additional risk. We will, however, remain vigilant about our staffing and financial management.

Sincerely,

Brenda Harvey

Brenda M. Harvey
Commissioner

BMH/klv