



DEPARTMENT OF LEGISLATIVE SERVICES
OFFICE OF LEGISLATIVE AUDITS
MARYLAND GENERAL ASSEMBLY

April 1, 2019

Victoria L. Gruber
Executive Director

Gregory A. Hook, CPA
Legislative Auditor

Senator Nancy J. King, Chair
Senate Budget and Taxation Committee
Miller Senate Office Building, 3 West Wing
11 Bladen Street
Annapolis, Maryland 21401

Delegate Maggie McIntosh, Chair
House Appropriations Committee
House Office Building, Room 121
6 Bladen Street
Annapolis, Maryland 21401

Dear Senator King and Delegate McIntosh:

The Office of Legislative Audits (OLA) has reviewed the actions taken by the Maryland Department of Health Medical Care Programs Administration (MCPA) to resolve the repeat findings in our August 18, 2017 audit report. This review was conducted in accordance with a requirement specified in the April 2018 *Joint Chairmen's Report* (JCR), pages 91 and 92. The JCR required that, prior to the release of \$100,000 of its administrative appropriation for fiscal year 2019, MCPA must take corrective action with respect to all repeat audit findings on or before November 1, 2018. The JCR language further provided that OLA submit a report to the budget committees listing each repeat audit finding along with a determination that each finding was corrected. The OLA report is required to be submitted to allow 45 days for the budget committees to review and release the funds prior to the end of the fiscal year.

In accordance with the April 2018 requirement, MCPA provided a report to OLA, dated October 30, 2018, detailing the corrective actions that it had taken with respect to a number of findings, including 5 of the 6 repeat audit findings (**Exhibit 1**). The MCPA status report indicated that corrective actions had been completed to address Findings 2, 4, and 6, and that corrective actions were ongoing for Findings 7 and 11. The status report did not address Finding 5. We did not assess the corrective actions taken for certain recommendations included on MCPA's status report were not applicable to repeat findings.

We reviewed the MCPA status report and related documentation, performed tests and analyses of the information, and held discussion with MCPA personnel as necessary to assess the implementation status of the related recommendations, including those related to Finding 5. Based on our review, we determined that Findings 2, 4, 6, and 11 were resolved, but that MCPA had not taken sufficient actions to correct Findings 5 and 7 (**Exhibit 2**). Our assessment of the two repeat findings that had not been resolved is included in **Exhibit 3**.

After discussing our review results, MCPA generally agreed with the accuracy of the information presented. We wish to acknowledge the cooperation extended to us by MCPA during this review and its willingness to address the audit issues and implement appropriate corrective actions.

We trust our response satisfactorily addresses the JCR requirement. Please contact me if you need additional information.

Sincerely,



Gregory A. Hook, CPA
Legislative Auditor

cc: Senator Craig J. Zucker, Co-Chair, Joint Audit Committee
Delegate Shelly L. Hettleman, Co-Chair, Joint Audit Committee
Joint Audit Committee Members and Staff
Senator Thomas V. Mike Miller, Jr., President of the Senate
Delegate Michael E. Busch, Speaker of the House of Delegates
Governor Lawrence J. Hogan, Jr.
Comptroller Peter V.R. Franchot
Treasurer Nancy K. Kopp
Attorney General Brian E. Frosh
Honorable David R. Brinkley, Secretary Department of Budget and Management
Honorable Robert R. Neall, Secretary Maryland Department of Health
Dennis R. Schrader, Chief Operating Officer, Maryland Department of Health
Frederick D. Doggett, Inspector General, Maryland Department of Health
Sha S. Brown, Assistant Inspector General, Maryland Department of Health
Joan Peacock, Manager, Audit Compliance Unit, Department of Budget and Management
Victoria L. Gruber, Executive Director, Department of Legislative Services
Simon G. Powell, Policy Analyst, Department of Legislative Services

Exhibit 1 to April 1, 2019 Letter to Joint Chairmen



MARYLAND Department of Health

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

October 30, 2018

Mr. Thomas J. Barnickel III, CPA
Legislative Auditor
Office of Legislative Audits
301 W. Preston Street
Baltimore, MD 21201

MCPA's Status Report Contained
Corrective Actions for Certain Findings
Which Were Not Applicable to Repeat
Recommendations. These Corrective
Actions Were Not Reviewed by the OLA.

Dear Mr. Barnickel,

The Maryland Department of Health (MDH) Medical Care Programs Administration (MCPA) has taken corrective action on all the findings from the August 18, 2017 audit report issued by the Office of Legislative Audits (OLA). The Joint Chairmen's Report (JCR) contained language requiring MDH/MCPA to take corrective action on the six repeat audit findings from this report, with respect to these repeat findings, OLA has deemed finding 5 as corrected in their follow-up audit report. Please see the attached report which documents MDH/MCPA corrective actions on the remaining repeat findings (finding 2, 4, 6, 7, and 11).

If you have any questions or require additional information, please do not hesitate to contact me at 410-767-4639 or Frederick D. Doggett, Inspector General, at 410-767-0885.

Sincerely,

Robert R. Neall
Secretary

Enclosure

cc: Dennis R. Schrader, Chief Operating Officer, MDH
Frederick D. Doggett, Inspector General, MDH

OCT 31 2018

Exhibit 1 to April 1, 2019 Letter to Joint Chairmen

Maryland Department of Health Medical Care Programs Administration (August 2017 - Audit Report)

Corrective Actions taken to address OLA Findings and Recommendations October 30, 2018

Finding 2

The current memoranda of understanding (MOUs) with DHS and MHBE are not sufficient to ensure that eligibility determinations are timely and proper. (REPEAT)

MCPA's Corrective Actions (since August 2017 audit report)

MCPA has provided new MOUs in collaboration with DHS and MHBE and anticipates increased efficiency in ensuring that eligibility determinations are timely and proper through the strengthening of standard operating procedures. MCPA has experienced difficulty with the programming limitations of MMIS because the system is not used to determine eligibility. MMIS is a repository and fulfillment platform created from multiple eligibility systems (such as CARES, MHC, Eligibility & Enrollment, Health Maryland, eMedical, etc.). OLA auditors have recommended that changes be made to the 9999 end dates in MMIS that could identify recipients who might no longer be eligible. Changes could not be made to these end dates in MMIS because of these programming limitations. However, MCPA has established other procedures, including taking appropriate and timely action on data matches (such as PARIS, death, Medicare-eligible, SSI additions and deletions) and redeterminations. MCPA believes these additional steps offer an alternative to the changes to MMIS and will increase efficiency and ensure eligibility determinations are timely and proper in the future.

Finding 4

MCPA did not take timely action to ensure recipients age 65 or older had applied for Medicare as required by State regulations. (REPEAT)

MCPA's Corrective Actions (since August 2017 audit report)

MCPA has established new standard operating procedures and generates reports monthly identifying active recipients age 65 and older who are not enrolled in Medicare. MCPA's new procedures also include sending letters to Medicaid recipients turning 65. MCPA began

Exhibit 1 to April 1, 2019 Letter to Joint Chairmen

submitting monthly reports to DHS identifying active recipients age 65 and older who are not enrolled in Medicaid in October 2017, for follow-up and corrective action. MCPA monitors DHS's efforts by re-running the report every 90 days to determine the status of the previously identified recipients.

MCPA has experienced difficulty coordinating the newly enacted SOPs with DHS and gaining complete compliance with these new procedures. Based on the new procedures, MCPA sent 271 letters in June, and immediately disenrolled 256 recipients from HealthChoice. In September, MCPA analyzed the results of the new procedures, and determined that 128 of the 271 (47%) recipients had enrolled in Medicare as a result of the letter. Additionally, nine of the recipients were excepted from the requirement to enroll because they are in particular coverage groups who receive federal Supplemental Security Income. Approximately 50% (134) were disenrolled/closed from Medicaid as a result of not enrolling in Medicare. MCPA will continue to monitor the closed cases to determine if recipients attempt to enroll in Medicare in subsequent months.

Finding 6

MCPA did not always assess damages against its MCO enrollment broker which continuously failed to meet minimum enrollment levels required by the contract. (REPEAT)

MCPA's Corrective Actions (since August 2017 audit report)

Finding 6 Final Status: The status of MCPA's corrective actions were reviewed by OIG's auditors during their follow-up review of this effective October 2017 MCPA will no longer be responsible for the contract with the MCO enrollment broker and assessing damages. Responsibility for the contract has been acquired by the Maryland Health Benefits Exchange. This finding has been deemed resolved.

Finding 7

MCPA has not conducted required audits of hospital claims processed since calendar year 2007. (REPEAT)

Finding 7 Final Status: This finding is anticipated to be resolved by hiring a new recovery audit contractor. MCPA anticipates having a recovery audit contractor begin auditing by April 1, 2019. OLA auditors began auditing for the next audit cycle in September 2018. It is likely this finding will not be resolved by the conclusion of the auditor's field work, increasing the likelihood of a repeat finding. The below listed corrective actions will be provided to the auditors to assist MCPA's effort to avoid a repeat finding.

Exhibit 1 to April 1, 2019 Letter to Joint Chairmen

MCPA's Corrective Actions (since August 2017 audit report)

MCPA has experienced difficulty procuring a recovery audit contractor to perform the post-payment audit of hospital claims. Since May of 2013, MCPA has completed and posted a Request for Proposal (RFP) to solicit a recovery audit contractor on five occasions (May 2013, October 2013, November 2014, May 2017, and May 2018). The RFP was successfully awarded on only one occasion (November 2014). The recovery audit contractor began work on August 17, 2015; however, the contract was terminated on August 26, 2016 because the contractor failed to meet the requirements. MCPA reviewed various responses from vendors identifying issues with the RFP consisting of vendors unable to complete the task because of prior commitments, being unsure how to complete the financial proposal, and being unable to work on a 100% contingency contract. On November 8, 2017, MCPA requested and received a waiver from CMS to waive the RAC requirements. As a result, the RFP was revised to eliminate the federal contingency fee maximum rates, making the RFP more reasonable for prospective vendors. On May 3, 2018, the new RFP was posted receiving one properly submitted proposal. An extension was granted and was reposted on July 24, 2018. The second posting led to three properly submitted proposals which are currently being reviewed. MCPA anticipates having a contract in place by March 1, 2019 and to have a recovery audit contractor begin auditing by April 1, 2019.

As a contingency plan, the OIG completes audits during periods of time when recovery audit contractors are not in place. However, the OIG has insufficient staff to complete post-payment audits of hospital claims. In the event the RFP is unsuccessful, the OIG plans to request additional staff, including nurses and hospital bill coders with expertise in recovery audits, to complete the recovery audits. The OIG further plans to augment current staff by providing training in health claims coding.

To address the notification of hospitals to retain claims data until audited, MCPA distributed a transmittal on December 13, 2017 to Hospital Administrators directing all hospitals to retain medical records from January 1, 2009 to date, for purposes of conducting hospital claims audits.

Finding 8

MCPA did not adequately monitor the vendors responsible for conducting credit balance audits and utilization reviews of long-term care facilities and/or hospitals.

Finding 8 Final Status: This finding is anticipated to be resolved by drafting a new request for proposal (RFP) which will specifically define the deliverables which will require credit balance audits for all relevant facilities on an annual basis, require the recovery audit contractor to provide MCPA with the audit procedures they intend to use, and clearly

Exhibit 1 to April 1, 2019 Letter to Joint Chairmen

define the penalties for not meeting these deliverables. OLA auditors began auditing for the next audit cycle in September 2018. It is likely this finding will not be resolved by the conclusion of the auditor's field work, increasing the likelihood of a repeat finding. The below listed corrective actions will be provided to the auditors to assist MCPA's effort to avoid a repeat finding.

MCPA's Corrective Actions (since August 2017 audit report)

MCPA has completed work drafting the new RFP and has submitted the procurement to the MDH Office of Procurement and Support Services for processing. OLA's assessment in April 2018 disclosed that the recovery audit contractor had performed 167 of the 284 audits of the Long-Term Care facilities in calendar year 2017. The OIG's assessment in September 2018 demonstrated that the contractor was unable to meet the contract deliverables because they did not have enough staff to perform audits of every facility within the calendar year. While the new RFP is being processed, MCPA has been monitoring the recovery audit contractor to ensure they are performing audits of all facilities, and invoices are being verified. As of September 2018, for calendar year 2018 MCPA has completed 141 audits of Long-Term Care Facilities and is actively completing field work on an additional 68. MCPA has also completed 20 hospital audits and is actively completing field work on an additional 23. OLA has verified that MCPA has ensured that the utilization control agent conducts proper continued stay and medical eligibility reviews of Long-Term Care facilities, during their follow-up review.

Finding 9

MCPA did not monitor the ASO to ensure that deficiencies noted during provider audits conducted by the ASO were corrected and related overpayments were recovered.

Finding 9 Final Status: The status of MCPA's corrective actions were reviewed by OIG's auditors during their follow-up review of this finding. The OIG determined proper monitoring of the ASO's audits is taking place. A "tracker" is in place to capture all audit information and is monitored by the Medicaid Behavioral Health Unit. This finding has been deemed resolved.

Finding 10

MCPA did not ensure the ASO resolved rejected behavioral health claims timely, resulting in the payment of potentially improper claims and the loss of federal fund reimbursements.

Finding 10 Final Status: The status of MCPA's corrective actions were reviewed by OLA auditors during their follow-up review and this finding has been deemed corrected.

Exhibit 1 to April 1, 2019 Letter to Joint Chairmen

Finding 11

Access controls over the ASO's servers hosting the portal and the web-server software were inadequate, intrusion detection prevention system coverage did not exist for encrypted traffic, and sensitive PII was stored without adequate safeguards. (REPEAT)

Finding 11 Final Status: The status of MCPA's corrective actions were reviewed by OLA auditors during their follow-up review and the auditors identified 1 of the 3 recommendations as being resolved (recommendation A). The status of the corrective actions to address the remaining recommendations (recommendations B and C) were assessed during the OIG's review. The OIG's review determined that MCPA satisfactorily addressed recommendation C however, recommendation B has not been fully implemented. MCPA anticipates full implementation and resolution of the last recommendation by December 31, 2018. OLA auditors began auditing for the next audit cycle in September 2018. It is likely this finding will not be resolved by the conclusion of the auditor's field work, increasing the likelihood of a repeat finding. The below listed corrective actions will be provided to the auditors to assist MCPA's effort to avoid a repeat finding.

MCPA's Corrective Actions (since August 2017 audit report)

MCPA has completed work restricting all unnecessary access for the default user account along with file modification access within the web server for the ASO portal. OLA's auditors confirmed this corrective action satisfactorily addressed recommendation a. Additionally, MCPA completed work encrypting all files and database objects containing Maryland members PII, and masked or truncated social security numbers applicable to Maryland members, from online users. MCPA verified that encryption has been utilized on the SAN and data base objects, to protect sensitive information. The OIG's auditors confirmed this corrective action satisfactorily addressed recommendation C. The OIG's auditors reviewed the final remaining recommendation (recommendation B) and determined that the implementation of the necessary IDPS coverage for encrypted traffic entering its network is still in progress. MCPA began the implementation of the IDPS along with Fireeye network threat prevention solution in April 2018. The projected date to have it fully configured and implemented resulting in full resolution of this finding is December 31, 2018.

Finding 12

MCPA did not ensure that the former DBA was properly administering the dental benefits program and was conducting required provider audits, and did not ensure bank accounts were reconciled, and sensitive data were secured.

Exhibit 1 to April 1, 2019 Letter to Joint Chairmen

Finding 12 Final Status: The status of MCPA's corrective actions were reviewed by OIG's auditors during their follow-up review of this finding. The OIG's auditors determined MCPA has assigned additional staff to provide expanded oversight including tracking and monitoring to ensure that the contractor is providing all the expected deliverables. Additionally, MCPA is ensuring all outstanding claims are resolved within the timeframe required for federal reimbursement and developed a detailed audit plan including steps for resolving audit findings. MCPA is further ensuring bank reconciliations are being performed properly, and SOC 2 Type 2 reviews are completed annually. The OIG's auditors have determined MCPA satisfactorily addressed all OLA recommendations. This finding has been deemed resolved.

Finding 13

Sensitive PII within the EDITPS database was stored and transmitted without adequate safeguards, and MCPA did not remediate 20 of the 21 reported security vulnerabilities identified in a consultant's report on EDITPS.

Finding 13 Final Status: The status of MCPA's corrective actions were reviewed by OLA auditors during their follow-up review and the auditors identified 2 of the 5 recommendations as being resolved (recommendations B, and C). The status of the corrective actions to address the remaining recommendations (recommendation A, D and E) were assessed during the OIG's review. The OIG's review determined that OLA's recommendations A and E remain unresolved as of October 2018. OLA auditors began auditing for the next audit cycle in September 2018. It is likely this finding will not be resolved by the conclusion of the auditor's field work, increasing the likelihood of a repeat finding. The below listed corrective actions will be provided to the auditors to assist MCPA's effort to avoid a repeat finding.

MCPA's Corrective Actions (since August 2017 audit report)

MCPA has completed work and determined that all necessary PII is properly protected by encryption and approved encryption methods are being used to encrypt all sensitive PII not otherwise properly protected. Additionally, the encryption of the network connection between MDH and the Annapolis Data Center has been completed. MCPA is actively testing corrective actions implemented to insure all vulnerabilities in the consultant's report are addressed. MCPA has begun the inventory process of all sensitive PII within its systems. However, MCPA has experienced difficulty conducting a systems inventory of all sensitive PII at the data set level (recommendation A). MCPA is in discussion with DoIT and has developed a statement of work to request their resources to implement this recommendation and resolve the audit finding.

Exhibit 1 to April 1, 2019 Letter to Joint Chairmen

Finding 14

MCPA did not obtain documentation to support labor and overhead charges invoiced by UMBC, representing 72 percent of amounts billed during fiscal year 2015 under the agreement.

Finding 14 Final Status: The status of MCPA's corrective actions were reviewed by OIG's auditors during their follow-up review of this finding. The OIG determined MCPA has established procedures to monitor cost and verify supporting documentation to the invoices billed by UMBC. In lieu of timesheets, an account document of labor charges is provided by UMBC which allocates each employee's salary and fringe benefits to the various programs billed through the agreement. The OIG's auditors have determined MCPA satisfactorily addressed all OLA recommendations. This finding has been deemed resolved.

Finding 15

MCPA did not authorize UMBC to transmit sensitive Medicaid protected health information to a third-party vendor for data storage and did not ensure UMBC executed a data-sharing agreement with this vendor as required by federal regulation.

Finding 15 Final Status: The status of MCPA's corrective actions were reviewed by OIG's auditors during their follow-up review of this finding. The OIG determined MCPA has documented its written agreement between UMBC and third-party contractors. They have also entered in to a BAA as required by federal law. The OIG's auditors have determined MCPA satisfactorily addressed all OLA recommendations. This finding has been deemed resolved.

Exhibit 2 to April 1, 2019 Letter to Joint Chairmen

Status of Repeat Findings in OLA’s August 18, 2017 Audit Report on the Maryland Department of Health – Medical Care Programs Administration

Prior Recommendations Pertaining to Repeat Findings	Status Based on OLA Review
Recipient Enrollment	
2. We recommend that MCPA modify the MOUs with Department of Human Services and Maryland Health Benefit Exchange to require b. the aforementioned longstanding deficiencies be addressed.	Resolved
4. We recommend that MCPA a. establish a process to ensure recipients age 65 or older have applied for Medicare on a timely basis, as required by State regulations.	Resolved
5. We recommend that MCPA b. establish initial accountability over all insurance referrals received and ensure all are properly investigated in a timely manner, in accordance with federal regulations.	Not Resolved ¹
c. conduct documented monthly supervisory reviews of investigative efforts to ensure appropriate conclusions were reached.	Not Resolved
6. We recommend that MCPA assess damages when the enrollment broker does not achieve the contractually required level of performance.	Resolved
Program Oversight - Hospitals and Long-Term Care Providers	
7. We recommend that MCPA a. ensure that hospital claims are audited in a timely manner.	Not Resolved
Program Oversight – Behavioral Health	
11. We recommend that MCPA b. request that the Administrative Service Organization (ASO) implement necessary Intrusion Detection Prevention System (IDPS) coverage for encrypted traffic entering its network	Resolved
c. require that the ASO encrypt all files and database objects containing Maryland members’ Personally Identifiable Information (PII), and mask or truncate social security numbers applicable to Maryland members from online users that do not need to see the full number.	Resolved

¹ OLA had previously assessed the status of this recommendation during a follow-up review conducted in response to MCPA’s receipt of an unsatisfactory accountability and compliance rating. In the resultant special review report on that follow-up, dated November 8, 2018, OLA reported that MCPA had self- assessed the status of that finding as “in progress”, but that OLA had deemed the recommendation to be “corrected.” During the course of this JCR follow-up OLA re-evaluated the status and after a more comprehensive review, found that although some progress had indeed been made, the finding has not been satisfactorily resolved.

Exhibit 3 to April 1, 2019 Letter to Joint Chairmen

OLA's Assessments Regarding Repeat Findings That Were Not Resolved

Prior Report Recommendation – Finding 5

We recommend that MCPA

- b. establish initial accountability over all insurance referrals received and ensure all are properly investigated in a timely manner, in accordance with federal regulations (repeat); and**
- c. conduct documented monthly supervisory reviews of investigative efforts to ensure appropriate conclusions were reached (repeat).**

Status: Not Resolved

Although MCPA had established a process for tracking all referrals received, and made strides in investigating referrals within 60 days as required by federal regulations, certain referrals were not timely investigated. Specifically, as of September 2018 MCPA had not investigated 64,700 received during the period from May 2017 through July 2018² from Managed Care Organizations (MCO). MCPA management advised us that MCO referrals require extensive manual processing resulting in the delay and that they are seeking to automate the MCO referral process to enable more efficient investigation of these referrals.

In April 2018, MCPA also implemented a supervisory review process of the investigative efforts, but it was not sufficient, as only investigations conducted on one day per month were to be reviewed. In addition, the reviews were not conducted of referrals that were manually investigated (such as the aforementioned MCO referrals). Furthermore, documentation issues remain, as the reviews did not indicate how many investigations were reviewed or the results of the reviews.

Prior Report Recommendation – Finding 7

We recommend that MCPA

- a. ensure that hospital claims are audited in a timely manner (repeat).**

Status: Not Resolved

Since calendar year 2007, there has been a very limited number of hospital claims audits performed by MDH. MCPA attributes the primary cause to repeated, unsuccessful attempts to procure an audit vendor. Specifically, in its status report, MCPA summarized its attempts to procure a vendor to conduct hospital claim audits under five separate procurements and advised that it anticipates having a new vendor under contract to conduct the audits by April 1, 2019. MCPA further stated that due to insufficient staffing, the Office of Inspector General (OIG) was not able to perform the audits during the extended period that MDH was procuring a vendor.

² During that period, a total of 310,453 referrals were received from all sources.

Exhibit 3 to April 1, 2019 Letter to Joint Chairmen

MCPA management advised OLA that the new vendor will audit claims dating back to calendar year 2017 and MDH personnel will audit claims for calendar years 2014 through 2016. Claims processed between calendar years 2007 and 2013 will not be subject to audit. Furthermore, as noted in our August 18, 2017 audit report, MCPA management notified the hospitals in May 2013 to retain all medical records supporting claims beyond the six year requirement in Maryland regulations. In December 2017, MCPA issued another request for hospitals to retain all medical records supporting claims from January 1, 2009 until the claims have been audited. As such, documentation for claims processed from calendar year 2008 may no longer be available for audit.

