

Audit Report

**Department of Health and Mental Hygiene
AIDS Administration**

October 2007



OFFICE OF LEGISLATIVE AUDITS
DEPARTMENT OF LEGISLATIVE SERVICES
MARYLAND GENERAL ASSEMBLY

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Karl S. Aro
Executive Director

DEPARTMENT OF LEGISLATIVE SERVICES
OFFICE OF LEGISLATIVE AUDITS
MARYLAND GENERAL ASSEMBLY

Bruce A. Myers, CPA
Legislative Auditor

October 24, 2007

Delegate Steven J. DeBoy, Sr., Co-Chair, Joint Audit Committee
Senator Nathaniel J. McFadden, Co-Chair, Joint Audit Committee
Members of Joint Audit Committee
Annapolis, Maryland

Ladies and Gentlemen:

We have audited the AIDS Administration of the Department of Health and Mental Hygiene for the period beginning April 14, 2004 and ending March 20, 2007.

Our audit disclosed that the Administration lacked adequate controls to ensure that it did not pay pharmacy claims applicable to clients who had third-party health insurance coverage. For example, although the Administration paid insurance premiums of approximately \$1.6 million for clients insured through the Maryland Health Insurance Plan (MHIP) during calendar year 2006, the Administration also paid pharmacy claims for these clients totaling approximately \$1.4 million. MHIP also paid pharmacy claims of \$1.2 million for those clients. Our tests identified a number of pharmacy claims that MHIP, rather than the Administration, should have paid. Furthermore, the Administration had not established adequate procedures to restrict user access to the Administration's pharmacy and insurance carrier claims payment database and to independently verify that pharmacy claims paid were supported by authorized physician prescriptions and the related medications were provided to clients.

Our audit also disclosed that State funds on deposit with the contractor that made pharmacy claims payments on the Administration's behalf were not sufficiently collateralized.

Respectfully submitted,

Bruce A. Myers, CPA
Legislative Auditor

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* **Denotes item repeated in full or part from preceding audit report**

Background Information

Agency Responsibilities

The AIDS Administration provides expert scientific and public health leadership to combat the spread of Human Immunodeficiency Virus (HIV). The Administration also provides funding to local health departments for HIV/AIDS counseling and testing, education programs, case management, and home and community-based services.

In addition, the Administration pays for HIV-related medications that are provided to clients through its Maryland AIDS Drug Assistance Program (MADAP) and for health insurance coverage through its MADAP-Plus and Maryland AIDS Insurance Assistance Program (MAIAP).

According to the State's records, the Administration's fiscal year 2006 operating expenditures totaled approximately \$54.4 million.

Current Status of Findings From Preceding Audit Report

Our audit included a review to determine the current status of the four findings contained in our preceding audit report dated November 4, 2004. We determined that the Administration had satisfactorily resolved three of these findings. The remaining finding is repeated in this report.

Findings and Recommendations

Pharmacy Claims Processing

Background Information

The AIDS Administration provides clients with HIV-related medications through its Maryland AIDS Drug Assistance Program (MADAP). MADAP helps low to moderate income Maryland residents pay for certain drugs prescribed to treat HIV/AIDS. There is no co-pay for clients in MADAP; however, clients may have a monthly participation fee depending on their income. According to the State's records, during fiscal year 2006, expenditures for medications totaled approximately \$31.9 million.

The Administration, through a contract awarded by the Department of Health and Mental Hygiene - Medical Care Programs Administration, uses the services of a private vendor whose point-of-sale computer system processes pharmacy claims for clients enrolled in MADAP. Participating pharmacies that fill prescriptions for MADAP clients use the system to submit the related claims for reimbursement. Pharmacies must obtain authorizations from the Administration prior to dispensing medications to clients. Based on claims information provided by the vendor, the Administration determines the amounts to be paid to each pharmacy.

Code of Maryland Regulation, Title 10, provides that MADAP is the payor-of-last-resort. That is, for clients that may also have third-party health insurance coverage, the pharmacies are required to first submit the applicable claims to the client's other insurance provider prior to requesting payment from the Administration.

The Administration also provides clients with health insurance coverage through the MADAP-Plus and Maryland AIDS Insurance Assistance Program (MAIAP). MADAP-Plus is a federally-funded program that assists clients with paying for their health insurance premiums thus insuring access to inpatient and outpatient health care as well as prescription coverage. MAIAP is a State-funded program that provides health insurance premium assistance for eligible clients who are disabled due to HIV/AIDS. According to the State's records, during fiscal year 2006, expenditures for health insurance coverage totaled approximately \$2.1 million.

Certain Administration clients are enrolled in and received health coverage through the Maryland Health Insurance Plan (MHIP). MHIP is a state-administered health insurance program for Maryland residents who do not have

access to health insurance, and is operated by an independent unit within the Maryland Insurance Administration. MHIP is a specially-funded program that is primarily financed by an assessment on hospital net patient revenue (in addition to premium payments from other organizations including the Administration). The Administration pays the related health insurance premiums as well as prescription deductibles and co-payments for these clients. Annual prescription deductibles and co-payments for clients insured through MHIP vary depending on the benefit plan selected by the client. For example, for an individual client one plan has an annual prescription deductible of \$250 and co-payments of up to \$70, with annual maximum out-of-pocket payments of \$2,500.

Finding 1

Adequate controls were not in place to ensure that the Administration did not pay pharmacy claims for clients with third-party health insurance. For example, during calendar year 2006 the Administration paid pharmacy claims totaling approximately \$1.4 million applicable to clients insured through MHIP without determining if MHIP should have paid some of the claims.

Analysis

Adequate controls were not in place to ensure that the Administration did not pay pharmacy claims for clients with third-party health insurance. In certain cases, the Administration could not document why it, rather than the applicable insurance providers, had paid the pharmacy claims. For example, during calendar year 2006, despite paying the related insurance premiums totaling \$1.6 million, the Administration paid claims to pharmacies (including deductibles and co-payments) totaling approximately \$1.4 million applicable to clients insured through MHIP. MHIP also paid approximately \$1.2 million for pharmacy claims for these clients.

The automated point-of-sale system used by the vendor to process pharmacy claims included certain edit controls to prevent claims from being submitted to the Administration for payment when clients had third-party health insurance coverage. However, pharmacies had the capability to override (that is, bypass) these edits and, thereby, cause the Administration to pay the related claims. In addition, although required by State Regulations, the Administration did not require pharmacies to provide documentation to support that claims submitted to third-party insurers had been rejected by the applicable insurance providers before paying the claims.

We tested 373 pharmacy claims totaling \$290,432 applicable to 10 clients who, according to the Administration's records, had active third-party health insurance

coverage. Our test disclosed that the Administration paid 60 claims on behalf of clients insured through MHIP for prescribed medications that were included in MHIP's approved drug formulary. After adjusting for annual prescription deductibles and co-payments, we estimated that for these 60 claims the Administration made payments to pharmacies totaling approximately \$55,000 that should have been paid by MHIP. Our test also disclosed 126 additional claims totaling approximately \$105,000 that were paid by the Administration on behalf of clients with third-party insurance that may have been payable by the third-party insurer. Moreover, the Administration lacked documentation (such as, support for claims rejections from the third-party insurer) to substantiate why the aforementioned claims were not paid by the clients' insurance providers.

We discussed the results of our tests with Administration and MHIP management and were advised that there could be various reasons why it may be appropriate for the Administration to pay pharmacy claims for clients with third-party health insurance coverage. For example, the client could have reached the maximum pharmacy benefit limit provided by their particular insurance policy. However, the reasons suggested to us by the Administration and MHIP were taken into consideration during our test with respect to MHIP clients.

Recommendation 1

We recommend that the Administration implement controls to ensure that it does not pay pharmacy claims applicable to clients with third-party health insurance coverage unless each such claim is accompanied by documentation substantiating the reason for non-payment by the client's insurance provider. We also recommend that the Administration recover all pharmacy claim payments, including those payments identified by our audit, which should have been paid by third-party insurance carriers including the MHIP.

Finding 2

The Administration had not established adequate procedures to independently verify the propriety of pharmacy claims submitted and paid.

Analysis

The Administration had not established adequate procedures to independently verify the propriety of pharmacy claims submitted and paid. Specifically, the Administration did not verify that claims were supported by valid physician prescriptions that had been filled and provided to clients or that claims paid by the Administration had not also been paid by third-party insurers. As a result, a pharmacy could request authorizations to dispense medications that were not prescribed and inappropriately bill the Administration for these additional

medications or bill the Administration for claims that were also paid by third-party insurers without detection.

The Administration had implemented certain procedures (such as, negative confirmations which were not required to be returned by the client if the information they contained was accurate) to help ensure the propriety of claim payments made to pharmacies. However, these procedures provided only limited assurance that submitted claims were properly authorized and the related prescriptions were dispensed to clients since unreturned negative confirmations typically do not provide explicit evidence that the information contained on the confirmation is correct.

The Medical Care Program Administration, which also administers certain drug prescription programs, periodically performs audits to determine whether selected pharmacy claims are supported by required documentation (such as physicians' prescriptions and claim rejection notices). Similar audits could be performed by the Administration or by vendors contracted by the Administration for this purpose.

Recommendation 2

We recommend that the Administration establish procedures to help ensure that only valid pharmacy claims were paid. For example, the Administration could perform periodic audits to ensure that pharmacies have documentation (that is, physicians' prescriptions) to support claims paid. We also recommend that such procedures be designed to determine whether any pharmacy claims paid by the Administration were also paid by third-party insurers. We further recommend that, in the event the procedures performed disclose instances in which the Administration had paid inappropriate claims, the Administration take the necessary follow-up actions.

Finding 3

User access to the Administration's pharmacy and insurance carrier claims payment database was not adequately restricted.

Analysis

User access to the Administration's database used for processing payments to pharmacies and insurance carriers was not adequately restricted. Specifically, we determined that three employees who could enter prescription authorizations into the MADAP database could also add pharmacies and clients. Pharmacies must obtain prescription authorizations from the Administration prior to dispensing

medications to clients, and these authorizations are matched to the pharmacy invoices prior to payment. Furthermore, nine employees who could enter insurance premium invoices to the MAIAP / MADAP-Plus database could also add insurance carriers and clients.

As a result, unauthorized payments could be made that may not be readily detected by the Administration's management. Similar conditions were commented upon in our preceding audit report.

Recommendation 3

We again recommend that the Administration segregate incompatible payment processing capabilities. Specifically, we again recommend that employees with the ability to add a pharmacy to the system be denied the ability to enter a prescription authorization, and that employees with the ability to add an insurance carrier in the system be denied the ability to enter an invoice.

Bank Accounts

Finding 4

The Administration did not ensure that State funds held in bank accounts maintained by a private contractor were adequately collateralized.

Analysis

The Administration did not ensure that State funds held in bank accounts maintained by a private contractor were adequately protected against risk of loss. Specifically, the primary bank account used by the contractor to pay pharmacy claims and insurance premiums for eligible program clients was not collateralized by either the bank or the contractor. During our audit period, the Administration advanced funds to the contractor which deposited the funds in bank accounts maintained by the contractor. At the direction of the Administration, the contractor disbursed funds from these accounts to pharmacies and insurance carriers monthly. During the six-month period from July 2006 through December 2006, the primary bank account had an average month-end balance of approximately \$1.8 million.

The Annotated Code of Maryland requires that State funds on deposit with a financial institution be secured by collateral having a market value that equals or exceeds the total funds not covered by deposit insurance (such as Federal Deposit Insurance Corporation). Moreover, the Administration's related contract requires

that State funds on deposit be secured by the contractor with collateral that identifies the State as beneficiary.

Recommendation 4

We recommend that the Administration, in conjunction with the State Treasurer, ensure that all related bank accounts used by the contractor are adequately and properly collateralized as required by law and the contract.

Audit Scope, Objectives, and Methodology

We have audited the AIDS Administration of the Department of Health and Mental Hygiene for the period beginning April 14, 2004 and ending March 20, 2007. The audit was conducted in accordance with generally accepted government auditing standards.

As prescribed by the State Government Article, Section 2-1221 of the Annotated Code of Maryland, the objectives of this audit were to examine the Administration's financial transactions, records and internal control, and to evaluate its compliance with applicable State laws, rules and regulations. We also determined the current status of the findings contained in our preceding audit report.

In planning and conducting our audit, we focused on the major financial-related areas of operations based on assessments of materiality and risk. Our audit procedures included inquiries of appropriate personnel, inspections of documents and records, and observations of the Administration's operations. We also tested transactions and performed other auditing procedures that we considered necessary to achieve our objectives. Data provided in this report for background or informational purposes were deemed reasonable, but were not independently verified.

Our audit did not include certain support services provided to the Administration by the Department of Health and Mental Hygiene's Office of the Secretary and related units. These support services (such as payroll, purchasing, maintenance of accounting records and related fiscal functions) are included within the scope of our audits of the Department's Office of the Secretary.

We did not audit the Administration's Federal financial assistance programs for compliance with Federal laws and regulations because the State of Maryland engages an independent accounting firm to annually audit such programs administered by State agencies.

Our audit scope was limited with respect to the Administration's cash transactions because the Office of the State Treasurer was unable to reconcile the State's main bank accounts during a portion of the audit period. Due to this condition, we were unable to determine, with reasonable assurance, that all Administration cash transactions prior to July 1, 2005 were accounted for and properly recorded on the related State accounting records as well as the banks' records.

The Administration's management is responsible for establishing and maintaining effective internal control. Internal control is a process designed to provide reasonable assurance that objectives pertaining to the reliability of financial records, effectiveness and efficiency of operations including safeguarding of assets, and compliance with applicable laws, rules and regulations are achieved.

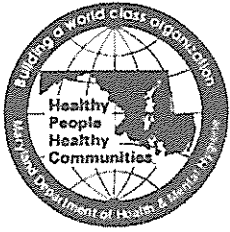
Because of inherent limitations in internal control, errors or fraud may nevertheless occur and not be detected. Also, projections of any evaluation of internal control to future periods are subject to the risk that conditions may change or compliance with policies and procedures may deteriorate.

Our reports are designed to assist the Maryland General Assembly in exercising its legislative oversight function and to provide constructive recommendations for improving State operations. As a result, our reports generally do not address activities we reviewed that are functioning properly.

This report includes findings relating to conditions that we consider significant deficiencies in the design or operation of internal control that could adversely affect the Administration's ability to maintain reliable financial records, operate effectively and efficiently and/or comply with applicable laws, rules and regulations. Our report also includes findings regarding significant instances of noncompliance with applicable laws, rules and regulations. Another less significant finding was communicated to the Administration that did not warrant inclusion in this report.

The Department's response, on behalf of the Administration, to our findings and recommendations, 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 the Department regarding the results of our review of its response.

APPENDIX



STATE OF MARYLAND

DHMH

Maryland Department of Health and Mental Hygiene

201 W. Preston Street • Baltimore, Maryland 21201

Martin O'Malley, Governor – Anthony G. Brown, Lt. Governor – John M. Colmers, Secretary

October 19, 2007

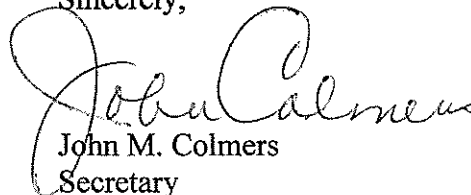
Mr. Bruce Myers, CPA
Legislative Auditor
Office of Legislative Audits
301 West Preston Street
Baltimore, MD 21201

Dear Mr. Myers:

Thank you for your letter regarding the draft audit report of the AIDS Administration beginning April 14, 2004 and ending March 20, 2007. Enclosed you will find the Department's response and plan of correction that addresses each audit recommendation. I will work with the appropriate Directors of Administration, Program Directors, and Deputy Secretary to promptly address all audit exceptions. In addition, the Division of Internal Audits will follow-up on the recommendations to ensure compliance.

If you have any questions or require additional information, please do not hesitate to contact me at 410-767-6505 or Thomas Russell of my staff at 410-767-5862.

Sincerely,



John M. Colmers
Secretary

Enclosure

cc: Michelle A. Gourdine, M.D., Deputy Secretary for Public Health Services, DHMH
Valerie A. Roddy, Assistant Director to the Deputy Secretary for Public Health Services, DHMH
Heather L. Hauck, MSW, Director, AIDS Administration
Ellwood L. Hall, Assistant Inspector General, Audits, DHMH
Thomas V. Russell, Inspector General, DHMH

Finding 1

Adequate controls were not in place to ensure that the Administration did not pay pharmacy claims for clients with third-party health insurance. For example, during calendar year 2006 the Administration paid pharmacy claims totaling approximately \$1.4 million applicable to clients insured through MHIP without determining if MHIP should have paid some of the claims.

Recommendation 1

We recommend that the Administration implement controls to ensure that it does not pay pharmacy claims applicable to clients with third-party health insurance coverage unless each such claim is accompanied by documentation substantiating the reason for non-payment by the client's insurance provider. We also recommend that the Administration recover all pharmacy claim payments, including those payments identified by our audit, which should have been paid by third-party insurance carriers including the MHIP.

Administration's Response:

The AIDS Administration concurs with this finding. MADAP has instructed its pharmacy benefits manager, ACS, to automatically deny pharmacy claims when the client has primary third-party prescription insurance and the pharmacy indicates that the primary insurance is paying \$0 on the claim. The pharmacy will then be required to contact MADAP/ACS directly to provide an explanation of the reason for the primary insurance rejecting the request to pay. MADAP/ACS will authorize payment of a claim if an appropriate rejection rationale is provided. There are many reasons for a third-party insurer to appropriately reject a claim request: deductible is still being met; cap on prescription coverage has been met; client requesting refill prior to insurance's policy to do so; the medication is not on the insurance formulary etc. We have requested that ACS implement this process by November 1, 2007.

The AIDS Administration is developing a Request for Proposals (RFP) for a pharmacy audit contract which will also perform routine audits of a sample of claims with override codes to ensure the required documentation of third-party insurance rejections are available and appropriate payments were made. The AIDS Administration has consulted the Department of Budget Management (DBM) website for a sample RFP and a list of approved contractors for this activity and has a draft RFP in development.

The AIDS Administration has discussed the current Medicaid process for the recovery of pharmacy claim payments with the DHMH Office of the Inspector

General (OIG) and is implementing a similar process for requesting recovery for those pharmacy claims that third party insurers might have been responsible for paying. The recovery request will be sent to the third party insurers by November 30, 2007.

Finding 2

The Administration had not established adequate procedures to independently verify the propriety of pharmacy claims submitted and paid.

Recommendation 2

We recommend that the Administration establish procedures to help ensure that only valid pharmacy claims were paid. For example, the Administration could perform periodic audits to ensure that pharmacies have documentation (that is, physicians' prescriptions) to support claims paid. We also recommend that such procedures be designed to determine whether any pharmacy claims paid by the Administration were also paid by third-party insurers. We further recommend that, in the event the procedures performed disclose instances in which the Administration had paid inappropriate claims, the Administration take the necessary follow-up actions.

Administration's Response:

The Department concurs with this finding. The AIDS Administration is developing a Request for Proposals (RFP) for a pharmacy audit contract for the performance of routine pharmacy audits to verify documentation of receipt of physician's prescriptions and documentation of pharmacy claims payments by third-party insurers. The AIDS Administration has consulted the Department of Budget Management (DBM) website for a sample RFP and a list of approved contractors for this activity and has a draft RFP in development. The AIDS Administration will provide the DHMH Office of the Inspector General with a request for appropriate follow-up action if the pharmacy audit contract audit findings warrant follow-up action.

The AIDS Administration does also send an annual questionnaire to a representative sample (minimum 3%) of clients that requests verification for the drugs received by that client. That questionnaire process substantiates the existence of provider prescriptions at the pharmacy as a client could not have received the medication otherwise. During discussions with the Office of Legislative Affairs auditors, they indicated that this process would no longer be necessary when the pharmacy audit contract is operational.

Finding 3

User access to the Administration's pharmacy and insurance carrier claims payment database was not adequately restricted.

Recommendation 3

We again recommend that the Administration segregate incompatible payment processing capabilities. Specifically, we again recommend that employees with the ability to add a pharmacy to the system be denied the ability to enter a prescription authorization, and that employees with the ability to add an insurance carrier in the system be denied the ability to enter an invoice.

Administration Response:

The Department concurs with this finding. Data system restrictions within the Center for HIV Care Services have been partially implemented since the last audit, however, the current MADAP data system is antiquated and we are not able to apply full segregation of access for employees without system failures in other areas when such segregation is implemented. While we are addressing the database system limitations, we have implemented a combined manual and electronic process for pharmacy and insurance carrier additions and restricted the indicated employees to "read only" access. Since this implementation, a pharmacy is only added to the system by the pharmacy benefits manager, ACS, and this only occurs after receiving signed documentation from either the Chief, Deputy Chief of HIV Care Services or the Administration Director. In the case of a new insurance carrier addition to the system, this capability now resides with the Deputy Chief and the database manager upon written approval of the Chief of HIV Care Services or the Administration Director. All other employees have been restricted to a read only access. These actions were taken in September 2007.

Finding 4

The Administration did not ensure that State funds held in bank accounts maintained by a private contractor were adequately collateralized.

Recommendation 4

We recommend that the Administration, in conjunction with the State Treasurer, ensure that all related bank accounts used by the contractor are adequately and properly collateralized as required by law and the contract.

Administration Response:

The Department partially concurs with this finding. The Administration had worked closely with the previous auditor to ensure that the aggregate balance of the bank accounts not exceed the maximum specified in the contract as well as ensuring that the contractor's fidelity bond is sufficient to cover all deposited monies. The Administration therefore believes it complied with the requirement that funds on deposit be secured by the contractor with collateral that identifies the State as beneficiary. The bank's government liaison has indicated that the bank does have an agreement with the State Treasurer insuring collateralization of all State bank accounts. The bank accounts referenced in this finding have State ID # but were not titled as a State of Maryland account. The Administration is already working with the bank, the contractor, and the State Treasurer's Office to rectify the issue immediately.

AUDIT TEAM

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