

Special Review

**Maryland Department of Health
Developmental Disabilities Administration
Follow-up Review**

July 2020



OFFICE OF LEGISLATIVE AUDITS
DEPARTMENT OF LEGISLATIVE SERVICES
MARYLAND GENERAL ASSEMBLY

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Victoria L. Gruber
Executive Director

DEPARTMENT OF LEGISLATIVE SERVICES
OFFICE OF LEGISLATIVE AUDITS
MARYLAND GENERAL ASSEMBLY

Gregory A. Hook, CPA
Legislative Auditor

July 10, 2020

Senator Clarence K. Lam, M.D., Senate Chair, Joint Audit and Evaluation Committee
Delegate Carol L. Krimm, House Chair, Joint Audit and Evaluation Committee
Members of Joint Audit and Evaluation Committee
Annapolis, Maryland

Ladies and Gentlemen:

We have conducted a follow-up review of actions taken by the Maryland Department of Health (MDH) – Developmental Disabilities Administration (DDA) to address the findings in our July 8, 2019 audit report. In that report, we concluded that DDA’s accountability and compliance rating was unsatisfactory.

MDH, on behalf of DDA, provided a status report, as of January 7, 2020, indicating the implementation status of each finding as well as its corrective action plan, including timelines and processes to monitor the implementation of the plan. In summary, DDA’s status report indicated that 5 findings had been corrected (recommendations fully implemented) and additional corrective actions were required to fully implement the recommendations for the 6 remaining findings.

We performed certain procedures to evaluate the appropriateness of actions taken by DDA for 7 of the 11 findings. Specifically, based on our assessment of the relative significance of the 11 findings, we reviewed 4 of the findings which MDH’s status report indicated were corrected and 3 findings which MDH’s status report indicated required additional actions. Our review, which was performed during the period from January to March 2020, disclosed that DDA had corrected 2 of the 7 findings and had made progress, but had not resolved 5 other findings (including 2 that MDH reported as corrected).

Exhibit 1 identifies DDA’s assessed implementation status for all 11 findings, according to the status report, as well as the results of our review for the 7

findings. Exhibit 2 describes, in detail, the results of our review of the status of DDA's efforts to implement the recommendations for the 5 findings that we determined DDA had not fully corrected. To obtain a thorough understanding of the audit findings, recommendations, and the follow-up status described in Exhibit 2, the July 8, 2019 report should be consulted due to the technical nature of some of these findings.

MDH's status report and response to this report, provided on behalf of DDA, are included as Appendix A (note that the color coding was included by DDA and does not reflect OLA's determination of the implementation status) and Appendix B, respectively. MDH's response, as presented in Appendix B, only addresses the recommendations that we determined to be in progress. We have reviewed MDH's response to our assessment of the status of those recommendations and determined that MDH generally agreed with our assessment. In accordance with our policy, we have redacted any vendor names or products mentioned by MDH in the response.

To improve its accountability and compliance rating, DDA should reassess and continue to implement its corrective action plan for all findings and related recommendations, and ensure that other areas do not deteriorate. We will review the status of all of the audit findings during our next audit of DDA. We wish to acknowledge the cooperation extended to us during the review by DDA. We also wish to acknowledge MDH's and DDA's willingness to address the audit issues and implement appropriate corrective actions.

Respectfully submitted,

A handwritten signature in black ink that reads "Gregory A. Hook". The signature is written in a cursive, flowing style.

Gregory A. Hook, CPA
Legislative Auditor

Exhibit 1

Implementation Status of Findings in the July 2019 DDA Audit Report

Prior Finding	Status as Determined by DDA as of January 2020 ¹	Status Based on Auditor's Review
Consumer Budgets <p>1. The Developmental Disabilities Administration (DDA) did not ensure level-of-need scores used to determine consumers' service budgets were assigned in accordance with DDA's established criteria and were properly recorded in its Provider Consumer Information System II. Our testing disclosed that certain scores could not be supported.</p>	Corrected	In Progress (See Exhibit 2)
Provider Payments <p>2. DDA did not identify recurring overpayments made over several years totaling at least \$1.7 million that were later self-reported by a provider. In addition, DDA did not subsequently determine the full extent of the overpayments to this provider and whether similar overpayments were made to other providers.</p> <p>3. DDA did not conduct audits of providers to ensure payments were consistent with actual services delivered and in accordance with the consumers' approved individual plans.</p>	In Progress	In Progress (See Exhibit 2)
Procurement of Services and Related Billings <p>4. Fiscal management services contracts were not comprehensive and properly approved, and DDA did not monitor the related vendors to ensure the required services were provided and the propriety of payments. In addition, all related federal reimbursements were not obtained, including federal funds totaling \$4.9 million.</p>	In Progress	N/A
Page 1 of 3		

N/A – Not applicable since we did not review the implementation status of this finding.

¹ DDA's detailed implementation status for each finding is based upon MDH's status report, as of January 7, 2020. The status based on the auditor's review presented by finding in Exhibit 1 was discussed with, and agreed to by, DDA management personnel.

Exhibit 1

Implementation Status of Findings in the July 2019 DDA Audit Report

Prior Finding	Status as Determined by DDA as of January 2020 ²	Status Based on Auditor's Review
5. DDA did not adequately justify a \$2.7 million sole source contract awarded to an incumbent vendor to continue assisting in the financial restructuring of DDA operations, and could not support a significant increase in the contract rates for one vendor employee.	Corrected	N/A
6. DDA did not have an adequate process to ensure that amounts invoiced by Coordination of Community Services agencies properly reflected consumer services provided.	In Progress	N/A
Contribution to Care		
7. DDA had not taken sufficient action to identify and return improper contribution to care collections identified during our preceding audit.	In Progress	In Progress (See Exhibit 2)
Federal Funds		
8. DDA did not recover certain federal funds timely, resulting in lost interest income of approximately \$126,000. These delays were due, in part, to untimely Medicaid eligibility redeterminations.	In Progress	N/A
Provider Consumer Information System II (PCIS2)		
9. DDA did not verify the accuracy and completeness of critical adjustments that were processed in PCIS2, resulting in errors such as overpayments going undetected, and did not adequately restrict user access in the system.	Corrected	In Progress (See Exhibit 2)

Page 2 of 3

N/A – Not applicable since we did not review the implementation status of this finding.

² DDA's implementation status for each finding is based upon MDH's status report, as of January 7, 2020. The status based on the auditor's review presented by finding in Exhibit 1 was discussed with, and agreed to by, DDA management personnel.

Exhibit 1

Implementation Status of Findings in the July 2019 DDA Audit Report

Prior Finding	Status as Determined by DDA as of January 2020 ³	Status Based on Auditor's Review
10. The PCIS2 database and its supporting server were running on outdated software versions.	Corrected	Corrected
11. PCIS2 database and application backups were not stored offsite, and DDA did not have a complete information technology disaster recovery plan for recovering computer operations.	Corrected	Corrected
Page 3 of 3		

N/A – Not applicable since we did not review the implementation status of this finding.

³ DDA's implementation status for each finding is based upon MDH's status report, as of January 7, 2020. The status based on the auditor's review presented by finding in Exhibit 1 was discussed with, and agreed to by, DDA management personnel.

Exhibit 2

Detailed Comments on the Findings for Which the Office of Legislative Audits Deemed the Implementation Status to be “In Progress”

Consumer Budgets

Prior Finding 1

The Developmental Disabilities Administration (DDA) did not ensure level-of-need scores used to determine consumers’ service budgets were assigned in accordance with DDA’s established criteria and were properly recorded in its Provider Consumer Information System II (PCIS2). Our testing disclosed that certain scores could not be supported.

Prior Report Recommendation 1

We recommended that DDA

- a. perform documented, independent reviews (on a test basis) to ensure that level-of-need scores were properly assigned and accurately recorded in PCIS2; and
- b. ensure that documentation of the vendor’s assigned level-of-need scores is retained.

Status as Determined by DDA - Corrected

Office of Legislative Audits (OLA) Assessment of Status – In Progress

DDA did not fully implement the recommendations. DDA established certain procedures to address both recommendations beginning in October 2019. These procedures required each of DDA’s four regional offices to perform a quarterly review of five randomly selected consumer level-of-need scores recorded in PCIS2 to ensure that those scores were accurately recorded and assigned in accordance with DDA criteria. In addition, the review was to ensure that documentation to support the level-of-need score assigned by a vendor was maintained. At the time of our review, DDA had completed two of the quarterly reviews, during which it reviewed the level-of-need scores for 40 consumers. However, we determined that the reviews performed did not sufficiently address either recommendation.

Specifically, there was no documentation of the specific records (such as medical records) used to verify the propriety of the scores assigned by the vendor. In addition, DDA’s review did not identify that 2 of the 40 scores recorded in PCIS2 did not agree with the scores assigned by the vendor and, as of February 2020,

DDA had not corrected 2 other scores that it had identified as incorrect during its October 2019 review. Finally, we were advised by DDA management that scores reviewed were selected from a database of cases for which supporting documentation was received from the vendor, rather than from PCIS2. As a result, scores for which the vendor had not submitted corresponding documentation, nor had DDA obtained, were not subject to testing.

Provider Payments

Prior Finding 2

DDA did not identify recurring overpayments made over several years totaling at least \$1.7 million that were later self-reported by a provider. In addition, DDA did not subsequently determine the full extent of the overpayments to this provider and whether similar overpayments were made to other providers.

Prior Report Recommendation 2

We recommended that DDA

- a. determine, to the extent possible, the total provider overpayments that occurred for consumers that were improperly billed, and consult with legal counsel to determine whether any overpayments identified should be recovered; and
- b. as applicable, for other consumers identified, revise the individual plans and related PCIS2 designations to reflect the correct service category.

Status as Determined by DDA – In Progress

OLA Assessment of Status – In Progress

DDA took minimal action to implement the recommendations. In regard to recommendation a, although DDA performed a review to determine whether additional overpayments occurred, the scope of the review was not sufficient to address the concerns addressed in our finding. Specifically, the overpayments noted in our finding occurred because certain consumers' PCIS2 designations did not accurately reflect the services those consumers received. DDA's review did not include a review of consumers' PCIS2 designations to ensure they accurately reflected the services received by the consumers. In addition, during our follow-up review, DDA management advised us that it would review a sample of billings from prior to December 2014 from the provider that brought the matter to DDA's attention. However, DDA had not performed this review prior to completion of our follow-up work. Accordingly, DDA's review was not comprehensive enough to address the recommendation.

In regard to recommendation b, DDA had not revised any consumers' individual plans and related PCIS2 designations because its review had not identified additional overpayments. However, as noted above, DDA's review was not sufficient to determine whether additional overpayments had occurred and therefore, this recommendation was not addressed.

Procurement of Services and Related Billings

Prior Finding 4

Fiscal management services (FMS) contracts were not comprehensive and properly approved, and DDA did not monitor the related vendors to ensure the required services were provided and the propriety of payments. In addition, all related federal reimbursements were not obtained, including federal funds totaling \$4.9 million.

Prior Report Recommendation 4

We recommended that DDA

- a. ensure control agency approvals are obtained for fiscal management services, and contracts are executed that include all relevant contract provisions (including the contract term and authorized administrative fees);
- b. monitor vendor activity and compliance to ensure that all key requirements and terms are complied with, including site visits and audits, and timely submission of annual accountings, and return of unspent funds, and that FMS vendor payments are proper and supported;
- c. ensure FMS vendors record all provider payments into Maryland Medicaid Information Systems II (MMIS II) timely; and
- d. take appropriate corrective action to obtain federal reimbursement for any outstanding claims (including the aforementioned \$4.9 million), any annual accountings not received, and identified overpayments, and consider recovering any lost investment income resulting from untimely vendor actions.

Status as Determined by DDA – In Progress

OLA Assessment of Status – In Progress

DDA satisfactorily implemented recommendation d but its implementation of recommendations a, b, and c was not yet complete.

In regard to recommendation a, DDA issued a request for proposal for a new FMS vendor in June 2019; however, the procurement had not been finalized at the time of our review.

In regard to recommendation b, DDA's status report indicated that it had procured a Quality Improvement Organization (QIO) vendor in December 2019 to monitor the FMS vendors, but DDA advised that these reviews had not yet started at the time of our review. In addition, the QIO contract was not comprehensive as it did not require the QIO vendor to perform site visits of the FMS vendors or obtain independent financial audits of the FMS vendors. Furthermore, the contract did not require the QIO vendor to ensure that the FMS vendors timely submitted required annual accountings that compared their actual costs to the amounts previously advanced by DDA and returned any unspent funds to DDA. This is significant because as of February 2020, DDA had not obtained one FMS vendor's fiscal year 2018 and 2019 annual accountings.

Regarding recommendation c, DDA had not established a process to ensure that the FMS vendors recorded all provider payments into MMIS II timely. Although DDA's status report indicated that this process will be addressed once the aforementioned new FMS vendor procurement is finalized, the request for proposal for the services did not include a requirement that the FMS vendor record provider payments in MMIS II. DDA management advised us that DDA had not yet determined whether the new FMS vendor would be required to perform this function.

Contribution to Care

Prior Finding 7

DDA had not taken sufficient action to identify and return improper contribution to care (CTC) collections identified during our preceding audit.

Prior Report Recommendation 7

We recommended that DDA

- a. determine the extent of the improperly collected CTC, as practical, (repeat); and
- b. in consultation with the Centers for Medicare and Medicaid Services (CMS), determine the feasibility of returning any improperly collected funds to consumers in a manner that does not adversely impact their Medicaid eligibility.

Status as Determined by DDA – In Progress

OLA Assessment of Status – In Progress

DDA implemented recommendation b, but did not fully implement recommendation a. Specifically, DDA determined that improper CTC collections

from consumers during the period from January 2013 through June 2014 totaled approximately \$4.1 million and as of February 2020, had only returned \$2.4 million to the impacted consumers. In addition, DDA advised us that it would not be attempting to determine the extent of improper CTC collections that occurred prior to January 2013 because provider records for that period were not available since Medicaid regulations only required providers to maintain records for six years. Nevertheless, DDA had not made any documented provider outreach efforts to determine record availability beyond the period required by regulations. In this regard, we note that DDA first became aware of this matter in calendar year 2014, at which point provider records should have been available dating back to at least 2008.

Provider Consumer Information Systems II (PCIS2)

Prior Finding 9

DDA did not verify the accuracy and completeness of critical adjustments that were processed in PCIS2, resulting in errors such as overpayments going undetected, and did not adequately restrict user access in the system.

Prior Report Recommendation 9

We recommended that DDA

- a. establish independent review procedures to ensure the propriety, at least on a test basis, of critical adjustments in PCIS2 (repeat);
- b. establish procedures to ensure that all required adjustments have been entered in PCIS2 accurately;
- c. perform a documented comprehensive periodic review of user access capabilities to ensure that users are assigned only those capabilities needed to perform job duties (repeat); and
- d. eliminate unnecessary access, including those noted above (repeat).

Status as Determined by DDA - Corrected

OLA Assessment of Status – In Progress

DDA implemented recommendation b, but did not fully implement recommendations a, c, or d.

We found that for recommendation a, the process DDA established to review critical adjustments (such as, adjustments to provider payments) in PCIS2 was not comprehensive. Specifically, DDA did not use available system output reports of all adjustments recorded to ensure that only authorized adjustments had been processed. In addition, the employee responsible for performing the review was

not independent since the employee also had the capability to process critical adjustments in PCIS2.

To address recommendations c and d, DDA implemented monthly PCIS2 user access reviews, which consisted of verifying that users with the capability to process critical adjustments required those capabilities to perform their job duties. Although DDA had eliminated the unnecessary PCIS2 access capabilities for the 13 users noted in our prior finding, the monthly reviews did not always identify other users with unnecessary access capabilities. For example, our review of PCIS2 records disclosed that, as of February 2020, 25 of the 37 users (68 percent) with the capability to adjust provider payments or consumer services had not used this access within the last six months, indicating potential unneeded system access.

Scope, Objectives, and Methodology

We conducted a follow-up review of the actions taken by the Maryland Department of Health (MDH) – Developmental Disabilities Administration (DDA) to address the findings in our July 8, 2019 audit report. In that report, we concluded that DDA’s fiscal accountability and compliance rating was unsatisfactory.

The purpose of our review was to determine the status of DDA’s corrective actions to address certain of our audit findings and recommendations. As customary, our review did not include all prior report findings and recommendations, but a number judgmentally selected based on our assessment of significance. This review was conducted under the authority of Section 2-1220(a)(4) of the State Government Article of the Annotated Code of Maryland and was based on our long-standing practice of performing a follow-up review whenever an agency receives an unsatisfactory rating in its fiscal compliance audit report. The rating system was established, in accordance with State Government Article, Section 2-1221, for the purpose of determining an overall evaluation of an agency’s fiscal accountability and compliance with State laws and regulations.

Our review consisted of obtaining a status report from MDH, on behalf of DDA, as of January 7, 2020, which described the level of implementation of each prior audit report finding, as well as obtaining additional clarifications from DDA of the actions taken to resolve the selected findings. Our review also consisted of performing tests and analyses of certain information and holding discussions with DDA personnel, as we deemed necessary, to determine the status of DDA’s corrective actions to address the selected findings, including the related recommendations, from our July 8, 2019 audit report.

This review did not constitute an audit conducted in accordance with generally accepted government auditing standards. Had we conducted an audit in accordance with generally accepted government auditing standards, other matters may have come to our attention that would have been reported.

Our review was conducted primarily during the period from January to March 2020, and our assessment of the status of DDA’s corrective actions was performed at the time of our review.

MDH’s response, on behalf of DDA, to our follow-up review is included as an appendix to this report. As prescribed in the State Government Article, Section 2-

1224 of the Annotated Code of Maryland, we will advise DDA regarding the results of our review of its response.

Appendix A

- Findings or Recommendations confirmed corrected by OIG

- Corrective Action Plan currently being implemented

**Maryland Department of Health
Developmental Disability Administration
2019 Fiscal Compliance Audit
Status Report
January 7, 2020
(60% of audit recommendations implemented)**

Finding 1 – July 2019

The Developmental Disabilities Administration (DDA) did not ensure level of-need scores used to determine consumers' service budgets were assigned in accordance with DDA's established criteria and were properly recorded in its Provider Consumer Information System II (PCIS2). Our testing disclosed that certain scores could not be supported.

OLA's Recommendations

We recommend that DDA

- a. perform documented, independent reviews (on a test basis) to ensure that level-of-need scores were properly assigned and accurately recorded in PCIS2; and
- b. ensure that documentation of the vendor's assigned level-of-need scores is retained.

DDA's Progress to Implement OLA's recommendations (2 of 2 implemented)

- a. DDA's four Regional Directors have created an SOP for regional offices to conduct independent reviews to ensure the level of need scores were properly assigned. The SOP was approved and distributed to the responsible employees. Additionally, DDA has completed all the independent reviews in each of its regional offices. Through these reviews, DDA confirmed that the level of need scores are accurate and properly assigned in PCIS II.
- b. DDA will complete these reviews on a quarterly basis by documenting in writing and maintaining an electronic record of the level of need scores to be maintained on the shared drive.

Independent Review by OIG's Audit Division (confirmed 2 of 2 implemented)

The OIG has independently verified and tested the corrective actions taken by DDA to implement OLA's recommendations. The OIG has determined that recommendation a and recommendation b have been successfully implemented.

Finding 2 – July 2019

DDA did not identify recurring overpayments made over several years totaling at least \$1.7 million that were later self-reported by a provider. In addition, DDA did not subsequently determine the full extent of the overpayments to this provider and whether similar overpayments were made to other providers.

OLA's Recommendations

We recommend that DDA

- a. determine, to the extent possible, the total provider overpayments that occurred for consumers that were improperly billed, and consult with legal counsel to determine whether any overpayments identified should be recovered; and
- b. as applicable, for other consumers identified, revise the individual plans and related PCIS2 designations to reflect the correct service category.

DDA's Progress to Implement OLA's recommendations (0 of 2 implemented)

- a. DDA has conducted a full-provider scan for FY 2019 across the four (4) regions of other providers and has determined no additional overpayments occurred with other providers. In the scan of 450 residential sites, DDA determined that 37 sites needed to be reviewed for overpayment. The DDA cross-referenced the person-centered plan and compared it to the service funding plan to ensure all services were properly billed. In addition, the provider had the proper license and was billing under residential and not shared living. The DDA also conducted site visits to confirm that services were delivered in accordance with each individual's plan.

In June 2017, the DDA consulted legal counsel to determine whether overpayments should be recovered. The DDA corrected the erroneous service designations identified by the service provider and will correct any erroneous service designations identified in future reviews of services. Also, the DDA conducted research and did not find evidence that any other individual plans required correction in Provider Consumer Information System II (PCIS2). As a result, individual plans do not need to be revised.

- b. The DDA conducted site visits to confirm that services were delivered in accordance with each individual's plan. As appropriate, DDA will revise the individual plans and related PCIS2 designations to reflect the correct service category as overpayments are identified.

Independent Review by OIG's Audit Division (confirmed 0 of 2 implemented)

DDA has not fully implemented OLA's recommendation a or recommendation b as of January 8, 2020. The OIG will independently verify implementation of OLA's recommendations when DDA reports the remaining corrective actions are complete.

Finding 3 - July 2019 (repeat finding)

DDA did not conduct audits of providers to ensure payments were consistent with actual services delivered and in accordance with the consumers' approved individual plans.

OLA's Recommendations

We recommend that DDA conduct audits of providers to ensure payments to providers were consistent with actual services provided and in accordance with the consumers' approved individual plans (repeat)

DDA's Progress to Implement OLA's recommendations (0 of 1 implemented)

DDA has completed soliciting for a vendor to perform provider audit services. DDA received five proposals and completed the evaluation process for selection of the most qualified vendor. DDA's recommendation was forwarded to the Office of Procurement and Support Services (OPASS) and was presented and approved by the Board of Public Works on December 4, 2019. The contract term of this vendor will begin January 1, 2020.

Independent Review by OIG's Audit Division (confirmed 0 of 1 implemented)

DDA has not fully implemented OLA's recommendation as of January 8, 2020. The OIG will independently verify implementation of OLA's recommendations when DDA reports the remaining corrective actions are complete.

Finding 4 – July 2019

Fiscal management services contracts were not comprehensive and properly approved, and DDA did not monitor the related vendors to ensure the required services were provided and the propriety of payments. In addition, all related federal reimbursements were not obtained, including federal funds totaling \$4.9 million.

OLA's Recommendations

We recommend that DDA

- a. ensure control agency approvals are obtained for fiscal management services, and contracts are executed that include all relevant contract provisions (including the contract term and authorized administrative fees);
- b. monitor vendor activity and compliance to ensure that all key requirements and terms are complied with, including site visits and audits, and timely submission of annual accountings and return of unspent funds, and that FMS vendor payments are proper and supported;
- c. ensure FMS vendors record all provider payments into MMIS II timely; and
- d. take appropriate corrective action to obtain federal reimbursement for any outstanding claims (including the aforementioned \$4.9 million), any annual accountings not received, and identified overpayments, and consider recovering any lost investment income resulting from untimely vendor actions.

DDA's Progress to Implement OLA's recommendations (1 of 4 implemented)

- a. In 2018, the DDA issued a Request for Proposals to contract with a Quality Improvement Organization (QIO)/QIO-like to conduct utilization reviews Solicitation #MDH OPASS 19-17890. This vendor would conduct utilization reviews of the new Financial Management and Counseling Services (FMS) vendor. DDA received the FY 16 and FY 17 year-end reconciliations from both of the current FMS agencies and the return of unspent funds. The contract for a Quality Improvement Organization was approved by the Board of Public Works on December 4, 2019 and is effective on January 1, 2020.
- b. As part of the QIO contract, the vendor will do utilization reviews of DDA funded services and will address the contract monitoring of deliverables, activities, and ensure at a greater level of effort that all contracts are performed with better oversight and compliance.
- c. The Department issued a Request for Proposals (RFP) for Financial Management and Counseling Services to ensure the new FMS vendor will record all provider payments into MMIS II timely. The new contract is being scheduled for the earliest opportunity in 2020 to go before the Board of Public Works. Meanwhile, the DDA will document all communication with the FMS vendors and escalate the matters as needed to upper management as necessary to ensure FMS vendors record all provider payments into MMIS II timely.
- d. The DDA has satisfactorily obtained the outstanding federal reimbursement of \$4.9 million of FY 16 and FY 17 mentioned in the July 2019 OLA report. The DDA intends to continue working diligently to ensure that any other outstanding claims will be obtained. The DDA does not intend to recover funds for potential lost investment income, because there is no statutory authority given to DDA to recover the funds for potential lost investment income. As such, the new contract will hold the new FMS vendor accountable to all timelines.

Independent Review by OIG's Audit Division (confirmed 1 of 4 implemented)

The OIG has independently verified and tested the corrective actions taken by DDA to implement OLA's recommendation d and determined that recommendation d has been successfully implemented. DDA has not fully implemented OLA's recommendation a, recommendation b, and recommendation c as of January 8, 2020. The OIG will independently verify implementation of OLA's recommendations when DDA reports the remaining corrective actions are complete.

Finding 5 – July 2019

DDA did not adequately justify a \$2.7 million sole source contract awarded to an incumbent vendor to continue assisting in the financial restructuring of DDA operations and could not support a significant increase in the contract rates for one vendor employee.

OLA's Recommendations

We recommend that DDA

- a. comply with State procurement regulations by competitively procuring services unless the services are only available from one vendor and an adequate sole source justification is prepared, and
- b. ensure future modifications to contract rates are properly supported.

DDA's Progress to Implement OLA's recommendations (2 of 2 implemented)

- a. DDA has complied with state procurement regulations and maintains approval documentation from the Department of Budget and Management, the control agency, and the approval by the Board of Public Works for future audit purposes.
- b. Through DDA's new contract with its vendor, DDA has ensured future contract rates are properly supported.

Independent Review by OIG's Audit Division (confirmed 2 of 2 implemented)

The OIG has independently verified and tested the corrective actions taken by DDA to implement OLA's recommendation a and recommendation b. The OIG has determined that recommendation a and recommendation b have been successfully implemented.

Finding 6 – July 2019

DDA did not have an adequate process to ensure that amounts invoiced by Coordination of Community Services (CCS) agencies properly reflected consumer services provided

OLA's Recommendations

We recommend that DDA establish a process to review, at least on a test basis, the supporting details in PCIS2 and copies of completed assessments to ensure that CCS provider billings are proper.

DDA's Progress to Implement OLA's recommendations (0 of 1 implemented)

DDA has drafted a new written standard operating procedure for conducting documented reviews of activity, progress notes, and billing to verify submitted invoices. This new SOP is currently being finalized, approved, and prepared for distribution to responsible staff. Moving forward, DDA has completed the RFP process for the selection of a utilization vendor and the RFP generated several interested vendors. The vendors proposals were reviewed by the evaluation committee and the committee's recommendations were forwarded to the Office of Procurement and Support Services on October 1, 2019. Once selected, the vendor will be responsible for performing utilization reviews to ensure CCS provider billings are proper.

Independent Review by OIG's Audit Division (confirmed 0 of 1 implemented)

DDA has not fully implemented OLA's recommendation as of January 8, 2020. The OIG will independently verify implementation of OLA's recommendations when DDA reports the remaining corrective actions are complete.

Finding 7 – July 2019 (repeat finding)

Finding 7 DDA had not taken sufficient action to identify and return improper contribution to care (CTC) collections identified during our preceding audit.

OLA's Recommendations

We recommend that DDA

- a. determine the extent of the improperly collected CTC, as practical, (repeat); and
- b. in consultation with CMS, determine the feasibility of returning any improperly collected funds to consumers in a manner that does not adversely impact their Medicaid eligibility.

DDA's Progress to Implement OLA's recommendations (1 of 2 implemented)

- a. The DDA position is that we are unable to obtain records prior to 2013; however, efforts have been made to reimburse individuals that overpaid in FY 2014. The DDA has identified and sent letters to all individuals impacted by the CTC through FY2014. There is a potential reimbursement of \$2.5 million and \$507,378 for the 1st and 2nd half of FY 2014 for overpayment respectively.
- b. DDA has consulted with the Eligibility Determination Division to determine if approval from the Centers for Medicare and Medicaid Services (CMS) to mitigate the loss of waiver eligibility was needed. Based on their research of similar repayment issues, there was no written approval from CMS for the application of the SSI program "lump sum" rules to protect Medicaid waiver recipients from losing eligibility based on excess resources due to receipt of a repayment through no fault of their own. Consequently, no written approval from CMS was required.

Independent Review by OIG's Audit Division (confirmed 1 of 2 implemented)

The OIG has independently verified and tested the corrective actions taken by DDA to implement OLA's recommendation b and determined that recommendation b has been successfully implemented. DDA has not fully implemented OLA's recommendation a, as of January 8, 2020. The OIG will independently verify implementation of OLA's recommendations when DDA reports the remaining corrective actions are complete.

Finding 8 – July 2019 (repeat finding)

DDA did not recover certain federal funds timely, resulting in lost interest income of approximately \$126,000. These delays were due, in part, to untimely Medicaid eligibility redeterminations.

OLA's Recommendations

We recommend that DDA

- a. take steps to ensure that future requests for federal fund reimbursement are submitted timely (repeat); and
- b. establish a process to ensure that annual eligibility redeterminations of consumers are performed, as required by federal regulations (repeat)

DDA's Progress to Implement OLA's recommendations (0 of 2 implemented)

- a. The LTSS Release 1.0 of the DDA functionality for CCS activities and billing became operational in August 2018. The system is more robust than PCIS2 and generates alerts to the CCS 90, 60, and 30 days prior to the due date for the financial redetermination. The CCS staff have been fully trained and given the necessary tools and resources to ensure that all redeterminations are completed as required by federal regulations.
- b. The DDA has developed a Standard Operating Procedure which each CCS provider is to follow to hold the CCS Coordinator, Supervisor and Waiver staff accountable for the 90, 60, 30 days trigger due date so that all redeterminations are completed as required by federal regulations. The DDA is currently revising its agreement with providers to ensure compliance measures by CCS provider staff, including disciplinary action. In addition to the alerts, the DDA conducts a quarterly audit, sending a letter to each CCS agency indicating their status of compliance (whether they are compliant or not). If noncompliant (person's A02-redetermination incomplete), the name of those individuals are listed and a response is requested from the CCS agency.

Independent Review by OIG's Audit Division (confirmed 0 of 2 implemented)

The OIG has independently verified and tested the corrective actions taken by DDA to implement OLA's recommendation a and recommendation b. The OIG has determined the DDA has not fully implemented OLA's recommendation a or recommendation b, as of January 8, 2020. The OIG will independently verify implementation of OLA's recommendations when DDA reports the remaining corrective actions are complete.

Finding 9 – July 2019 (repeat finding)

DDA did not verify the accuracy and completeness of critical adjustments that were processed in PCIS2, resulting in errors such as overpayments going undetected, and did not adequately restrict user access in the system.

OLA's Recommendations

We recommend that DDA

- a. establish independent review procedures to ensure the propriety, at least on a test basis, of critical adjustments in PCIS2 (repeat);
- b. establish procedures to ensure that all required adjustments have been entered in PCIS2 accurately;
- c. perform a documented comprehensive periodic review of user access capabilities to ensure that users are assigned only those capabilities needed to perform job duties (repeat); and
- d. eliminate unnecessary access, including those noted above (repeat).

DDA's Progress to Implement OLA's recommendations (3 of 4 implemented)

- a. DDA has created new fiscal policy which establishes a process by which adjustments are independently reviewed during DDA's quarterly payment process. Using the new policy, DDA has educated the responsible staff to ensure the propriety of critical adjustments in PCIS II and;
- b. The new policy mandates that quarterly adjustments are independently reviewed to ensure they were entered in PCIS2 and amounts entered were verified as correct. The process was implemented and completed during DDA's Q2 FY20 quarterly payment.
- c. DDA has created a new SOP and completed a documented review of user access capabilities and will continue completing this review as part of a monthly reports monitoring process.
- d. DDA has ensured as part of this process that all users have appropriate critical capability access. DDA has forwarded user access information to responsible management officials and verified the access needs of each user. Users identified as having unnecessary access have had their access rights removed.

Independent Review by OIG's Audit Division (confirmed 3 of 4 implemented)

The OIG has independently verified and tested the corrective actions taken by DDA to implement OLA's recommendation a, recommendation b, recommendation c, and recommendation d. The OIG has determined that all the recommendation have been successfully implemented.

Finding 10 – July 2019

The PCIS2 database and its supporting server were running on outdated software versions.

OLA's Recommendations

We recommend that DDA, for PCIS2, ensure that

- a. all databases are fully supported by the database software vendor and kept current for all critical security-related updates; and
- b. the database server's operating system software is kept updated timely for all critical security-related software updates.

DDA's Progress to Implement OLA's recommendations (2 of 2 implemented)

- a. DDA has migrated to new servers with new operating systems fully supported by the database software vendor; and has ensured current critical security -related updates are maintained. These servers were successfully installed on August 14, 2019.
- b. DDA has tested its newly installed operating system and confirmed the system is operating appropriately; the operating system and database security related patches are applied and up to date.

Independent Review by OIG's Audit Division (confirmed 2 of 2 implemented)

The OIG has independently verified and tested the corrective actions taken by DDA to implement OLA's recommendation a and recommendation b. The OIG has determined that all the recommendations have been successfully implemented.

Remaining Corrective Actions

None

Finding 11 – July 2019

PCIS2 database and application backups were not stored offsite, and DDA did not have a complete information technology disaster recovery plan for recovering computer operations.

OLA's Recommendations

We recommend that DDA

- a. ensure that backup copies of the PCIS2 database and application software are stored at an offsite location
- b. develop and implement a current and comprehensive DRP that is in accordance with the aforementioned Information Technology Disaster Recovery Guidelines; and
- c. perform and document periodic DRP testing and retain the documentation for future reference.

DDA's Progress to Implement OLA's recommendations (3 of 3 implemented)

- a. DDA sends backup copies of the PCIS2 database offsite weekly; and maintain confirmation of pickup from the Office of Enterprise Technology or a third-party vendor.
- b. DDA has drafted a new Disaster Recovery Plan consistent with DoIT guidelines.
- c. DDA has successfully completed DRP testing at the newly established off-site location

Independent Review by OIG's Audit Division (confirmed 3 of 3 implemented)

The OIG has independently verified and tested the corrective actions taken by DDA to implement OLA's recommendation a, recommendation b, and recommendation c. The OIG has determined that recommendation a, recommendation b, and recommendation c have been successfully implemented.



Larry Hogan, Governor · Boyd K. Rutherford, Lt. Governor · Robert R. Neall, Secretary

July 1, 2020

Mr. Gregory A. Hook, CPA
Legislative Auditor
Office of Legislative Audits
State Office Building, Room 1202
301 West Preston Street
Baltimore, MD 21201

Dear Mr. Hook:

Enclosed, please find the responses to the draft report on the Follow-up Review of the Maryland Department of Health – Developmental Disabilities Administration to address the findings in your July 8, 2019 audit report.

If you have any questions, please contact Frederick D. Doggett at 410-767-0885 or email at frederick.doggett@maryland.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Robert R. Neall".

Robert R. Neall, Secretary
Maryland Department of Health

Enclosure

cc: Bernard Simon, Deputy Secretary for Developmental Disabilities Administration, MDH
Frederick D. Doggett, Inspector General, MDH
Valerie Roddy, Director of Fiscal Operations, Developmental Disabilities Administration, MDH
Tonia Ferguson, Chief of Staff, Developmental Disabilities Administration, MDH

**Maryland Department of Health
Developmental Disabilities Administration - Follow-up Review**

Agency Response Form

Consumer Budgets

Prior Finding 1

The Developmental Disabilities Administration (DDA) did not ensure level-of-need scores used to determine consumers' service budgets were assigned in accordance with DDA's established criteria and were properly recorded in its Provider Consumer Information System II (PCIS2). Our testing disclosed that certain scores could not be supported.

We recommended that DDA

- a. perform documented, independent reviews (on a test basis) to ensure that level-of-need scores were properly assigned and accurately recorded in PCIS2; and**
- b. ensure that documentation of the vendor's assigned level-of-need scores is retained.**

Agency Response			
Analysis	Factually Accurate		
Please provide additional comments as deemed necessary.			
Recommendation 1a	Agree	Estimated Completion Date:	*10/1/20¹
Please provide details of corrective action or explain disagreement.	DDA will modify its quarterly review process to randomly select the five selected consumer level-of-need scores recorded in PCIS2 at Headquarters. The current SOP will be updated to include the new methodology. We will track the assignment of the five selected consumers to each regional office and require they submit back to HQ the level-of-need report that matches the score in PCIS2, the backup documentation supporting that report, and an attestation that the documents support the score of the report. All submitted documents will be kept at HQ and be available upon request.		
Recommendation 1b	Agree	Estimated Completion Date:	*10/1/20²
Please provide details of corrective action or explain disagreement.	Any supporting documentation that does not match scores present in PCIS2 will trigger a change to the persons matrix score in PCIS2 to match the documents. All assignment and return of documents will be recorded in a spreadsheet. The Assistant Director of Operations will ensure all documents have been received and will sign the spreadsheet to indicate complete.		

¹ *This date is subjected to change depending on the COVID-19 crisis

² *This date is subjected to change depending on the COVID-19 crisis

**Maryland Department of Health
Developmental Disabilities Administration - Follow-up Review**

Agency Response Form

Provider Payments

Prior Finding 2

DDA did not identify recurring overpayments made over several years totaling at least \$1.7 million that were later self-reported by a provider. In addition, DDA did not subsequently determine the full extent of the overpayments to this provider and whether similar overpayments were made to other providers.

We recommended that DDA

- a. determine, to the extent possible, the total provider overpayments that occurred for consumers that were improperly billed, and consult with legal counsel to determine whether any overpayments identified should be recovered; and**
- b. as applicable, for other consumers identified, revise the individual plans and related PCIS2 designations to reflect the correct service category.**

Agency Response			
Analysis	Factually Accurate		
Please provide additional comments as deemed necessary.			
Recommendation 2a	Agree	Estimated Completion Date:	*10/1/20³
Please provide details of corrective action or explain disagreement.	The DDA will review a sampling of billings of the provider that self-reported the original issue from FY 2014 to determine if there were any overpayments. If any discrepancies are identified, the DDA will consult with legal counsel to determine if any overpayments should be recovered. DDA will also repeat the steps taken previously to address the finding but will incorporate the recommendations made by the OLA auditor to focus on people served by providers whose license included both residential and IFC/Shared Living services. If any discrepancies are discovered, DDA will consult with legal counsel to determine whether any overpayment identified should be recovered.		
Recommendation 2b	Agree	Estimated Completion Date:	*10/1/20⁴

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⁴ *This date is subjected to change depending on the COVID-19 crisis

**Maryland Department of Health
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Agency Response Form

Please provide details of corrective action or explain disagreement.	If the review discloses any discrepancies, DDA will investigate and correct any discrepancies.
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Procurement of Services and Related Billings

Prior Finding 4 Fiscal management services (FMS) contracts were not comprehensive and properly approved, and DDA did not monitor the related vendors to ensure the required services were provided and the propriety of payments. In addition, all related federal reimbursements were not obtained, including federal funds totaling \$4.9 million.

We recommended that DDA

- a. ensure control agency approvals are obtained for fiscal management services, and contracts are executed that include all relevant contract provisions (including the contract term and authorized administrative fees);
- b. monitor vendor activity and compliance to ensure that all key requirements and terms are complied with, including site visits and audits, and timely submission of annual accountings, and return of unspent funds, and that FMS vendor payments are proper and supported; and
- c. ensure FMS vendors record all provider payments into Maryland Medicaid Information Systems II (MMIS II) timely.

Agency Response			
Analysis	Factually Accurate		
Please provide additional comments as deemed necessary.	DDA received the repayment of \$4.2 million for FY'19 on February 7, 2020.		
Recommendation 4a	Agree	Estimated Completion Date:	*10/1/20 ⁵
Please provide details of corrective action or explain disagreement.	DDA has completed its evaluation and selected a new vendor. The contract was pending approval by Board of Public Works as of April 1, 2020, but due to the COVID-19 public health emergency, it will be delayed to a future date.		
Recommendation 4b	Agree	Estimated Completion Date:	*10/1/20 ⁶

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⁶ *This date is subjected to change depending on the COVID-19 crisis

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Please provide details of corrective action or explain disagreement.	The DDA will request the QIO vendor to conduct an annual audit of the FMS agencies under the Utilization Review section of the contract. Pursuant to the 2018 Community Pathways Waiver Renewal, the annual audit will include a sample review of Self-Directed Services participants' budgets, billing, and payments. The DDA will monitor vendor activity and compliance to ensure that all key requirements and terms are complied with, and timely submission of annual accountings, and return of unspent funds, and that FMS vendor payments are proper and supported.		
Recommendation 4c	Agree	Estimated Completion Date:	*10/1/20 ⁷
Please provide details of corrective action or explain disagreement.	Once the contract with the new FMS vendor is approved, DDA will work with the vendor to establish a procedure and timeline for the submission of claims. In the meantime, the DDA will work with the current FMS vendors to ensure the vendors record all provider payments into Maryland Medicaid Information Systems II (MMIS II) more timely.		

Contribution to Care

Prior Finding 7
DDA had not taken sufficient action to identify and return improper contribution to care (CTC) collections identified during our preceding audit.

We recommended that DDA

- a. determine the extent of the improperly collected CTC, as practical, (repeat).**

Agency Response			
Analysis	Factually Accurate		
Please provide additional comments as deemed necessary.	The analysis states that "In addition, DDA advised us that it would not be attempting to determine the extent of improper CTC collections that occurred prior to January 2013 because Provider records for that period were not available since Medicaid regulations only required Providers to maintain records for six years." DDA indicated there was no guarantee that the records would be available due to Medicaid record retention requirement of 6 years. (COMAR 10.22.02.13D(1) and 10.09.36.03A(9)) As these records would be needed to confirm the amount collected by providers, DDA would not be able to confirm the amount owed.		
Recommendation 7a	Agree	Estimated Completion Date:	*10/1/20 ⁸

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Please provide details of corrective action or explain disagreement.	<p>DDA has focused on the repayment of funds erroneously collected in CY 2013 as that was the year discussed in the original finding. Given the accuracy of the amount to be repaid is dependent on provider records, DDA has not initiated an effort for years prior to CY 2013 as providers are required to maintain records for a minimum of 6 years and that time frame has passed.</p> <p>In terms of the status of the CY 2013 effort, DDA has sent out 2 rounds of letters to people who were affected by the incorrect collection of CTC in CY 2013. As noted in the analysis, \$2.4 million has been distributed to 1,275 people who returned the invoices for payment. That is about 50% of the total number of people affected and represents approximately 65% of the amount owed. DDA will explore other approaches to contacting the people who have not responded to the 2 previous letters sent out.</p>
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Provider Consumer Information Systems II (PCIS2)

Prior Finding 9

DDA did not verify the accuracy and completeness of critical adjustments that were processed in PCIS2, resulting in errors such as overpayments going undetected, and did not adequately restrict user access in the system.

We recommended that DDA

- a. establish independent review procedures to ensure the propriety, at least on a test basis, of critical adjustments in PCIS2 (repeat);**
- c. perform a documented comprehensive periodic review of user access capabilities to ensure that users are assigned only those capabilities needed to perform job duties (repeat); and**
- d. eliminate unnecessary access, including those noted above (repeat).**

Agency Response	
Analysis	Factually Accurate
Please provide additional comments as deemed necessary.	

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Recommendation 9a	Agree	Estimated Completion Date:	*10/1/20 ⁹
Please provide details of corrective action or explain disagreement.	To ensure the independence of the person doing the review of the adjustments, DDA will remove the ability to enter critical adjustments in PCIS2 from the staff person responsible for conducting the review.		
Recommendation 9c	Agree	Estimated Completion Date:	*6/1/20 ¹⁰
Please provide details of corrective action or explain disagreement.	The periodic review of user access capabilities has resulted in reducing the number of users in PCIS2 who could perform certain functions from 148 in August of 2019 to 64 in February 2020. However, the follow-up review by legislative auditors revealed “need confirmed users” as having not used their rights to make critical adjustments. As such, they felt this meant a person did not “need” the capability assignment. To address this, DDA will add to its monthly review process a rule removing these rights if a user has not used their role for three consecutive months.		
Recommendation 9d	Agree	Estimated Completion Date:	*10/1/20 ¹¹
Please provide details of corrective action or explain disagreement.	DDA did remove unnecessary access rights as a result of the above stated process. Rights were removed for 84 people from August 2019 to February 2020. As noted above, DDA will continue to remove unnecessary access using the new rule to remove access if not used for 3 consecutive months as noted above.		

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¹⁰ *This date is subjected to change depending on the COVID-19 crisis

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