



**Department of Legislative Services
Office of Legislative Audits**

Maryland Department of Health (MDH)

**Behavioral Health Administration (BHA) and Medical Care Programs
Administration (MCPA)
Administrative Service Organization (ASO) for Behavioral Health Services
Report Dated October 25, 2022**

Presentation to Joint Audit and Evaluation Committee

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Report Overview

- BHA operates the Public Behavioral Health System to provide mental health and substance-related disorder services to the citizens of Maryland. BHA is responsible for community-based services financed through a combination of grants and contracts. The majority of the behavioral health activity is processed by a third party Administrative Service Organization (ASO) under contract to MCPA.
 - To promote consistency and a more comprehensive review of audit issues related to BHA activities, we consolidated our audit to include BHA and MCPA's ASO which previously were audited separately.
 - BHA's fiscal year 2021 expenditures totaled \$356.6 million and ASO behavioral health claims disbursements totaled \$1.8 billion.
 - Our report contains 9 findings of which 2 non-cybersecurity findings are repeated from the prior audit reports. We determined that MDH's accountability and compliance level was unsatisfactory in accordance with the rating system we established in conformity with State law.
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Key Findings

- MCPA did not perform a comprehensive evaluation of the ASO technical proposals.
 - MCPA did not ensure the ASO's claim processing system functioned prior to launch, which ultimately required the ASO to make \$1.06 billion in estimated payments to providers.
 - MDH did not conduct certain audits of the ASO, and MCPA and BHA did not ensure the ASO performed a sufficient number of provider audits.
 - MCPA was unable to obtain \$28.8 million in federal funding because the ASO did not comply with certain contract requirements.
 - MCPA did not timely investigate unresolved claims totaling \$106.7 million that were paid by the ASO, but were denied federal reimbursement.
 - MDH did not assess up to \$20.5 million in liquidated damages permitted in the ASO contract.
 - MDH circumvented State procurement regulations to obtain information technology consulting services totaling \$19.8 million from a single vendor.
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Administrative Service Organization (ASO)

Background

- MCPA's ASO is responsible for determining behavioral health recipient eligibility, authorizing recipient services, paying provider claims, and performing oversight of providers.
- In November 2018, MCPA solicited proposals for a new ASO contract and responses were received from two vendors, including the incumbent ASO.
- The proposals were evaluated by a three-member committee and MDH awarded the contract to the non-incumbent vendor whose proposal was rated "excellent", while the incumbent vendor's proposal was rated "very good".
- The ASO contract term was January 1, 2020 to December 31, 2024 with one additional two-year option and it had a cumulative value of \$198.2 million.
- The new ASO uses the services of seven subcontractors to meet various contract requirements.



Administrative Service Organization (ASO) (Finding 1)

MCPA's evaluation of the ASO technical proposals was not sufficiently comprehensive or documented.

- MCPA did not perform an independent comprehensive review of the past experience and qualifications of subcontractors responsible for performing critical work under the contract. In addition, MCPA did not obtain references or contact the proposed subcontractors, including the subcontractor responsible for the claims processing system.
- Evaluations of ASO Bidders' Experience Were Not Sufficiently Comprehensive
 - MDH did not document that it considered the nature of the winning bidder's past experience. Only one of four references had used the vendor for similar services to those needed by MDH.
 - MDH did not document that it considered concerns by one reference that the winning bidder struggled to manage detailed patient claim data and had recommended assessing daily penalties for missed deadlines.



Administrative Service Organization (ASO) Cont. (Finding 1)

- Evaluation Forms Were Not Sufficiently Documented or Were Not Supported
 - MCPA's evaluations of the ASO did not consider whether the ASO had sufficient controls over its information systems required by the Request for Proposals (RFP).
 - The winning vendor's transition plan had a longer transition period than that provided for in the RFP.
- The Board of Public Works questioned MDH about the winning vendor's experience as an ASO and its ability to perform satisfactorily considering the financial proposal was \$72.1 million lower than the incumbent ASO's proposal. MDH responded to the Board that it had done "a lot of due diligence" of the winning vendor.
- OLA concluded that it was possible that the anticipated savings from awarding the contract to the ASO may have been negated by various subsequent events, such as overpayments to providers and lost federal income.



Administrative Service Organization (ASO) (Finding 2)

MCPA did not ensure the ASO's claims processing system was functioning prior to its January 2020 launch, resulting in numerous system deficiencies.

- MCPA Did Not Ensure the ASO System Was Functional Prior to Launch
 - The system could not process provider service authorization requests to ensure requested services were medically necessary. Providers were required to maintain documentation supporting the medical necessity requests, but the ASO has not reviewed the support.
 - The system improperly denied valid claims submitted by providers. MCPA was unable to document the number and dollar value of the improperly denied claims.
 - The system was unable to generate accurate claim payment information using the healthcare industry standard report form and was unable to process retroactive claims.
- Deficiencies with the system required the ASO to make \$1.06 billion in estimated payments to providers, of which approximately \$223.5 million has still not been supported or recovered as of December 2021.



Administrative Service Organization (ASO) (Finding 3 & 4)

- **Finding 3** - MDH did not conduct audits to verify the propriety of ASO behavioral health services authorizations. Specifically, BHA only performed one audit that covered calendar years 2017, 2018 and the first two quarters of 2019, instead of the annual audits required by MDH written procedures. As of September 2021, the audit had not been finalized and no corrective action had been initiated to address the deficiencies identified. (**Repeat Finding**)

- **Finding 4** - MCPA and BHA did not ensure the ASO performed a sufficient number of provider audits, that the audits included financially material and current transactions, and that overpayments were recovered and deficiencies corrected. (**Repeat Finding**)
 - MCPA and BHA did not ensure the ASO completed 370 provider audits annually as required by the contract, or require that current transactions were audited.
 - Overpayments of \$2.1 million identified by audits were not recovered.
 - BHA did not verify that deficiencies (such as, failure to comply with State regulations) identified during provider audits were resolved.



Cybersecurity (ASO) (Finding 5)

Redacted cybersecurity-related finding.
See **confidential** addendum.



Administrative Service Organization (ASO) (Finding 6) (Policy Issue)

The ASO failed to implement certain information technology requirements specified in its contract, which prevented MCPA from obtaining enhanced federal funding.

- The ASO developed an information technology plan, but failed to fully implement it as required by the contract. As a result, MCPA could not recover an estimated \$28.8 million in enhanced federal funds.
- In January 2022, MCPA decided it would no longer pursue the enhanced federal funding, which will require the return of prior enhanced federal funding totaling \$5.8 million.
- Although, MDH withheld \$4.4 million from the ASO, this amount would not compensate for the full loss of the enhanced federal funding.



Administrative Service Organization (ASO) (Finding 7)

MCPA did not have a process to timely investigate and resolve claims paid by the ASO for which federal reimbursement was denied or approved for a different amount than the amount paid.

- As of September 2021, there were approximately 292,000 unresolved denied claims totaling approximately \$106.7 million and 388,000 claims totaling \$17.8 million that were approved for a different amount.
- MCPA management advised that it relied on reports generated by the ASO to resolve these claims. However, these reports were not always reliable and sometimes included incorrect data.
- We were advised by MDH management that resolving these claims was not a priority because MDH was focused on more significant issues, such as recouping provider overpayments.



Administrative Service Organization (ASO) (Finding 8)

MDH had not developed a formal policy on liquidated damages to aid in determining the appropriateness of assessing such damages (such as conditions requiring damages and how to determine the amount of damages to be pursued). Furthermore, MCPA had not assess liquidated damages permitted by the ASO contract, despite the vendor's ongoing failure to provide an operational system or comply with certain contract requirements.

- Based on our calculations, MDH could have assessed liquidated damages of \$16.7 million for the ASO's failure to provide a functional system from January 1, 2020 until October 2021, and an additional \$3.8 million in liquidated damages (as of January 2022) for the ASO not following the approved implementation plan for compliance with specified contract requirements.
- MDH executive management advised that it had not assessed liquidated damages because it was concerned that such actions would discourage the ASO from resolving noted defects and may lead to litigation with an uncertain outcome.



Procurement (Finding 9)

MDH circumvented State procurement regulations by obtaining information technology (IT) consulting services totaling \$19.8 million from one vendor without competition.

- MDH used four interagency agreements with two Core Service Agencies to obtain IT consulting services from the same vendor, circumventing State procurement regulations and the competitive procurement process.
- MCPA paid the vendor \$1.6 million using a grant process to develop certain dashboards, rather than competitively procuring the services.
- MDH awarded a two-year sole source contract for \$2.3 million to the vendor for ASO-related assistance, without documenting that no other vendors could provide this service as required by State procurement regulations.
- MDH directed a contractor under a Statewide master contract to use the vendor for IT services on behalf of MDH. The process circumvented State procurement regulations, and if all contract options are exercised, will result in MDH paying administrative fees of \$2.8 million to the statewide contractor.



Conclusions

MDH should:

- ensure that evaluations of technical proposals are sufficiently comprehensive and documented;
 - ensure the ASO corrects system deficiencies;
 - conduct required annual audits of ASO authorizations and ensure the ASO performs timely and comprehensive provider audits;
 - address cybersecurity related issues;
 - pursue completion of the ASO implementation plan and the related enhanced federal funding;
 - take action to ensure denied claims and claims approved for a different amount are investigated and resolved, and that federal reimbursement is recovered;
 - develop a formal policy on the assessment of liquidated damages, and in accordance with that policy assess liquidated damages as provided for in the ASO contract for long-standing performance issues; and
 - comply with State procurement regulations when procuring IT consulting services.
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