

Audit Report

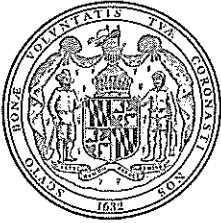
**Department of Health and Mental Hygiene
Office of the Secretary and Other Units**

August 2011



OFFICE OF LEGISLATIVE AUDITS
DEPARTMENT OF LEGISLATIVE SERVICES
MARYLAND GENERAL ASSEMBLY

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DEPARTMENT OF LEGISLATIVE SERVICES
OFFICE OF LEGISLATIVE AUDITS
MARYLAND GENERAL ASSEMBLY

Karl S. Aro
Executive Director

August 9, 2011

Bruce A. Myers, CPA
Legislative Auditor

Delegate Guy J. Guzzone, Co-Chair, Joint Audit Committee
Senator James C. Rosapepe, Co-Chair, Joint Audit Committee
Members of Joint Audit Committee
Annapolis, Maryland

Ladies and Gentlemen:

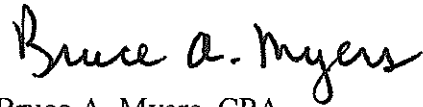
We have audited the Office of the Secretary and other units of the Department of Health and Mental Hygiene (DHMH) for the period beginning September 1, 2006 and ending October 14, 2009. DHMH is responsible for promoting the health of the public and strengthening partnerships between State and local governments, the business community, and all health care providers in Maryland regarding health care.

Our audit disclosed that adequate procedures and controls were not established over vital records and related collections at the DHMH headquarters location, as well as at the local health departments. Accordingly, there was a lack of assurance that birth information recorded on the vital records system was accurate, that certificates were only issued to authorized recipients, and that related collections were properly controlled and accounted for. For example, certain critical vital records and cash receipts duties were not properly segregated and certain employees had unnecessary system capabilities. This is significant because falsified vital statistics could allow the holder to obtain other critical documents (such as passports) and improper benefits (such as Social Security benefits). In this regard, during the audit period DHMH identified one employee that allegedly issued certain of these certificates and misappropriated the related revenues.

DHMH also did not perform timely and comprehensive financial investigations of patients enrolled in State facilities to determine their ability to pay for the cost of care. Finally, we identified other internal control and record keeping deficiencies with respect to accounts receivable, pharmacy claim audits, network information systems, payroll, and corporate purchasing cards.

An executive summary of our findings can be found 5. DHMH's response to our findings and recommendations is included as an appendix to this report. We wish to acknowledge the cooperation extended to us by DHMH during the course of this audit.

Respectfully submitted,

A handwritten signature in black ink that reads "Bruce A. Myers". The signature is written in a cursive style with a large, stylized "B" and "M".

Bruce A. Myers, CPA
Legislative Auditor

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Executive Summary

Legislative Audit Report on Department of Health and Mental Hygiene - Office of the Secretary and Other Units August 2011

- **DHMH lacked adequate procedures and controls over vital records, resulting in a lack of assurance that all birth record information recorded on the vital records system was accurate and that related certificates were only issued to authorized recipients. Also, DHMH did not reconcile the number of certificates issued to the related fees collected and deposited and did not generate output reports of certificates issued for use in such reconciliations.**

DHMH should periodically verify the accuracy of recorded birth information and establish adequate procedures and controls over the issuance of certificates and related collections.

- **DHMH did not properly monitor local health department (LHD) procedures and controls over birth and death certificates. Critical vital record and cash receipts duties were not properly segregated at certain LHDs, and an employee at one LHD allegedly issued birth certificates for which the related collections had not been recorded and/or accounted for, resulting in a DHMH investigation and referral of the case to the Office of the Attorney General's Criminal Division.**

DHMH should perform periodic reviews of LHD procedures to ensure that proper controls are established over the issuance of birth and death certificates.

- **DHMH did not timely conduct nor properly review financial investigations of patients enrolled in State facilities to determine their ability to pay for the cost of care and/or to identify other liable parties. The cost of services provided cannot be billed to the patients or to appropriate liable third parties, when appropriate, until the financial investigations are completed.**

DHMH should ensure that financial investigations are completed on a timely basis and resultant billings are processed.

- **DHMH did not always adequately pursue delinquent accounts receivable for collection and/or transfer the accounts to the Department of Budget and Management's Central Collection Unit (CCU) as required.**

DHMH should ensure delinquent accounts receivable are adequately pursued for collection and transferred to CCU as required.

- **DHMH did not expand testing of pharmacy claims and take sufficient corrective action when significant errors were identified during pharmacy audits.**

DHMH should expand testing when significant errors are identified during a pharmacy review and should require corrective action and/or impose sanctions.

- **Internal control and recordkeeping deficiencies were noted in the areas of network information systems, personnel, payroll, and corporate purchasing cards.**

DHMH should take the recommended actions to improve controls in these areas.

Background Information

Agency Responsibilities

The Department of Health and Mental Hygiene (DHMH) is responsible for promoting the health of the public and for strengthening partnerships between State and local governments, the business community, and all health care providers in Maryland regarding health care. This audit report includes the operations of the following five units:

- Office of the Secretary (excluding Health Professional Boards and Commission)
- Deputy Secretary for Operations
- Deputy Secretary for Public Health Services
- Deputy Secretary for Behavioral Health and Disabilities
- Deputy Secretary for Health Care Financing

According to the State's records, during fiscal year 2010, expenditures for these five units totaled approximately \$86.3 million.

Organizational Changes

Chapter 484, Laws of Maryland 2009, effective July 1, 2009, created Regulatory Services as a separate budgetary unit within DHMH and transferred the responsibilities for the Office of Health Care Quality (OHCQ) from the DHMH Office of the Secretary to the newly created Unit. Our current audit of DHMH Office of the Secretary includes the financial activity of OHCQ for the period September 1, 2006 to June 30, 2009. The activity subsequent to this period was subject to audit during our separate audit of Regulatory Services.

Chapter 661, Laws of Maryland 2008, effective July 1, 2008, created the Deputy Secretary for Behavioral Health and Disabilities and the Deputy Secretary for Operations within the Department of Health and Mental Hygiene. This law also transferred the Alcohol and Drug Abuse Administration and the Mental Hygiene Administration from the authority of the Deputy Secretary for Public Health Services to the newly created Deputy Secretary for Behavioral Health and Disabilities.

Electronic Vital Record System Contract

DHMH executed a contract for the development and implementation of an Electronic Vital Record System (EVRS) in September 2007 for \$3.9 million and, as of October 27, 2010, had paid \$1.7 million to the vendor under the contract. The contract stipulated that the five system components would become operational by certain dates (for example, the birth module was to be completed by January 1, 2009), and liquidated damages would be assessed for every day delivery was delayed beyond those dates.

The contractor did not complete implementation of the birth module of the system (used to collect and processes birth certificate information) until January 4, 2010, approximately one year after the deadline in the contract. DHMH management advised us that the delay was caused, in part, by the vendor's failure to meet national standards provided for in the contract and because of numerous problems with the system software, and was not the result of DHMH actions.

DHMH management considered assessing liquidated damages against the contractor but did not do so based on the recommendations of the DHMH Procurement Director, the Department of Information Technology (DoIT), and the Office of the Attorney General. Subsequently, in a letter dated February 10, 2011, DHMH advised the contractor that, given its performance and a number of operational issues with the birth module, it had decided not to exercise the options for the remaining four system modules under the contract. The contractor disputed any responsibility for alleged system deficiencies and requested payment of \$472,500 due for work it had completed to date, and indicated it may terminate further services and system maintenance support if payment was not made. As of July 19, 2011, the situation remained unresolved and DHMH, in conjunction with the Office of the Attorney General, continues to assess its options under the contract, including potential compensation for damages.

Status of Findings From Preceding Audit Report

Our audit included a review to determine the status of 13 of the 14 findings contained in our preceding audit report dated August 8, 2007. The status of the remaining finding, as a result of the aforementioned organizational change, was reviewed during our audit of Regulatory Services. We determined that DHMH satisfactorily addressed 10 of the findings. The remaining 3 findings were not resolved and are repeated in this report.

Findings and Recommendations

Division of Vital Records

Background

The Department of Health and Mental Hygiene's (DHMH) Division of Vital Records (DVR) issues certified copies of birth, death, and marriage certificates. Information for births since 1939 is maintained on DHMH's Electronic Vital Record System (EVRS), which resides on the Comptroller of Maryland's Annapolis Data Center. All death and marriage records, as well as birth information prior to 1939, are manually maintained (that is, a paper copy of the record is maintained on file). Applicants for certified copies of birth, death, or marriage certificates are required to pay a fee for each copy and to provide sufficient identification and other relevant information. Birth certificates and/or certain death certificates are also available at 22 of the 24 local health departments (LHDs). According to its records, DVR collected approximately \$7 million in vital record fees during fiscal year 2010 for the issuance of approximately 600,000 certified copies of certificates; approximately \$2.1 million of this was collected by LHDs for the issuance of 185,000 certificates.

The control and accountability of these documents, especially birth certificates, is critical because false identification could be a major factor in many types of crimes, including illegal immigration and flight from justice. Also, falsified or stolen vital statistics could allow the holder to obtain other critical documents (such as passports and driver's licenses) and improper benefits (such as Social Security benefits and temporary financial assistance).

Finding 1

DHMH lacked adequate procedures and controls over vital records and related collections, resulting in a lack of assurance that all vital record information recorded on EVRS was accurate, that certificates were properly issued, and that certificates and related collections were accounted for.

Analysis

DHMH lacked adequate procedures and controls over the automated vital records system, the blank certificate inventory, the distribution of the certificates, and certificate fee collections. According to DVR's records, during fiscal year 2010, DVR headquarters collected approximately \$4.9 million for the issuance of approximately 413,000 certified copies of certificates. Specifically, we noted the following conditions:

- DHMH did not verify birth data entered into EVRS by hospital personnel with supporting documentation. DVR management advised us that a process was in place whereby an employee verified the validity of the birth information entered on EVRS to hospital records on a test basis. However, these reviews were not documented and as of April 2010, no verifications had been performed since the employee that performed the verifications left State service in the fall of calendar year 2008. As a result, there is a lack of assurance as to the validity and accuracy of the birth information recorded. According to DVR's records, during fiscal year 2009, there were approximately 75,000 live births recorded.
- Changes made to existing birth records in the EVRS were not periodically reviewed for propriety by independent personnel. Changes are made by DVR personnel to vital records for various reasons including spelling errors and name changes resulting from updated paternity information. As a result of the aforementioned conditions, there is a lack of assurance as to the validity and accuracy of the changes. According to DVR's records, during fiscal year 2010, DVR staff made 3,160 birth record corrections. We were advised by DVR that, as of March 17, 2010, there were 17 DVR employees who were authorized to make changes to birth records.
- DHMH did not review output reports of certified birth certificates issued to ensure that they were supported by properly completed applications. This is significant because there were numerous DHMH employees that could print certificates without any independent approval, and certain of these employees had incompatible duties. For example, we were advised that 26 users could create and print a birth certificate, one of which had access to the related blank certificates and 2 of which had access to the related collections. As a result, these users could issue fictitious birth certificates and this would not be readily detected.
- DHMH did not adequately control and account for pre-numbered blank certificate forms. For example, the employee who maintained the issuance records of the blank certificate forms had routine access to the blank certificates, could print certificates, and had access to related collections. In addition, there was no periodic inventory conducted of the blank certificates to ensure they were all accounted for, and access to the blank certificates was not adequately controlled. In that regard, we were advised by DVR personnel that, as a result of their job duties, a number of employees had routine access to the areas where the blank certificate stock was stored.

- DHMH did not reconcile the number of certificates issued to the related fees collected and deposited. Additionally, output reports of certificates issued for use in such reconciliations were not generated. In this regard, DHMH ran a report, at our request, but the resulting report appeared to include duplicate listings and, therefore, could not be reconciled to related collections. For example, according to the report, on March 25, 2010, DVR headquarters issued 3,736 certificates with related collections of \$43,404, while collections actually deposited for this day totaled only \$21,552. DHMH could not readily explain the discrepancy.

The lack of controls over pre-numbered certificate forms has been commented upon in our preceding audit reports since 1999.

Recommendation 1

We recommend that DHMH

- a. verify birth information entered by hospital staff to the related hospital records, at least on a test basis;**
- b. review reports of birth record changes and birth certificates issued and verify them to appropriate support;**
- c. separate duties of certificate issuance, access to blank certificates, and access to cash receipts;**
- d. ensure that an independent employee accounts for all pre-numbered certificate forms as to issued, voided, or on hand (repeat), and;**
- e. reconcile certificates issued to related collections and investigate any discrepancies (repeat).**

Finding 2

DHMH did not properly monitor LHD procedures and controls over the issuance of birth and death certificates, resulting in the failure to identify and correct numerous deficiencies.

Analysis

DHMH did not properly monitor LHD procedures and controls over the processing of birth and death certificates. Specifically, DVR did not perform periodic comprehensive documented reviews of LHD procedures and controls over the issuance of birth and death certificates, resulting in the failure to identify and correct numerous deficiencies. For example, our review of procedures and controls at four LHDs that issued 65,519 birth and death certificates during fiscal year 2009, with related collections of \$724,776, disclosed the following conditions:

- Critical vital record and cash receipts duties were not properly segregated at all four of the LHDs reviewed. Specifically, at the four LHDs, employees unilaterally issued birth certificates and processed the related collections. As a result, these employees could process transactions and misappropriate the related funds and it would not be readily detected.
- LHD employees had system capabilities that were not necessary to perform their job duties. Specifically, 10 employees at the aforementioned LHDs unnecessarily had the ability to print birth certificates, which could be used for illegitimate purposes.

Similar conditions were noted in our two preceding audit reports. In response to our prior audit report, DVR personnel conducted training with the LHDs on establishing controls over the issuance of vital records.

The occurrence of similar conditions at another LHD contributed to one employee allegedly issuing certificates and misappropriating the related collections, and this situation was not readily detected. During the course of our audit, DHMH management advised us that there was an ongoing investigation related to the issuance of birth certificates at this LHD. The allegation involved one employee who had unilateral control over the birth certificate issuance process including the collection of certificate fees and the printing and distributing of the related certificates. In October 2009, the DHMH Office of the Inspector General notified the Office of the Attorney General-Criminal Division about this incident, who advised us that, as of April 11, 2011, the case was still ongoing.

Recommendation 2

We recommend that DHMH

- perform periodic comprehensive documented reviews of LHD procedures and controls over the issuance of birth and death certificates (repeat); and**
- take appropriate follow-up action to ensure that the aforementioned deficiencies are corrected.**

Division of Cost Accounting and Reimbursements

In accordance with State law, DHMH's Division of Cost Accounting and Reimbursements (DCAR) conducts financial investigations of all patients admitted to the State's mental health, intellectual disability, and chronic disease facilities to determine their ability to pay for the cost of care and/or to identify other liable parties (such as Medicaid, Medicare, third party insurance, or other legal guardians). DHMH policy requires DCAR's financial agents at the various

State facilities to complete the investigations within six months from the first date of service, because State regulations only allow them to bill for services retroactively for six months from the date of the completion of the financial investigation.

Based on the completed financial investigations, DCAR establishes an accounts receivable on the DHMH Hospital Management Information System and bills and collects the amounts due. According to DCAR's records, cost recoveries for fiscal year 2009 totaled approximately \$102.6 million, and consisted primarily of Medicaid and Medicare collections, with \$3.5 million being collected from patients, legally responsible persons, and private insurance. For the same period, DCAR determined that services valued at \$234.4 million were provided to recipients for which the related costs were not recoverable from any source. During fiscal year 2009, 2,390 patients were admitted to the State's mental health, intellectual disability, and chronic disease facilities.

Finding 3

Financial investigations of patients enrolled in State facilities were not always properly and timely conducted and were not subject to independent supervisory review and approval.

Analysis

Financial investigations of patients enrolled in State facilities were not always properly and timely conducted, in accordance with DHMH policy, and were not subject to required independent supervisory review and approval. According to a September 30, 2009 report on the status of open investigations, provided by DCAR management, there were 596 patient accounts for which DCAR had not determined the amount due and/or billed for the services provided, of which 86 (14 percent) were more than six months old. Our review of 10 of these accounts, as of January 27, 2010, disclosed the following results:

- For one account for a patient admitted to a State health facility in February 2009 (based on documentation in the case file), DHMH had not completed the financial investigation 11 months after the patient had been admitted. For the remaining 9 accounts where the financial investigations were subsequently completed, the financial investigations for 6 accounts were not completed until 9 to 15 months after the patients had been admitted. A financially responsible party was identified for 3 of the 9 completed financial investigations, while for the remaining 6 it was determined that the related costs were not recoverable from any source.

- Additionally, 5 of the 9 completed financial investigations were not subject to required supervisory review and approval. This is significant as there are a number of information verifications that can be performed (wages, assets, insurance) but, depending on the circumstances, not all of them are required and the financial agent should receive direction from the supervisor regarding what is needed. For example, for 4 of these 5 accounts, patient tax returns or affidavits that a return was not filed, were not obtained as required by law. Further, an approved waiver form was not on file to excuse the case from that requirement, as required by DHMH policy. Finally, for one of these 4 accounts, there was little evidence of a financial investigation effort (no wage screens, no third-party queries), and the decision that there were no liable third parties to be billed appeared questionable considering that there was a Medical Care Program card for the patient in the file.

Recommendation 3

We recommend that DHMH

- a. ensure that future financial investigations are properly and timely conducted; and**
- b. ensure that independent supervisory personnel review and approve the financial investigations, including the investigations for the accounts noted above.**

Finding 4

DHMH did not adequately pursue collection of delinquent DCAR accounts receivables.

Analysis

Delinquent accounts receivable were not always adequately pursued for collection and/or transferred to the Department of Budget and Management's Central Collection Unit (CCU) by DCAR, as required. Our test of 10 accounts totaling \$2.8 million that were outstanding for more than 120 days disclosed that 6 accounts were not adequately pursued for collection. For example, 4 commercial insurance accounts, with outstanding claim balances totaling \$1.4 million, were initially denied due to various paper work discrepancies, such as incomplete patient medical records, and have remained unpaid for periods ranging from 18 months to four years but had not been referred to CCU for collection. DHMH asserts these claims are valid but has been unable to resolve the issues with the commercial insurance companies.

According to DHMH accounts receivable records as of March 31, 2010, there were 1,400 outstanding accounts totaling approximately \$15 million, of which 672 accounts totaling approximately \$10 million were outstanding for more than

120 days. We were advised by DCAR management that staffing limitations had impacted its ability to monitor and pursue delinquent accounts and, as a matter of policy, it did not transfer delinquent insurance accounts to CCU. DCAR's policy was contrary to CCU regulations, as amended for DHMH, which provide that delinquent balances be referred 120 days after the first billing except estate and insurance accounts; insurance accounts should be referred, regardless of age, when the claim is valid and once the insurer denies DHMH's initial request for payment.

Recommendation 4

We recommend that DHMH ensure delinquent accounts receivable are adequately pursued for collection and transferred to CCU as required.

Pharmacy Claim Audits

Finding 5

DHMH did not expand testing of pharmacy claims and/or take sufficient corrective action when significant errors were identified during pharmacy audits.

Analysis

The DHMH Office of the Inspector General-Division of Investigations and Clinical Support (OIG-DICS) did not expand testing of pharmacy claims and/or take sufficient corrective action, as is required by DHMH procedures, when significant errors were identified during pharmacy audits. Specifically, our review of 11 of the 161 pharmacy audits performed during fiscal year 2009 disclosed that, for 8 of the audits, the pharmacies could not provide proper support (such as a signed prescription) for between 10 and 80 percent of the claims tested and testing was not expanded to determine the extent of the problems. Collectively, the recommended recoveries for these 8 audits was \$18,661. For example, the audit of 20 claims at one pharmacy disclosed that the pharmacy could not provide proper support for 16 of the claims tested. Although DHMH invoiced the pharmacy and recovered \$4,402, it did not expand testing to determine the extent of the problem, to identify and recover additional unsupported claims paid, and to determine if additional action should be taken, such as referral to the Office of the Attorney General-Medicaid Fraud Control Unit (OAG-MFCU).

Annually, OIG-DICS performs audits of a selection of the pharmacies participating in the Maryland Pharmacy Program to determine if the providers maintained prescriptions and adequate records as required by State regulations.

OIG-DICS' written procedures for conducting the audits provide that, if 10 percent or more of the claims selected for testing during an audit are found to be improperly paid, the investigation is to be expanded to review additional similar claims. Furthermore, State regulations provide DHMH the authority to suspend a provider, withhold payment, remove a provider, or disqualify a provider from future participation in the Pharmacy Program if the provider fails to comply with federal and State laws and regulations. According to DHMH records, during fiscal year 2009, 1,120 pharmacies were paid \$271 million for claims and OIG-DICS audited 161 pharmacies and recommended recoveries of approximately \$43,000.

Recommendation 5

We recommend that DHMH

- a. expand testing when a significant percentage of errors are identified during a pharmacy audit, in accordance with OIG-DICS procedures; and**
- b. take additional action as deemed appropriate, such as requiring corrective action, imposing sanctions, and referring pharmacies with a significant errors to the Medical Care Programs Administration (MCPA) and the OAG-MFCU, where warranted.**

Network Information Systems

Background

DHMH's Information Resources Management Administration (IRMA) is responsible for the overall management and direction of the DHMH information systems. These systems include, but are not limited to, the server-based Electronic Vital Records System (EVRS), the Hospital Management Information System (HMIS), the National Electronic Disease Surveillance System (NEDSS), and the mainframe-based Medicaid Management Information System II (MMIS II). These systems, and many more, are supported by the DHMH's network infrastructure. The DHMH operates a wide area network with approximately 9,000 user connections across the State. This wide area network has connections to local health departments, State hospitals, health clinics, the DHMH headquarters facility, the Statewide Government Intranet (SwGI), and the Internet.

Finding 6

Security reporting and monitoring of the HMIS system and the EVRS database were not adequate.

Analysis

Security reporting and monitoring of the HMIS system and the EVRS database were not adequate. Specifically, we noted the following conditions:

- Several critical security-related reports for the HMIS system either were not reviewed at all or were only reviewed for certain types of events (for example, account deletions) but not for more significant changes, such as account additions and modifications. Accordingly, errors or unauthorized changes affecting HMIS data (such as patient hospital billings and receivables) could occur without detection by management. A similar condition was commented upon in our two preceding audit reports.
- Certain critical security-related events affecting the EVRS database were not logged. For example, events relating to granting and revoking database privileges, and modifying and stopping auditing were not logged, although the database had the capability to log these events. In addition, although failed sign-on attempts were logged, they were not reviewed. Accordingly, significant database security violations could go undetected thereby potentially affecting the integrity of the EVRS data.

Recommendation 6

We recommend that DHMH

- a. review, on a regular basis, all HMIS critical security-related reports for all significant security events (repeat);**
- b. log and review critical security and audit events applicable to the EVRS database; and**
- c. document and retain these reviews for audit verification purposes.**

Finding 7

Network access to critical internal network devices was not properly restricted or monitored.

Analysis

Network access to critical internal devices was not properly restricted or monitored.

- Numerous rules on several of DHMH's firewalls protecting the internal network allowed unnecessary access to critical devices on the internal network. Specifically, rules on the firewalls protecting the NEDSS system and the firewalls protecting the internal network from the Internet allowed numerous unnecessary connections to internal network devices. In addition, numerous outdated rules existed on these firewalls and the firewalls that protected the internal network from SwGI access.
- Internet firewall log messages were not regularly reviewed and administrators were not automatically alerted to the occurrence of high severity security events on the Internet firewalls. As a result of these conditions, firewall operations and security could be impacted without management's knowledge.

Recommendation 7

We recommend that DHMH adequately configure and monitor its firewalls to properly protect critical network devices. We made detailed recommendations to DHMH which, if implemented, should provide for adequate security over the aforementioned firewalls.

Finding 8

Controls over the EVRS virtual server environment were not adequate.

Analysis

Controls over the EVRS virtual server environment were not adequate. Software developed in recent years allows for a single physical host server's resources (that is, memory, CPU, and storage) to be defined and subdivided into multiple virtual servers which can each operate as a separate unique server. In its EVRS system, DHMH was utilizing 3 physical host servers that hosted 17 virtual servers. Specifically, we noted the following conditions:

- A physical host server had not been properly secured at the host server level. Our testing revealed that numerous host server security configuration settings were not adequate. For example, problems were noted with password and logging controls.
- Certain network security option settings on the host system's virtual server software were not properly configured in accordance with the software vendor's recommended security settings. As a result, network-level security for the virtual servers configured on these host servers was weakened.

Recommendation 8

We recommend that DHMH

- a. properly secure all of the EVRS host servers against attack, and**
- b. configure the software on its EVRS host servers in accordance with the vendor's recommendations to help ensure adequate security over the resident virtual servers.**

Payroll

Finding 9

DHMH did not maintain signature cards for authorized approvers of critical personnel and payroll transactions and did not monitor its employees who also worked at other State agencies.

Analysis

DHMH did not maintain signature cards for authorized approvers of critical personnel and payroll transactions and did not use available reports from the Comptroller of Maryland's Central Payroll Bureau (CPB) to monitor its employees who also worked at other State agencies. According to DHMH's records, payroll expenditures for the 37 units, which included approximately 5,600 employees, for which the DHMH Office of the Secretary provided support services totaled approximately \$374 million for fiscal year 2010. Our review disclosed the following conditions:

- Signature cards were not maintained for authorized approvers of critical personnel and payroll transactions (such as timesheet approvals and requests from the various DHMH units to add or delete employees) from any of the 37 units receiving centralized personnel and payroll services from the DHMH personnel and payroll office. Consequently, DHMH lacked assurance that these transactions were approved by authorized personnel.
- DHMH could not document that it investigated the Department employees working at other State agencies identified on quarterly CPB reports and that the required secondary employment agreements were on file. For example, we identified 28 employees on DHMH June 2009 payrolls that were also working at other State agencies, but DHMH could not document that it had investigated the employees to ensure they were not claiming hours for multiple jobs during the same time periods. Additionally, for our test of seven of these employees, DHMH could not provide the required secondary employment agreements for any of the employees. While our limited test of these payrolls disclosed no overlapping hours, without a thorough review, DHMH cannot ensure these payments are proper. In this regard, we were not able to determine the propriety of the hours worked by certain of the

employees (including one who was paid on three payrolls) due to the lack of detailed time records at the other agencies.

State regulations provide that an individual may be employed in two capacities in State government only with the agreement, before the second employment begins, of the appointing authorities of the units that will employ the individual. In addition, starting in fiscal year 2006, CPB began issuing quarterly reports to State agencies that identify employees on multiple State payrolls and directed agencies to investigate each employee to make sure that they were not claiming hours for multiple jobs during the same time periods.

Recommendation 9

We recommend that DHMH

- a. maintain and use signature cards to verify, at least on a test basis, that critical personnel and payroll transactions were approved by authorized personnel;**
- b. review the quarterly CPB reports, properly investigate all employees on multiple payrolls, and take appropriate corrective action when overlapping hours are identified; and**
- c. use the CPB reports to ensure that the required secondary employment agreements are completed.**

Corporate Purchasing Cards

Finding 10

Adequate controls were not established over corporate purchasing cards and related transactions were not always properly approved and supported.

Analysis

DHMH lacked adequate controls over its corporate purchasing cards (CPC). According to the issuing bank's records, as of March 2010, corporate purchasing cards had been issued to 342 Department employees, and the related expenditures totaled approximately \$13.5 million during fiscal year 2009. Our review disclosed the following conditions:

- CPC activity logs were not always approved and properly supported as required. Specifically, our review of 30 monthly activity logs during fiscal years 2009 through 2010 with purchases totaling \$239,568 disclosed that 9 of the logs with purchases totaling \$99,306 were not properly approved by both the fiscal officer and the cardholder's immediate supervisor, as required (that is, only one approval was obtained).

- Supervisory personnel sometimes approved CPC activity logs that were not accompanied by required supporting documentation. Specifically, our test of 69 purchasing card transactions totaling \$59,591 selected from the aforementioned 30 logs disclosed that 26 purchases totaling \$20,334 lacked itemized receipts to support the transactions. The 8 logs that included the unsupported purchases were all approved by the employee's supervisor, and 6 of the 8 were also approved by the applicable fiscal officer. As a result, there is a lack of assurance that the expenditures were properly reviewed and represent legitimate purchases.
- DHMH did not adequately monitor cardholder credit limits. Specifically, our review of 92 cards that were active throughout fiscal year 2009, with monthly spending limits of \$10,000 to \$68,000, disclosed that the average monthly expenditures for 66 of the cards was less than half of the related monthly credit limits. For example, for two cards with monthly credit limits of \$60,000 and \$40,000, the highest monthly spending during fiscal year 2009 was \$6,885 and \$13,059, respectively.

The Comptroller of Maryland's *Corporate Purchasing Card Program Policy and Procedures Manual* requires agencies to establish reasonable credit limits. The *Manual* also requires that cardholder activity logs be reviewed and approved by supervisory personnel and the agency's fiscal officer, and that documentation be maintained for all transactions.

Recommendation 10

We recommend that DHMH

- ensure activity logs are approved by both the fiscal officer and the cardholder's immediate supervisor, as required;**
- ensure that all corporate card purchases are supported by appropriate documentation;**
- verify the propriety of the aforementioned purchases and obtain reimbursement for any purchases that cannot be properly supported; and**
- establish cardholder credit limits commensurate with actual card usage, and periodically review and adjust credit limits as necessary.**

Audit Scope, Objectives, and Methodology

We have audited the following units of the Department of Health and Mental Hygiene (DHMH) for the period beginning September 1, 2006 and ending October 14, 2009.

Office of the Secretary (excluding Health Professional Boards and Commission)

Deputy Secretary for Operations

Deputy Secretary for Public Health Services

Deputy Secretary for Behavioral Health and Disabilities

Deputy Secretary for Health Care Financing

The audit was conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

As prescribed by the State Government Article, Section 2-1221 of the Annotated Code of Maryland, the objectives of this audit were to examine DHMH's financial transactions, records, and internal controls, and to evaluate its compliance with applicable State laws, rules, and regulations. We also determined the status of the findings included 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. The areas addressed by the audit included vital records, health care facility quality of care inspections, financial investigations and related accounts receivable records for patients in State facilities, pharmacy claims reviews, and corporate purchasing card, payroll, procurement and accounting support services provided by the units under audit. Our audit procedures included inquiries of appropriate personnel, inspections of documents and records, and observations of DHMH'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 included various support services (such as payroll, purchasing, maintenance of accounting records, and related fiscal functions) provided by DHMH's Office of the Secretary and related units to the other units of DHMH.

Our audit did not include an evaluation of internal controls for federal financial assistance programs and an assessment of DHMH's compliance with federal laws and regulations pertaining to these programs because the State of Maryland engages an independent accounting firm to annually audit such programs administered by State agencies, including DHMH.

DHMH'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 to be significant deficiencies in the design or operation of internal control that could adversely affect DHMH'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, or regulations. Other less significant findings were communicated to DHMH that did not warrant inclusion in this report.

DHMH's response 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 DHMH 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 – Joshua M. Sharfstein, M.D., Secretary

August 8, 2011

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 Office of the Secretary and other units of the Department of Health and Mental Hygiene for the period beginning September 1, 2006 and ending October 14, 2009. Enclosed you will find the Department's response and plan of correction that addresses each audit recommendation.

I will work with the appropriate Administrators, Executive Directors, and the Deputy Secretary to promptly address all audit exceptions. In addition, the Office of the Inspector General's 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 410-767-4639 or Thomas V. Russell of my staff at 410-767-5862.

Sincerely,

Joshua M. Sharfstein, M.D.
Secretary

Enclosure

cc: Thomas Kim, Deputy Secretary of Operations, DHMH
Thomas V. Russell, Inspector General, DHMH
Ellwood L. Hall, Jr., Assistant Inspector General, DHMH
Pamela Owens, Assistant Inspector General, DHMH
Wendy Kronmiller, Chief of Staff to the Office of the Secretary, DHMH
Isabelle Horon, Director, Vital Statistics Administration, DHMH
Robert Sutton, Chief, Division of Reimbursements, DHMH
Saleem Sayani, Chief Information Officer, DHMH
Janet Nugent, Director, Office of Human Resources, DHMH
Irma Bevans, Director, Fiscal Services Administration, DHMH

Findings and Recommendations

Finding 1

DHMH lacked adequate procedures and controls over vital records and related collections, resulting in a lack of assurance that all vital record information recorded on EVRS was accurate, that certificates were properly issued, and that certificates and related collections were accounted for.

Recommendation 1

We recommend that DHMH

- a. verify birth information entered by hospital staff to the related hospital records, at least on a test basis;**
- b. review reports of birth record changes and birth certificates issued and verify them to appropriate support;**
- c. separate duties of certificate issuance, access to blank certificates, and access to cash receipts;**
- d. ensure that an independent employee accounts for all pre-numbered certificate forms as to issued, voided, or on hand (repeat), and;**
- e. reconcile certificates issued to related collections and investigate any discrepancies (repeat).**

Department's Response:

- a. The Administration concurs that birth information entered by hospital staff should be verified. For nearly a year, the position of the Medical Services Reviewing Nurse was vacant and the Administration did not have staff with the clinical background required to review hospital medical records in order to verify birth information. This position was filled in April 2010 and beginning in July 2010, an average of two hospital audits per month is being conducted.
- b. The Administration concurs, and beginning in September 2011, will audit a sample of records on a quarterly basis to verify that any changes made to the records were made by appropriate staff and that supporting evidence to make the changes was provided.
- c. The Administration concurs that there should be a separation of duties relating to certificate issuance, access to blank certificates and access to cash receipts, to the extent possible. Beginning in September 2011, only four senior staff, which requires the ability to perform multiple duties in the event of an emergency, will have the ability to perform more than one of these duties.
- d. The Administration concurs with the recommendation that an independent employee should account for all pre-numbered certificate forms as to issued, voided or on hand. Beginning in September 2011, and occurring quarterly, a staff member of the Division of Health Statistics, who does not have access to EVRS, will conduct an independent physical inventory of all

security paper on hand at DVR, and issued by DVR to central office units and local health departments to account for all pre-numbered paper as to issued, voided and on-hand.

- e. The Administration concurs with the recommendation to reconcile certificates issued to related collections and investigate any discrepancies. The audit period of 2006-2009 preceded the implementation of EVRS in 2010. Now that EVRS is in use, functionality exists that allows DVR to account for pre-numbered forms that have been issued, voided, or provided to a unit of DVR or to a local health department for future use. Effective September 2011, DVR will prepare a quarterly reconciliation of certificates issued to the related receipts.

Finding 2

DHMH did not properly monitor LHD procedures and controls over the issuance of birth and death certificates, resulting in the failure to identify and correct numerous deficiencies.

Recommendation 2

We recommend that DHMH

- a. **perform periodic comprehensive documented reviews of LHD procedures and controls over the issuance of birth and death certificates (repeat); and**
- b. **take appropriate follow-up action to ensure that the aforementioned deficiencies are corrected.**

Department's Response:

- a. The Administration concurs with the recommendation that the Department should perform periodic comprehensive documented reviews of LHD procedures and controls over the issuance of birth and death certificates and take appropriate follow up action. Beginning in September 2011, DVR will audit LHDs annually to ensure that duties are segregated to the degree possible, staff has access to only those functions needed to perform their job responsibilities, and certificates are issued only to authorized applicants.
- b. The Administration concurs that appropriate follow-up action should be taken to ensure that deficiencies are corrected. The 10 LHD employees who had access to EVRS system capabilities that were not necessary to perform their job duties have had access to these capabilities removed. Due to the small number of staff that can be assigned to vital records activities, particularly in small counties, LHDs are not able to completely segregate duties. However, with the implementation of EVRS, the Department is able to regularly monitor activity at LHDs in order to detect and respond to concerns more quickly than was possible during the audit period.

Finding 3

Financial investigations of patients enrolled in State facilities were not always properly and timely conducted and were not subject to independent supervisory review and approval.

Recommendation 3

We recommend that DHMH

- a. ensure that future financial investigations are properly and timely conducted; and**
- b. ensure that independent supervisory personnel review and approve the financial investigations, including the investigations for the accounts noted above.**

Department's Response:

- a. The Department concurs with the finding. We will ensure that future financial investigations are conducted in a timely manner. Using the monthly admission aging reports generated by the Hospital Management Informations System, the Financial Agent Operations Chief will compare and verify that the admissions are being conducted timely.
- b. The Department concurs with the finding. We will perform an independent supervisory personnel review and approve the financial investigations, including the investigations for the accounts noted above. The Financial Agent Operations Chief will follow up on all patient financial investigations to assure that the account investigations were handled timely and were thoroughly completed. The Operations Chief will review and approve the completed Billing Information Forms to verify that the rates were established timely and accurately and submit same to the fiscal unit in the Central Office for final review.

Finding 4

DHMH did not adequately pursue collection of delinquent DCAR accounts receivables.

Recommendation 4

We recommend that DHMH ensure delinquent accounts receivable are adequately pursued for collection and transferred to CCU as required.

Department's Response:

The Department concurs with the Auditor's recommendation. The Division of Cost Accounting and Reimbursements (DCAR) will refer all delinquent accounts within the guidelines, as established by CCU, with exception of those accounts covered by waivers approved by the CCU. Those accounts covered by the CCU waivers will be transferred to the CCU at the appropriate time as noted in the waiver. All patient accounts subject to delinquency will be monitored by DCAR agents and referred at the appropriate time.

Accounts that have been billed to the Federal government programs such as Medicare and Medicaid will not be referred to CCU. These accounts will be pursued by the Agency until such time as the Federal programs either pay the claims or deny payments. Because the Federal government protects the rights of beneficiaries of these programs, the beneficiaries can not be assessed for any unpaid or denied claims. These claims will be handled internally, since there is no financial advantage to the State to pursue payment for these claims.

Finding 5

DHMH did not expand testing of pharmacy claims and/or take sufficient corrective action when significant errors were identified during pharmacy audits.

Recommendation 5

We recommend that DHMH

- a. expand testing when a significant percentage of errors are identified during a pharmacy audit, in accordance with OIG-DICS procedures; and**
- b. take additional action as deemed appropriate, such as requiring corrective action, imposing sanctions, and referring pharmacies with a significant errors to the Medical Care Programs Administration (MCPA) and the OAG-MFCU, where warranted.**

Department's Response

- a. The Department concurs with the finding and concurs in part with the recommendation.**

The procedures under which the pharmacy reviews were conducted for the audit period were written in June of 2008. Under those procedures, if a 10% or greater error rate is found, the investigation was to be expanded to review similar claims. As with all other preliminary investigations conducted by this unit, the OIG's plan called for those pharmacies that need an expanded audit (in this case, those with a 10% or greater error rate) to be transferred from the Investigations Unit to the OIG's Provider Audit Unit. In fact, each of the pharmacies noted by OLA as having not been expanded was on the list of potential audits to be conducted by the Audit Unit. However, though these pharmacies had been referred for an expansion, they had not been subject to an expanded audit. The OIG receives a number of referrals and complaints, and generates a significant number of potential audit targets through data mining every year.

Current Practice

The OIG has updated the procedure used for reviewing pharmacies. First, the OIG was able to hire a pharmacist in July of 2010. With this staff addition, the OIG has been able to develop general pharmaceutical algorithms to review pharmacies that having billing pattern anomalies, volume anomalies, and high payment anomalies. Additionally, the OIG

pharmacist is currently working on targeted runs to review specific groups of drugs such as opioids, depressants, and stimulants.

When making a determination as to whether a pharmacy review will be expanded, the OIG now relies on several criteria rather than merely a 10% error rate. These criteria can be found on page 4 of the OIG's Pharmacy Investigations Protocol (Draft 4) 2011 which has been provided to the Office of Legislative Audits. They are claims/billing anomalies, high error rate, facility inadequacies, procedural improprieties, compromised medication maintenance or storage issues, insufficient documentation, or evidence of fraud, abuse or waste.

In addition to the Investigations Protocol, the OIG has also completed a "Framework for Scheduling Pharmacy Reviews". This Framework was used to develop the first year of a five-year plan of site reviews for the OIG investigators and pharmacists. Each of these documents has been provided to OLA for review.

- b. The Department concurs with the finding to the extent that potential fraud cases meet the criteria defined by both the OIG and MFCU and concurs in part with the recommendation. A 10% error rate alone is insufficiently indicative of potential fraud to refer a provider to MFCU. Rather the OIG uses certain criteria, developed jointly between the OIG and MFCU, to make referrals. If a pharmacy meets those criteria, the OIG will refer the provider to MFCU for prosecutorial review. The criteria have been provided to the OLA for review.

Finding 6

Security reporting and monitoring of the HMIS system and the EVRS database were not adequate.

Recommendation 6

We recommend that DHMH

- a. **review, on a regular basis, all HMIS critical security-related reports for all significant security events (repeat);**
- b. **log and review critical security and audit events applicable to the EVRS database; and**
- c. **document and retain these reviews for audit verification purposes.**

Department's Response:

- a. The Department concurs with this recommendation. An established HMIS monitoring process, using multiple Audit Reports and file review, is followed for deletions, additions and updates. Additionally, all reviews of aforementioned reports are documented and retained for audit purposes.
- b. We concur with the finding to define and log critical database security and audit related events (including failed logon attempts) for the EVRS database.

- c. We concur with this recommendation. Appropriate application system and independent QA staff will routinely review and document their review of audit logs, security reports, and key files, and retain for audit verification. These reviews will be routinely scheduled and tracked by the OIT Quality Assurance team with secured audit records printed or maintained in secured, non-reputable electronic format for authorized review/audit.

Finding 7

Network access to critical internal network devices was not properly restricted or monitored.

Recommendation 7

We recommend that DHMH adequately configure and monitor its firewalls to properly protect critical network devices. We made detailed recommendations to DHMH which, if implemented, should provide for adequate security over the aforementioned firewalls.

Department's Response:

We concur with the finding and recommendations and have amended our current Firewall Policy in our IT Security Policy framework to comply with OLA recommendations (State IT policy), with specific detailed guidance and statements (e.g. "least privilege access," "necessary and specific destination," etc.) for definition of firewall rule bases, including disposition of types of traffic, traffic flow, and firewall traffic behaviors to control and secure network level access.

Additionally, we have revised the IT Security Policy and set an internal business practice under the management of OIT/IND establishing a change management process that sets a 90 day review interval of both Internal (OIT) and External (business unit) rules to assure currency. The review and rule validation process will be conducted and tracked by the OIT Quality Assurance team with secured audit records printed or maintained in secured, non-reputable electronic format for authorized review/audit.

Finding 8

Controls over the EVRS virtual server environment were not adequate.

Recommendation 8

We recommend that DHMH

- a. properly secure all of the EVRS host servers against attack, and**
- b. configure the software on its EVRS host servers in accordance with the vendor's recommendations to help ensure adequate security over the resident virtual servers.**

Department's Response:

- a. We concur with the finding and recommendation and have assisted Vital Statistics Administration, in consultation with our primary vendor and their subcontractor, who has securely configured the environment in accordance with the vendors and manufacturers recommendations.
- b. We note that an independent security review of this system was conducted with all detected faults corrected prior to acceptance using the aforementioned security hardening guide as an index reference.

OIT Security Division will continue to work closely with this application's responsible staff in the business unit to validate this mitigation was completed and assure updates to the environment and application occur within a structured change management process e.g updates, patches, firewall rules, and access management.

Finding 9

DHMH did not maintain signature cards for authorized approvers of critical personnel and payroll transactions and did not monitor its employees who also worked at other State agencies.

Recommendation 9

We recommend that DHMH

- a. maintain and use signature cards to verify, at least on a test basis, that critical personnel and payroll transactions were approved by authorized personnel;**
- b. review the quarterly CPB reports, properly investigate all employees on multiple payrolls, and take appropriate corrective action when overlapping hours are identified; and**
- c. use the CPB reports to ensure that the required secondary employment agreements are completed.**

Department's Response:

- a. The OHR Payroll Division acknowledges the legislative auditors' concern over authorization of payroll actions such as timesheets. The Division audits over 5,000 timesheets. At least 1/3 of the 5,000 employees are in a supervisory capacity. Because the Division would not be staffed to maintain 1,600 or more signature cards, in addition to auditing the timesheets, we agree to perform, on a quarterly basis, an audit of 10% of the timesheets received from administrations. We will copy these documents and email them to the signatories to ensure that they have approved the time submitted to payroll. To address the issue of verifying the appointing authority signature, the Employment Services Division will provide copies of commitment letters, reclassification approvals, program code changes and other transactions to the respective appointing authority and personnel liaison for their verification. The Employment Services Division will keep a copy of the document and the email verification that the document was sent to the appropriate person. Random samples documentation will also be retained.
- b. With regard to secondary employment, OHR concurs with the recommendations of the legislative auditors and agrees to review the quarterly CPB reports, to report employees on multiple payrolls to the appointing authority for investigation of any possible overlapping hours, and take appropriate corrective actions. Payroll will maintain secondary employment sign-off from the respective appointing authority.
- c. In addition, Payroll will use the CPB reports to ensure that the required secondary employment agreements are completed.

Finding 10

Adequate controls were not established over corporate purchasing cards and related transactions were not always properly approved and supported.

Recommendation 10**We recommend that DHMH**

- a. ensure activity logs are approved by both the Fiscal Officer and the cardholder's immediate supervisor, as required;
- b. ensure that all corporate card purchases are supported by appropriate documentation;
- c. verify the propriety of the aforementioned purchases and obtain reimbursement for any purchases that cannot be properly supported; and
- d. establish cardholder credit limits commensurate with actual card usage, and periodically review and adjust credit limits as necessary.

Department's Response:

- a. The Department concurs with the auditors' finding. The Fiscal Services Administration (FSA) will remind units that both the cardholder's immediate supervisor and the Fiscal Officer must sign all pages of the activity log. Units are reminded monthly, through the required submission of a monthly certification, of the above and other Corporate Purchasing Card (CPC) requirements. In addition, the Department will periodically select activity logs and related documents for review and units will be advised that appropriate action will be taken if it is determined that they are not in compliance with prescribed policies and procedures.
- b. The Department concurs with the auditors' finding. The Fiscal Services Administration will remind employees responsible for reviewing and approving CPC Activity Logs that documentation must be present to support all transactions appearing on the accompanying bank statements.
- c. The Department concurs with the auditors' finding. Fiscal Services Administration has obtained all missing documentation and has since provided it to the auditor. FSA will remind Fiscal Officers that policy dictates that specific documentation is to be obtained, reviewed for propriety, and retained by the Fiscal Officer. Units will be advised that DHMH will seek reimbursement of expenditures which are either undocumented or do not further the business of the State.
- d. The Department concurs with the auditors' finding. The Fiscal Services Administration has started to compare each cardholder's spending history to their credit limit and will take appropriate action to adjust credit limits by August 15, 2011.

AUDIT TEAM

Brian S. Tanen, CPA, CFE
Audit Manager

Richard L. Carter, CISA
Stephen P. Jersey, CPA, CISA
Information Systems Audit Managers

Raymond G. Burton, Jr., CPA
Senior Auditor

R. Brendan Coffey, CPA
Edwin L. Paul, CPA, CISA
Information Systems Senior Auditors

Kevin J. Mercer
Belinda L. Morales
Ramin M. Niknava
W. Thomas Sides
Henry H. Startzman, IV
Staff Auditors

Eric Alexander
Michael K. Bliss
Information Systems Staff Auditors