

Audit Report

**Maryland Department of Health
Developmental Disabilities Administration**

July 2019



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MARYLAND GENERAL ASSEMBLY

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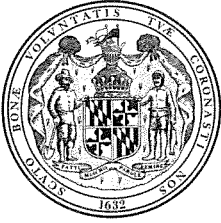
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DEPARTMENT OF LEGISLATIVE SERVICES
OFFICE OF LEGISLATIVE AUDITS
MARYLAND GENERAL ASSEMBLY

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July 8, 2019

Senator Craig J. Zucker, Senate Chair, Joint Audit and Evaluation Committee
Delegate Shelly L. Hettleman, House Chair, Joint Audit and Evaluation Committee
Members of Joint Audit and Evaluation Committee
Annapolis, Maryland

Ladies and Gentlemen:

We have conducted a fiscal compliance audit of the Maryland Department of Health (MDH) – Developmental Disabilities Administration (DDA) for the period beginning April 13, 2015 and ending April 30, 2018. DDA plans, develops policies and regulations, and funds a Statewide system of services for individuals with developmental disabilities (referred to as consumers) and their families.

Our audit disclosed a number of significant issues related to DDA's process for providing needed services to its consumers. Specifically, DDA did not ensure that the budgets for consumers' services were assigned in accordance with DDA's established criteria and that the budgets were properly recorded in DDA's Provider Consumer Information System II (PCIS2). In addition, DDA did not conduct audits of service providers to ensure payments were consistent with actual services delivered and in accordance with consumers' approved individual plans. Furthermore, DDA did not identify recurring overpayments made over several years totaling approximately \$1.7 million to one provider. Rather, the overpayments were self-reported by the provider. DDA also had not determined whether additional overpayments had been made to that provider, beyond those that were self-reported, or whether similar overpayments had been made to other providers. Finally, DDA did not have an adequate process to ensure that amounts billed by its Coordination of Community Services agencies properly reflected the consumer services (such as monitoring visits) provided.

DDA did not always comply with State procurement regulations to obtain certain contracts and did not adequately monitor the related services. Specifically, DDA obtained fiscal management services from two vendors

without having current contracts in place or obtaining control agency approvals. In addition, DDA did not monitor the services provided by the two vendors to ensure that consumers received the required services, that provider payments were proper, and that related federal reimbursements were obtained. For example, our testing disclosed that DDA failed to recover approximately \$4.9 million in federal fund reimbursements related to services it paid to the two providers. DDA also did not adequately justify a \$2.7 million sole source contract to an incumbent vendor to assist in the financial restructuring of DDA's operations.

DDA also did not take sufficient action to identify and return improper contribution to care collections identified during our preceding audit. Specifically, although DDA determined that \$3.6 million was improperly collected from 2,194 consumers during calendar year 2013, as of July 2018 DDA had not taken any action to return the funds to affected consumers nor had it attempted to determine the amounts improperly collected during prior periods. In January 2017, DDA advised the General Assembly's Joint Audit Committee that it would consult with the federal Centers for Medicare and Medicaid Services (CMS) to determine how to refund affected consumers without adversely impacting their Medicaid eligibility statuses. However, as of July 2018, DDA had not contacted CMS.

Federal fund reimbursements were not always recovered timely which, based on our calculation, resulted in lost interest income to the State of approximately \$126,000. These delays were caused, in part, by DDA's failure to perform Medicaid eligibility redeterminations timely. In addition, DDA also did not verify critical adjustments that were processed in PCIS2, resulting in errors, such as overpayments to providers, going undetected. DDA also did not properly restrict access to critical capabilities in PCIS2, and the PCIS2 database and its supporting server were running on outdated software versions that were no longer supported by the database vendor, and backup files were not stored offsite. Furthermore, DDA did not have a complete information technology disaster recovery plan for recovering computer operations.

We determined that DDA's accountability and compliance level was unsatisfactory, in accordance with the rating system we established in conformity with State law. The primary factors contributing to the unsatisfactory rating were the significance of our audit findings and the number of repeat findings. In this regard, DDA did not sufficiently address 5 of 10 findings contained in its preceding audit report.

MDH's response to this audit, on behalf of DDA, is included as an appendix to this report. In accordance with State law, we have reviewed the response and, while DDA generally agrees with the recommendations in this report, we identified certain instances in which statements in the response conflict with or disagree with the report findings. In each instance, we reviewed and reassessed our audit documentation, and reaffirmed the validity of our finding. In accordance with generally accepted government auditing standards, we have included "auditor comments" within MDH's response to explain our position. We will advise the Joint Audit and Evaluation Committee of any outstanding issues that we cannot resolve with MDH. Additionally, we have redacted certain vendor names or products mentioned in MDH's response as allowed by our policy.

We wish to acknowledge the cooperation extended to us during the audit by DDA. We also wish to acknowledge MDH's and DDA's willingness to address the audit issues and implement appropriate corrective actions.

Respectfully submitted,

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

Gregory A. Hook, CPA
Legislative Auditor

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Background Information

Agency Responsibilities

The Developmental Disabilities Administration (DDA) is an agency within the Maryland Department of Health (MDH). DDA's mission is to provide leadership to assure the full participation of individuals with developmental disabilities (consumers) and their families in all aspects of community life, and to promote their access to quality support and services necessary to foster personal growth, independence, and productivity. DDA also administers the Court Involved Service Delivery System (the System) which serves individuals committed to MDH by the courts.

DDA plans, develops policies and regulations, and funds a Statewide system of services for consumers and their families. DDA coordinates its work with other government, voluntary and private health, education, and welfare agencies. DDA funds services to consumers through a combination of private licensed Medicaid providers, not-for-profit licensed Medicaid providers, local health departments, and fiscal management services vendors (entities that assist consumers in a self-directed support services delivery system). Consumer services include an array of options such as residential living arrangements and support, and employment assistance. During fiscal year 2017, DDA expenditures totaled approximately \$1.1 billion (see table), the majority of which related to provider payments for services on behalf of consumers.

Fiscal Year 2017 Activity		
Expenditures (in millions)		
General Fund	\$	568
Federal Fund		491
Special Fund		3
Total	\$	1,062
Total Individuals Served		22,557
Source: DDA Records		

DDA consists of a headquarters unit, four regional offices that administer community-based services, two forensic residential centers under the System, and two residential centers – the Holly Center and the Potomac Center. We conduct separate audits of the Holly Center and the Potomac Center. This audit included the DDA headquarters unit, the four regional offices, and the System.

Developmentally Disabled Services Delivery Process

Consumer Eligibility and Provider Services

To obtain DDA services, a consumer submits an application to a DDA regional office. Eligible consumers select one of the Coordinator of Community Services (CCS) agencies under contract with DDA. The CCS agency works with the consumer to develop an individual plan that describes the specific services the consumer is to receive from DDA providers. Due to funding limitations, consumers are generally placed on a waiting list until funding becomes available for their services.

DDA provides services in accordance with the *Maryland Home and Community Based*

Services Waiver (Community Pathways Waiver), which allows DDA to receive federal funding to cover a portion of the service costs and allows services to be delivered in a non-institutional setting to people with different needs or different income levels.

The majority of consumers receive services under DDA's traditional services model (the Fee Payments System), in which consumers receive services from providers licensed by the MDH Office of Health Care Quality. DDA also offers a self-directed service model, which allows consumers to select their own providers

DDA Consumer Service Delivery Process

1. Application/Eligibility

- Individuals with disabilities (consumers) submit an application to DDA. A Coordinator of Community Services (CCS) agency reviews the consumer's medical profile and assigns the consumer a category based on priority; the consumer is then generally placed on a waiting list.
- Once funding has been identified, the consumer applies for Medicaid eligibility under DDA's *Community Pathways Waiver*.

2. Consumer Plan and Budgets

- Consumers work with a CCS agency to develop and implement an individual plan.
- A vendor under contract with DDA reviews each consumer's medical profile and provides the consumer with a score for each required service based on an established DDA methodology. The level-of-need score is entered into DDA's automated system to calculate the amount of funding to be allocated to the consumer.

3. Service Delivery

- The majority of consumers are directed by DDA to providers operating under the Fee Payments System; the providers are paid based on rates established in State regulations.
- Consumers may also elect to select their own providers for certain DDA services. These consumers are assigned a fiscal management vendor which manages the payments to the providers.

for certain services. Consumers who elect self-direction are assigned a fiscal management services vendor which manages the payments to providers.

Provider Payments

DDA has a prospective payment system whereby providers are paid prior to services being rendered based on estimates of the services to be provided and the associated costs. The majority of DDA's provider payments are processed through DDA's Provider Consumer Information System II (PCIS2) based on rates established in State regulations. At year-end, the providers submit records of actual services provided, from which a reconciliation to payments previously made is performed by MDH's Division of Cost Accounting and Reimbursements. Adjustments to future provider payments are made in PCIS2 for any differences. In addition, certain residential consumers are responsible for paying the providers for a portion of the cost of their services, referred to as "contribution to care." According to MDH's records, DDA provider payments for fiscal year 2017 totaled \$993.4 million.

Rate-Setting Study

In August 2015, DDA entered into an agreement with a vendor to conduct an independent cost-driven, rate-setting study to set provider rates for community-based services, as required by Chapter 648, Laws of Maryland 2014. The study was intended to align the rates DDA pays providers for community-based services with the actual costs of providing the services, including the costs of transportation, consumers' direct support, and supervisory staff (such as wages and benefits). The deadline for completing this study was September 30, 2017 but, as of February 2019, the study had not been finalized.

Although the study itself had not been finalized, in November 2017 DDA submitted a report to the General Assembly which identified preliminary rates to be paid to providers. According to this report, DDA estimated that the implementation of these preliminary rates (which were based on fiscal year 2018 consumers' service budgets) would require an additional appropriation of approximately \$74.8 million (including general funds totaling \$38.3 million), with increased appropriations likely required in future fiscal years. DDA management advised us that, after the study is finalized, it plans to present the rates during the 2020 Session of the General Assembly. Since DDA's provider rates are established by State regulations, implementation of these revised rates will require the promulgation of new regulations and approval by the Joint Committee on Administrative, Executive, and Legislative Review.

Federal Liability

DDA has a federal liability of approximately \$34.2 million for which State general funds may be needed. In June 2015, DDA was notified by the federal Department of Health and Human Services – Office of Inspector General (DHHS OIG) that DDA did not implement its *Community Pathways Waiver* program in accordance with federal requirements. Specifically, between July 1, 2010 and June 30, 2013, DDA claimed and received federal reimbursement for \$34.2 million in provider payments for add-on services for consumers who did not meet the waiver program's level-of-need requirement. DDA had not considered the consumer's level of need when approving these add-on services.

The DHHS OIG recommended that DDA refund the overbilled amount to the federal government. DDA did not concur with the recommendation and, in September 2015, MDH, on behalf of DDA, issued a letter to the federal Centers for Medicare and Medicaid Services (CMS) contesting the findings and recommendations. CMS notified MDH in June 2018 that it was disallowing the full amount of these claims, and MDH subsequently appealed this determination in August 2018. As of September 30, 2018, CMS had not responded to the MDH appeal. CMS will assess interest accrued on any amounts it determines were properly disallowed beginning on the date of initial disallowance (June 2018). Consequently, the total federal liability may exceed \$34.2 million.

Although DDA is disputing the disallowed claims, during the fiscal year 2019 closeout process, MDH reported the potential federal liability to the Comptroller of Maryland – General Accounting Division. As of October 4, 2018, DDA had not identified funding sources for the liability.

Monitoring of Coordination of Community Services Agencies Performance Audit

Our past three fiscal compliance audits of DDA contained findings regarding DDA's inadequate monitoring of its Coordination of Community Services (CCS) agencies (previously referred to as resource/service coordinators) to ensure that consumers received the required services from providers. As a result, we conducted a performance audit of DDA's monitoring of its CCS agencies to assess whether consumers received the required services, and issued the related report dated January 2, 2019.

In that report, regarding service delivery we concluded that while we were able to obtain sufficient documentation from the service providers to support the delivery of services to consumers selected for testing, we determined that DDA was not

adequately monitoring the CCS agencies' efforts to ensure the consumers received these services. In addition, DDA did not provide the CCS agencies with appropriate guidance on their responsibilities with regard to quarterly consumer face-to-face monitoring visits. Finally, information provided by CCS agencies on consumer monitoring forms was insufficient to document the delivery of services. In response, DDA agreed with the findings and related recommendations.

Status of Findings From Preceding Audit Report

Our audit, as well as the aforementioned *Monitoring of Coordination of Community Services Agencies* performance audit, included a review to determine the status of the 10 findings contained in our preceding audit report dated November 18, 2016. As disclosed in the following table, we determined that DDA satisfactorily addressed 5 of these findings. The remaining 5 findings are repeated in this report, 2 of which were combined and presented as 1 finding in this report.

Status of Preceding Findings

Preceding Finding	Finding Description	Implementation Status
Finding 1	DDA incorrectly directed providers to collect an estimated \$4.2 million annually from consumers for services that should have been paid for with State and federal funds. DDA believes that its administrative and financial costs to remedy this situation outweigh the potential benefits to the affected consumers.	Repeated (Current Finding 7)
Finding 2	DDA did not adequately monitor the resource/service coordinators' efforts to determine whether they were ensuring that consumers received the required services from providers and that Medicaid eligibility reassessments were conducted timely.	Repeated¹ (Current Finding 8)
Finding 3	DDA did not compare hours billed by the resource/service coordinators with hours worked as recorded in its PCIS2 to ensure payments were proper.	Not repeated
Finding 4	DDA did not negotiate the contract rates for either contract, and DDA procured the second contract as an emergency procurement even though certain services ultimately provided under the contract did not appear to be emergencies as defined by regulation.	Not repeated
Finding 5	DDA lacked an effective means to monitor payments for contract deliverables and similar deliverables were noted in both contracts and certain contract modifications.	Not repeated
Finding 6	DDA did not effectively monitor the contracts and the related payments. Certain deliverables were not received, vendor invoices were not effectively reviewed, and DDA authorized the contractor to perform work outside the scope of the contracts.	Not repeated
Finding 7	Federal fund reimbursement requests were not made timely, resulting in lost interest income totaling approximately \$210,000.	Repeated (Current Finding 8)
Finding 8	DDA did not conduct audits of Community Supported Living Arrangement providers to identify and recover overpayments.	Repeated (Current Finding 3)
Finding 9	DDA did not verify critical adjustments that were processed in PCIS2, resulting in errors such as overpayments going undetected, and did not adequately restrict access to the system.	Repeated (Current Finding 9)
Finding 10	The PCIS2 database contained 58,022 unique social security numbers with associated names, dates of birth, and addresses without adequate safeguards.	Not repeated

¹ This preceding finding is repeated, in part, in current finding 8 in this report and was also repeated, in part, in Finding 2 of the aforementioned *Monitoring of Coordination of Community Services Agencies* performance audit.

Findings and Recommendations

Consumer Budgets

Finding 1

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

Analysis

DDA did not ensure level-of-need scores used to determine consumers' annual service budgets were assigned in accordance with DDA's established criteria and were properly recorded in PCIS2. DDA sends consumer medical information to a vendor to perform a level-of-need assessment using DDA's Individual Indicator Rating Scale (IIRS). The vendor uses the IIRS to assign each consumer a score for each approved service from his or her individual plan (based on individual medical needs) and forwards the scores to the applicable DDA regional office where it is manually entered into PCIS2. PCIS2 automatically calculates the consumer's service budget using the scores and the corresponding rates provided in State regulations. For example, the fiscal year 2018 daily rate for residential services ranged from \$86.73 to \$237.16 based on the consumer's level-of-need score.

Our review disclosed that DDA did not ensure the vendor properly assigned the scores in accordance with the IIRS by performing an independent verification of a selection of scores in PCIS2. In addition, DDA did not require the regional offices to establish verification procedures to ensure that scores were properly recorded in PCIS2. Our test of 10 consumers' fiscal year 2018 budgets totaling \$704,640, which included 14 services, disclosed that neither DDA nor the vendor could provide support for the level-of-need scores used to determine 5 consumers' budgets for 8 services totaling \$405,710. Consequently, we were unable to verify that the scores recorded in PCIS2 for these consumers and the resulting budgets were proper. The scores for the remaining 5 consumers we tested appeared to be properly supported. Accurately establishing consumers' service budgets is critical to ensure that DDA's annual community-based services funding is allocated in the most efficient manner and to maximize the number of consumers served.

Recommendation 1

We recommend that DDA

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

Provider Payments

Finding 2

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

Analysis

DDA did not identify recurring overpayments made over several years to one provider totaling at least \$1.7 million. Rather, the overpayments were self-reported by the provider in April 2017. In addition, DDA did not determine the full extent of the overpayments to this provider and whether similar overpayments were made to other providers.

The overpayment was the result of the improper designation in PCIS2 for 36 consumers as receiving residential services rather than shared living services during the period from December 2014 through February 2017. Because consumers receiving shared living services reside with and receive certain services from a family caregiver, the cost is less than consumers receiving full residential services. Shared living services were funded at the same rate as residential services until 2000, when the Maryland Department of Health (MDH) Office of Health Care Quality promulgated new regulations designating residential and shared living as separate services. However, the individual plans and related PCIS2 designations for these 36 consumers were not revised to reflect this new service category until April 2017 after the provider brought the matter to DDA's attention.

Although, as of October 4, 2018, DDA had recovered the \$1.7 million reported by the provider, DDA had not determined the total overpayments made to this provider for periods prior to December 2014 for these 36 consumers and for other consumers, nor did DDA attempt to determine whether similar overpayments

were made to other providers. Using the same analysis methodology as the provider, we estimated that additional overpayments totaling \$2.4 million were made to this provider for these 36 consumers during the period from July 2011 through November 2014. We did not attempt to identify other consumers which should have been billed for shared living services rather than residential services and to estimate the full extent of overpayments made to this provider or to other providers. However, our review of DDA's PCIS2 records disclosed that 2,716 consumers have been receiving residential services since PCIS2 was implemented on July 1, 2001.

Recommendation 2

We recommend that DDA

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

Finding 3

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

Analysis

DDA did not conduct audits of providers to ensure payments to providers were consistent with actual services delivered and in accordance with the consumers' approved individual plans. DDA relied on its Coordination of Community Services (CCS) agencies to monitor consumer services provided, and also received an annual cost report from each provider which included an independent auditor's attestation that the services reported to DDA by the provider agreed to the provider's records. However, our review of the CCS agency monitoring and auditor attestation processes disclosed that there were no verifications performed to ensure that the consumers actually received the services or that the services billed were consistent with the consumers' approved individual plans.

DDA providers were generally paid in advance for estimated services to be provided to consumers based on a fixed rate for each unit of service (such as daily attendance in a facility, hours of service provided). Providers recorded the actual services provided in PCIS2, which automatically updated subsequent payments for differences between the estimated and actual services provided. At the end of

each year, providers submitted annual cost reports, which included an independent auditor's attestation to the accuracy of the units of services reported. Although DDA's CCS agencies were responsible for ensuring that consumers were receiving their services, CCS agency monitoring efforts were limited to ensuring consumers' satisfaction with their services rather than verifying that the amounts and types of services that the consumers actually received were commensurate with the amounts billed by the providers and in accordance with their plans.

Finally, in June 2018, DDA entered into a competitive solicitation for a vendor to perform provider audit services, which will include reviewing provider documentation for all DDA providers to ensure that services billed were provided and were consistent with consumers' individual plans. As of February 2019, this procurement was still in progress. Provider audits are a recognized best practice by the federal Centers for Medicare and Medicaid Services (CMS) and, in the past, have been an effective mechanism for identifying overpayments. Historically, DDA contracted with a vendor to audit personal support providers (previously referred to as Community Supported Living Arrangement providers). A similar condition regarding the failure to perform these audits was commented upon in our preceding audit report, where we disclosed that a preceding auditing contract had been terminated by DDA in January 2014 due to changes in the understanding of the expected scope of work.

Recommendation 3

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

Procurement of Services and Related Billings

DDA relies on a number of vendors to provide various services, including the services provided to its consumers. We reviewed and tested several of these contractual relationships that had a significant impact on DDA operations and identified similar issues among DDA's relationship with vendors providing fiscal management services, services related to the financial restructuring of DDA operations, and services provided by CCS agencies. Some findings might be unique to a certain service or occur among several services. These findings, which broadly relate to the failure to follow State procurement regulations, include missing required contractual terms and conditions, not using a competitive procurement process, or not seeking and obtaining required approvals.

Fiscal Management Services

Finding 4

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

Analysis

DDA obtained fiscal management services (FMS) from two vendors, under contracts entered into in 2006 that were not comprehensive and for which required approvals from the Department of Budget and Management (DBM) and the Board of Public Works (BPW) were not obtained. In addition, DDA did not adequately monitor the two FMS vendors to ensure the fiscal management services were properly provided, that consumers received the required services, that provider payments were proper and accounted for, and that federal reimbursements were obtained. As a result, we noted a number of discrepancies, including DDA failing to recover \$4.9 million in federal reimbursements and significant delays in the return of unspent funds by the vendors.

While DDA directs most consumers to appropriate service providers, consumers may also elect to select their own providers for certain DDA services. DDA used these two FMS vendors to administer the fiscal activities of consumers who elected to self-direct their delivery of care. These FMS vendors were responsible for all fiscal operations, including monitoring consumer budgets, paying for provider services, and recovering any applicable federal funds. On a quarterly basis, DDA advanced funds to FMS vendors to cover administrative fees and provider payments on behalf of these self-directed consumers. According to DDA records, during fiscal year 2017, DDA paid the FMS vendors approximately \$32.3 million (including FMS administrative fees) to provide services to 695 self-directed consumers.

FMS Vendor Contracts Were Not Comprehensive and Properly Approved

DDA's FMS vendor contracts were not approved by State control agencies as required and did not contain certain critical terms and conditions. Specifically, DDA did not obtain DBM and BPW approvals as required by State procurement regulations. In addition, these 2006 contracts do not include critical provisions such as the fees to be charged and the period to be covered by the agreements, resulting in a lack of assurance that these services are being provided at the most advantageous prices.

FMS administrative fees were included in the consumers' annual overall service budgets, which were approved by DDA, and generally ranged between 6 and 10 percent of the overall budgets. However, DDA could not provide a breakdown between the cost of consumer services and administrative fees paid to the FMS vendors. According to the FMS vendors' records, DDA paid the two vendors approximately \$2.7 million in administrative fees for fiscal years 2016 and 2017.

State procurement regulations generally require DBM approval for service contracts in excess of \$50,000 and BPW approval for service contracts exceeding \$200,000. DDA management acknowledged that control agency approvals were not obtained for the contracts. In June 2018, DDA issued a request for proposal for FMS services but, as of February 2019, the procurement had not been finalized.

DDA Did Not Monitor the Vendors nor Ensure Related Payments Were Proper

- DDA did not perform annual site visits nor obtain independent financial audits of the two FMS vendors as required by the *Community Pathways Waiver* received from the federal Centers for Medicare and Medicaid Services (CMS). The annual site visits and audits are to ensure consumers receive all required services (including self-directed services), and that related service budgets and payments are proper. DDA management was unaware of these *Waiver* requirements until we brought them to its attention.
- DDA did not ensure that the two FMS vendors timely submitted required annual accountings that compared their actual costs (administrative fees and consumer services) to the amounts previously advanced by DDA, and returned any unspent funds to DDA. We noted that the six accountings that were required to be submitted for fiscal years 2015 through 2017 (three from each FMS vendor) either were submitted untimely or were not submitted at all, and unspent funds were not returned timely. Specifically, as of August 2018, one FMS vendor had not submitted accountings for two fiscal years, nor returned any unspent funds. The four remaining accountings were submitted between 5 and 18 months late, delaying the return of the associated unspent funds totaling \$7.1 million. For example, one vendor's fiscal year 2016 accounting was not submitted until June 2018, and the related unspent funds totaling \$1.8 million were not returned until August 2018. We estimated that the delays in recovering the funds associated with these four accountings (which would have been otherwise available for investment) resulted in lost interest income to the State of approximately \$92,000.
- DDA did not verify that the service provider payments reported on the annual FMS vendor accountings were accurate based on supporting documentation

nor did DDA ensure payments for consumer services were consistent with established DDA rates. Our review of documentation obtained directly from the service providers for 10 consumers to support fiscal year 2017 expenditures totaling \$1.2 million disclosed that the provider payments reported by the FMS vendors were supported; however, the rates paid were not consistent with DDA established rates in all cases. For example, for 2 consumers, FMS vendors paid service providers \$27 per hour for services for which the maximum hourly DDA-approved rate was \$23. As a result, we determined these providers were paid an additional \$19,553 for the services provided to these 2 consumers during fiscal year 2017.

Federal Funds Were Not Recovered for All Vendor Provider Payments

DDA did not ensure the FMS vendors recorded all provider payments into the MDH Maryland Medicaid Information System II (MMIS II) so that federal reimbursement could be obtained for the cost of the services. Specifically, DDA did not compare the claims entered into MMIS II by the FMS vendors with the provider expenditures separately reported to DDA by the vendors to ensure all claims had been recorded.

Our comparison of DDA's fiscal year 2016 and 2017 self-directed services expenditures with the related provider payments recorded in MMIS II identified \$4.9 million in related federal fund reimbursement requests that had not been made as of June 2018 because the provider payments had not been recorded in MMIS II. As a result, State general funds were used to finance federal fund expenditures. Since claims must be submitted within two years of the service, a portion of these claims may no longer be eligible for federal reimbursement.

Recommendation 4

We recommend that DDA

- a. ensure control agency approvals are obtained for fiscal management services, and contracts are executed that include all relevant contract provisions (including the contract term and authorized administrative fees);**
- b. monitor vendor activity and compliance to ensure that all key requirements and terms are complied with, including site visits and audits, and timely submission of annual accountings and return of unspent funds, and that FMS vendor payments are proper and supported;**
- c. ensure FMS vendors record all provider payments into MMIS II timely; and**
- d. take appropriate corrective action to obtain federal reimbursement for any outstanding claims (including the aforementioned \$4.9 million), any**

annual accountings not received, and identified overpayments, and consider recovering any lost investment income resulting from untimely vendor actions.

Financial Restructuring Contract

Finding 5

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

Analysis

DDA did not comply with State procurement requirements when awarding a \$2.7 million sole source contract to an incumbent vendor to continue assisting in the financial restructuring of DDA operations, and could not support a significant increase in the contract rates for one vendor employee. The contract covered the period from March 1, 2016 to February 28, 2018 and was subsequently modified three times, extending the services through August 31, 2018, for a total contract cost of \$3.6 million. The contract was fully paid as of October 2018.²

DDA's sole source justification stated that the services were not competitively procured to avoid the delays and additional costs associated with transitioning the services to a new vendor. However, this justification does not comply with State procurement regulations, which provide that a sole source procurement is not permissible unless the goods or services are available from only a single vendor. Subsequent actions taken by DDA indicate that numerous vendors likely could have provided DDA with the same services. Specifically, in March 2018, DDA competitively procured another contract for financial restructuring services to commence after the expiration of the current contract in August 2018. For this subsequent procurement, DDA received bids from five vendors and ultimately awarded a \$3.9 million contract to the incumbent vendor for the period from September 1, 2018 through August 31, 2020.

² We noted that DBM has expressed concerns with DDA's continued use of the vendor, which dates back to January 2013, and in February 2016 requested a written plan from DDA for ending the use of the vendor. MDH (on behalf of DDA) submitted a plan to DBM, which stated that DDA would secure agency resources to gradually assume the vendor's roles and responsibilities, with an anticipated completion date of May 2016. However, as of July 2018, DDA advised DBM that it had been unable to fill these positions and, consequently, processed the aforementioned three contract modifications to extend the term of the contract through August 31, 2018.

We further noted that DDA could not support a contract modification for approximately \$110,000 that combined the classification of “Project Director” and “Subject Matter Expert,” and that increased one vendor employee’s hourly billing rate from \$250 to \$375. DDA could not explain the difference in services to be provided by this employee or the employee’s area of expertise that justified the change.

Recommendation 5

We recommend that DDA

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

Coordination of Community Services Agency Billings

Finding 6

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

Analysis

DDA did not have an adequate process to ensure that amounts invoiced by CCS agencies were proper. The CCS agencies meet with each consumer to develop an individual plan that describes the services the consumer is to receive, facilitate finding appropriate service providers, and monitor consumers to ensure the individual plan is implemented. According to MDH’s records, payments to CCS agencies totaled \$39.7 million for fiscal year 2017.

On a monthly basis, CCS agencies billed DDA for the number of units of service provided to consumers (15-minute intervals) to fulfill its responsibilities, and the number of comprehensive assessments (evaluations performed during the initial application process to determine the individual’s eligibility) completed. When reviewing the invoices submitted by CCS agencies, DDA ensured that the total units and quantities billed agreed with the totals the CCS agencies had recorded in PCIS2. However, this process was insufficient to provide an independent verification of the propriety of amounts billed, since both were self-reported by the CCS agencies. Specifically, DDA should also review the PCIS2 case notes, which are entered by CCS agency staff, to determine whether the number of units billed is consistent with the consumer services provided, and should also obtain copies of completed assessments to compare against the quantities billed.

During fiscal years 2017 and 2018, the established billing rates were \$17.99 and \$18.61 per unit of service, respectively, and \$450 for each comprehensive assessment completed by the CCS providers. Our review of select invoices using this recommended process did not identify any discrepancies in the number of units of service and quantities of assessments billed.

Recommendation 6

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

Contribution to Care

Finding 7

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

Analysis

DDA had not fully determined the amount of CTC (copayments) improperly collected from consumers prior to July 2014 and had not taken any action to return such funds to the affected consumers. In our preceding audit report we commented that, prior to fiscal year 2015, DDA incorrectly directed service providers to collect CTC payments from consumers for services that should have been paid for with State and federal funds. CTC is the monthly amount that certain consumers in residential care are required to pay providers, based on the consumer's ability to pay. Previously, DDA estimated that, based on its records for calendar year 2013, the improper CTC collected from consumers could have approximated \$4.2 million annually.

During our preceding audit, DDA advised us that, while it maintained records of the CTC that providers were supposed to collect, it did not know the amounts actually collected by the providers for each of the affected consumers.

Subsequent to that audit, DDA requested each of its providers to confirm the amount of CTC collected from consumers during calendar year 2013. According to this information, providers improperly collected \$3.6 million from 2,194 consumers during this period (see table).

Improper CTC Collections in Calendar Year 2013			
Collections per Consumer	Count and Percentage of Consumers		Total Improper Collections
Less than \$300	1,000	45.6%	\$ 111,658
\$300 to \$2,000	584	26.6%	450,851
\$2,000 +	610	27.8%	2,992,868
Totals	2,194		\$3,555,377

Source: DDA Records

In our preceding audit, we recommended that DDA determine, to extent practical, the amount of improperly collected CTC and present this issue and the basis for its decision (not to return any funds to affected consumers) to the General Assembly for its consideration. In this regard, DDA advised the General Assembly's Joint Audit Committee in January 2017 that it would submit a request to CMS to waive the financial eligibility restrictions for a period of time, to avoid adversely affecting the individuals involved in this situation. DDA also advised the Committee that, based upon the response from CMS, it would develop repayment plans to avoid the loss of Medicaid eligibility for the affected individuals and would send a letter to the affected individuals outlining the situation, the amount to be repaid, and the repayment plan.

However, DDA had not taken any of these actions as of July 2018. Specifically, DDA had not contacted CMS, had not developed repayment plans, and had not contacted affected individuals. Furthermore, for 1,000 of the aforementioned 2,194 consumers, the amount owed to each (totaling approximately \$112,000) was less than \$300. DDA advised us these funds could have been returned to the consumers without approval from CMS because the small amounts were unlikely to affect their Medicaid eligibility statuses; nevertheless, DDA did not refund these overpayments.

We believe DDA should have refunded the improperly collected CTC from 2013 that it identified. In addition, we believe that DDA's decision to limit its review to one year was not reasonable considering the duration of the improper CTC collections and the significant amount that DDA identified as having been improperly collected during calendar year 2013. Our review of PCIS2 records disclosed that 80 percent of the aforementioned 2,194 consumers (1,754) received DDA-funded services for at least five years prior to calendar year 2013, during which time CTC was likely improperly collected from them.

Recommendation 7

We recommend that DDA

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

Federal Funds

Finding 8

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

Analysis

DDA did not recover certain federal funds timely which, based on our calculation, resulted in lost interest income to the State of approximately \$126,000 related to expenditures incurred during the period from May 2015 through February 2018. In accordance with DDA's procedures, reimbursement requests should be made within two months of the service date.

Our test of 34 federal fund reimbursement requests made between May 2015 and February 2018, totaling approximately \$1.2 billion, disclosed that portions of each request were not made timely, which we calculated resulted in lost interest income totaling approximately \$126,000. Specifically, portions of the 34 reimbursement requests tested, collectively totaling \$155 million, were made from 1 to 21 months after the claims could have been submitted in accordance with DDA's procedures. For example, in July 2016, DDA's reimbursement request contained \$12.1 million in claims that were for services dating back to July 2015. The recovery of these funds was up to 10 months late, resulting in a calculated loss of interest income totaling \$58,000. In this regard, State general funds, which would have been otherwise available for investment, were used to finance federal fund expenditures.

DDA management explained that the submissions were not timely for a number of reasons, including untimely Medicaid eligibility redeterminations. In this regard, our review disclosed that DDA did not have a process to ensure consumer redeterminations were completed before the end of each consumer's annual eligibility period. Although the eligibility periods had ended, consumers nevertheless continued to receive services, which were paid for entirely with State general funds. Once the redeterminations were completed and eligibility restored, federal reimbursements were requested. Federal regulations require annual redetermination of consumer eligibility under the *Community Pathways Waiver*.

Our test of 10 consumers whose Medicaid eligibility lapsed during our audit period disclosed that redeterminations for 8 consumers were performed between 3 and 25 months after the consumers' eligibilities lapsed. For all 8 consumers, eligibility was subsequently restored, and we estimated that DDA paid \$340,000 in State funds for services provided to these consumers during the lapse in their

eligibility periods. We could not readily determine whether DDA subsequently recovered federal funds for any of these consumers after eligibility was restored or the amount of lost investment income resulting from the delay. For the remaining 2 consumers tested, eligibility had been lapsed for 28 and 36 months as of August 29, 2018, and redeterminations had not yet been performed. We estimated that DDA paid approximately \$113,000 in State funds for services provided to these two consumers.

DDA's failure to timely recover federal funds and to conduct timely eligibility redeterminations were commented upon in our three preceding audit reports.

Recommendation 8

We recommend that DDA

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

Provider Consumer Information System II (PCIS2)

Background

DDA operates PCIS2, which provides a mechanism to pay providers by allowing providers to access and enter program information into a centralized database using an Internet connection. For example, providers use the PCIS2 application to enter consumer attendance information, which, in conjunction with approved payment rates previously posted in PCIS2 by DDA, is used to calculate provider payments. As previously mentioned, providers are paid in advance for estimated services to be provided and these payments are reconciled at year-end with the cost of actual services provided. DDA employees also access PCIS2 via local area networks to perform critical provider and consumer activities, such as modifying consumer services, and to process provider payments. According to DDA's records as of April 10, 2018, there were 2,133 system users of which 1,941 were providers. Fiscal year 2017 provider expenditures processed through PCIS2 totaled approximately \$903 million.

Finding 9

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

Analysis

DDA did not have a process to independently verify that critical adjustments processed in PCIS2 were proper, resulting in errors going undetected, and did not ensure all required adjustments were processed. DDA also did not adequately restrict user access in the system.

- DDA had not established online or manual controls over critical adjustments to provider accounts to ensure that all required adjustments had been entered in PCIS2 and to verify that the adjustments entered were proper. These adjustments were manually processed by DDA employees without any independent review and, therefore, erroneous or improper transactions could go undetected. Our test of eight attendance payment adjustments processed in PCIS2 during fiscal year 2017 totaling \$2 million disclosed three payment errors totaling \$24,800. For example, one provider was overpaid by \$1,207 as a result of an erroneous adjustment. Additionally, our test of 16 adjustment requests (to correct consumers' attendance) disclosed two adjustment requests totaling \$27,845 that had not been recorded in PCIS2. DDA management took corrective action after we notified them of these five errors.
- DDA did not adequately review user access to ensure critical PCIS2 capabilities (such as to adjust provider payments, to modify consumer eligibility, and to add consumer services) were restricted to appropriate users. Our test of access capabilities as of April 10, 2018 for 15 DDA users disclosed that 13 users had unnecessary access, including 8 we had previously identified as having unnecessary access during our preceding audit. For example, two of the 13 employees (one of whom was noted during our preceding audit) had the capability to modify provider payments even though this capability was not required to perform their job duties. The State of Maryland *Information Security Policy* provides that agencies must support the "least possible privilege" security strategy in which users are only granted the access needed to perform assigned tasks.

Similar conditions were noted in our preceding audit report. In response to that report, DDA indicated procedures would be established to ensure adjustments were proper and user access would be periodically reviewed.

Recommendation 9

We recommend that DDA

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

Finding 10

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

Analysis

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

- The PCIS2 database was operating on a software version that was no longer supported by the database software vendor. Specifically, the system database software version in use as of July 2018 had not been supported by the vendor since August 2015. As a result, the database software vendor was no longer monitoring or issuing patches for newly discovered security vulnerabilities for the database version in use. This out-of-date database software may expose DDA to security vulnerabilities discovered since the date the vendor stopped supporting the software, which could create security and control issues.
- The operating system software for the PCIS2 database server also had not been updated for the most current software patches. Specifically, as of August 1, 2018, we noted that operating system software updates were last applied on June 22, 2017. Additionally, we identified 48 available security-related operating system software updates which had been released since that date but had not been applied. Subsequent to our review, these 48 security-related updates were applied on November 5, 2018. Accordingly, the numerous uninstalled operating system software security-related updates exposed PCIS2's operations and data to increased security risks.

The State of Maryland *Information Security Policy* states that system hardening procedures shall be created and maintained to ensure up-to-date security best

practices are deployed at all levels of IT systems (operating systems, applications, databases, and network devices).

Recommendation 10

We recommend that DDA, for PCIS2, ensure that

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

Finding 11

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

Analysis

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

- Backups of the PCIS2 database and application software were not taken to an offsite location. Specifically, our review on August 16, 2018 determined that backups of the PCIS2 database and application had been created, but had not been taken offsite from the DDA computer room since January 11, 2018. Accordingly, if the DDA computer room and backup files were destroyed by a disaster, these backups would not be available to help in restoring the PCIS2 database and application.
- DDA did not have a complete information technology DRP for recovering computer operations from disaster scenarios (for example a fire). The State of Maryland *Information Technology Disaster Recovery Guidelines* establish the minimum required elements needed for a DRP. DDA's DRP did not address certain of these minimum requirements. For example, the DRP did not contain adequate details on the contact information for the alternate site and key disaster recovery personnel, restoring network connectivity, and DRP copies were not distributed off-site for ready availability. Additionally, as of August 2018, the DRP had not been updated since August 2015, and the DRP had not been tested. Without a current, complete and tested DRP, a disaster could cause significant delays (for an undetermined period of time) in restoring information systems operations above and beyond the expected delays that would exist in a planned recovery scenario.

Recommendation 11

We recommend that DDA

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

Audit Scope, Objectives, and Methodology

We have conducted a fiscal compliance audit of the Developmental Disabilities Administration (DDA) of the Maryland Department of Health for the period beginning April 13, 2015 and ending April 30, 2018. 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 DDA's financial transactions, records, and internal control, and to evaluate its compliance with applicable State laws, rules, and regulations.

In planning and conducting our audit, we focused on the major financial-related areas of operations based on assessments of significance and risk. The areas addressed by the audit included federal funds, provider fee payment systems, contract procurement and monitoring, and disbursements for consumer services. During the course of this audit, as well as during a recently completed audit of DDA's monitoring of its coordination of community services agencies, we also determined the status of the findings contained in our preceding audit.

Our audit did not include certain support services provided to DDA by the Maryland Department of Health. These support services (such as payroll, maintenance of accounting records, and related fiscal functions) are generally included within the scope of our audit of the Department's Office of the Secretary and Other Units. In addition, our audit did not include an evaluation of internal controls over compliance with federal laws and regulations for federal financial assistance programs and an assessment of DDA's compliance with those laws and regulations because the State of Maryland engages an independent accounting firm to annually audit such programs administered by State agencies, including DDA.

To accomplish our audit objectives, our audit procedures included inquiries of appropriate personnel, inspections of documents and records, observations of the DDA's operations, and tests of transactions. Generally, transactions were selected for testing based on auditor judgement, which primarily considers risk. Unless otherwise specifically indicated, neither statistical nor non-statistical audit sampling was used to select the transactions tested. Therefore, the results of the

tests cannot be used to project those results to the entire population from which the test items were selected.

We also performed various data extracts of pertinent information from the State's Financial Management Information System (such as revenue and expenditure data). The extracts are performed as part of ongoing internal processes established by the Office of Legislative Audits and were subject to various tests to determine data reliability. We also extracted data from the Medicaid Management Information System (MMIS II) and from DDA's Provider Consumer Information System II (PCIS2) for the purpose of selecting test items and assessing user access. We performed various tests of the relevant data and determined that the data were sufficiently reliable for the purposes the data were used during the audit. Finally, we performed other auditing procedures that we considered necessary to achieve our objectives. The reliability of data used in this report for background or informational purposes was not assessed.

DDA'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.

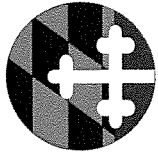
This report includes findings relating to conditions that we consider to be significant deficiencies in the design or operation of internal control that could adversely affect DDA's ability to maintain reliable financial records, operate effectively and efficiently, and/or comply with applicable laws, 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 DDA that did not warrant inclusion in this report.

As a result of our audit, we determined that DDA's accountability and compliance level was unsatisfactory. The primary factors contributing to the unsatisfactory

rating were the significance of our audit findings, and the number of repeat findings from the preceding report. Our rating conclusion has been made solely pursuant to State law and rating guidelines approved by the Joint Audit Committee. The rating process is not a practice prescribed by professional auditing standards.

The Department's response, on behalf of DDA, to our findings and recommendations is included as an appendix to this report. As prescribed in the State Government Article, Section 2-1224 of the Annotated Code of Maryland, we will advise the Department regarding the results of our review of its response.

APPENDIX



MARYLAND Department of Health

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

June 27, 2019

Mr. Gregory A. Hook, CPA
Legislative Auditor
Office of Legislative Audits
301 W. Preston Street
Baltimore, MD 21201

Dear Mr. Hook,

Thank you for your letter regarding the draft audit report of the Developmental Disabilities Administration (DDA) for the period beginning April 13, 2015 and ending April 30, 2018.

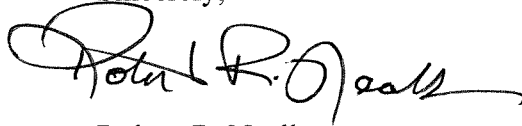
I appreciate and support the good work of the Office of Legislative Audits (OLA). However, a rating of “unsatisfactory” does not, in my view, fairly capture DDA’s current state of accountability and compliance, nor the progress it has made since your last audit.

My specific concerns include OLA findings regarding:

- Return of Contribution to Care Collections (Finding 8). Based on a 2013 OLA finding, DDA acted to identify individuals from whom contribution to care payments had been incorrectly collected. As of June 2019, DDA had disbursed more than \$1.1 million to 551 such individuals. This is a significant and ongoing effort requiring extensive research and careful consideration of Medicaid eligibility rules and other complexities.
- Financial Restructuring Contract (Finding 6). This finding suggests that DDA awarded a \$2.7 million sole-source contract, for assistance in financial restructuring, to an incumbent without adequate justification. In fact, both the Department of Budget and Management and the Board of Public Works reviewed the justification provided by DDA. Both of those entities approved the contract.
- Federal Funds (Finding 9). This finding, repeated from previous OLA reports, critiques DDA for not recovering certain federal funds in a timely manner. Its ultimate resolution is contingent upon DDA’s transition from prospective payment, currently mandated by State law, to a fee-for-service reimbursement model. In the meantime, however, DDA continues to make dramatic progress in reducing the financial impact of this issue. OLA reports estimated the “lost interest income” at \$4 million in 2002; \$421,000 in 2009; \$262,000 in 2013; \$210,000 in 2016. The current report estimates lost interest at \$125,000.

The Department's detailed responses to the report's findings are enclosed. I look forward to further discussion. If you have any questions or require additional information, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert R. Neall", with a stylized flourish at the end.

Robert R. Neall
Secretary

Enclosure

cc. Bernard Simons, Deputy Secretary, Developmental Disabilities Administration

**Maryland Department of Health
Developmental Disabilities Administration**

Agency Response Form

Consumer Budgets

Finding 1
The Developmental Disabilities Administration (DDA) did not ensure level-of-need scores used to determine consumers' service budgets were assigned in accordance with DDA's established criteria and were properly recorded in its Provider Consumer Information System II (PCIS2). Our testing disclosed that certain scores could not be supported.

We recommend that DDA

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

Agency Response			
Analysis			
Please provide additional comments as deemed necessary.			
Recommendation 1a	Choose an item	Estimated Completion Date:	October 2019
Please provide details of corrective action or explain disagreement.	The DDA concurs. The DDA will develop a sampling process to be conducted by the regional offices to ensure the level of need scores are properly assigned and recorded correctly in PCIS2 and LTSS. The Matrix score process will be phased out in July 2020 when the DDA fully implements the Person-Centered Plan, new services, and a new rate structure.		
Recommendation 1b	Choose an item	Estimated Completion Date:	October 2019
Please provide details of corrective action or explain disagreement.	The DDA concurs. The regional offices now retain copies of the level of need scores electronically on a shared drive. The DDA will develop a sampling process to be conducted by the regional offices to verify that the level of need scores is retained.		

**Maryland Department of Health
Developmental Disabilities Administration**

Agency Response Form

Provider Payments

Finding 2
DDA did not identify recurring overpayments made over several years totaling at least \$1.7 million that were later self-reported by a provider. In addition, DDA did not subsequently determine the full extent of the overpayments to this provider and whether similar overpayments were made to other providers.

We recommend that DDA

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

Agency Response			
Analysis			
Please provide additional comments as deemed necessary.			
Recommendation 2a	Choose an item	Estimated Completion Date:	Complete
Please provide details of corrective action or explain disagreement.	The DDA concurs. The DDA and the service provider in question executed a settlement agreement in July 2017 which covered Fiscal Years 2015, 2016, and 2017. In 2018, the DDA reviewed 969 records, of which 525 were for residential services provided by the agency. The review revealed that the provider agency did not bill for any unauthorized days of service. The DDA also conducted site visits to confirm that services were delivered in accordance with each individual's plan.		
Recommendation 2b	Choose an item	Estimated Completion Date:	Complete
Please provide details of corrective action or explain disagreement.	The DDA concurs. The DDA corrected the erroneous service designations identified by the service provider and will correct any erroneous service designations identified in future reviews of services.		

**Maryland Department of Health
Developmental Disabilities Administration**

Agency Response Form

Finding 3

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

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

Agency Response			
Analysis			
Please provide additional comments as deemed necessary.			
Recommendation 3	Choose an item	Estimated Completion Date:	December 2019
Please provide details of corrective action or explain disagreement.	The DDA concurs. DDA issued a Request for Proposal for a Quality Improvement Organization to conduct utilization reviews of DDA funded services. The DDA is finalizing its selection of a vendor and expects to have a contract in place by October 2019.		

**Maryland Department of Health
Developmental Disabilities Administration**

Agency Response Form

Procurement of Services and Related Billings

Fiscal Management Services

Finding 4

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

We recommend that DDA

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

Agency Response			
Analysis			
Please provide additional comments as deemed necessary.			
Recommendation 4a	Choose an item	Estimated Completion Date:	Dec 2019
Please provide details of corrective action or explain disagreement.	The DDA concurs. The DDA and the Office of Medicaid Provider Services (MPS) issued a Request for Proposals (RFP) on June 12, 2019 to provide the establishment and implementation of a statewide contract for Financial Management and Counseling Services to include billing and claims, quality assurance, consulting and training for individuals self-directing their services. The solicitation has been written to address the findings and recommendations. Participants will be able to hire, fire, and supervise their chosen Provider(s) as the sole employer.		

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	<p>The FMS vendors will record all provider payments into MMIS timely and take appropriate corrective action to obtain federal reimbursement for any outstanding claims. They will also be required to track and report of Individual/Participant budget balances and expenditures; processing of invoices for goods and services with DDA's established usual and customary rates for the services and take appropriate action for any overpayment.</p> <p>The DDA will ensure the resulting contract obtains the requisite approvals.</p>		
Recommendation 4b	Choose an item	Estimated Completion Date:	Dec 2019
Please provide details of corrective action or explain disagreement.	<p>The DDA concurs. The DDA issued a Request for Proposals to contract with a Quality Improvement Organization (QIO)/QIO-like to conduct utilization reviews. The FMS vendor will be subject to the utilization reviews.</p> <p>DDA received the FY'16 and FY'17 year-end reconciliations from both FMS agencies and the return of unspent funds.</p>		
Recommendation 4c	Choose an item	Estimated Completion Date:	Complete
Please provide details of corrective action or explain disagreement.	<p>The DDA concurs. DDA Federal Billing unit tracks self-directed services claims submission monthly using the monthly HMFM8211-R001 reports. Any anomalies discovered in the claim's submission process are brought to the provider's attention, so they may address any claims transmission issues or submission lapses.</p>		
Recommendation 4d	Choose an item	Estimated Completion Date:	Complete
Please provide details of corrective action or explain disagreement.	<p>The DDA concurs. DDA Federal Billing tracks self-directed services claims submission monthly using the monthly HMFM8211-R001 reports. Any anomalies discovered in the claim's submission process are brought to the provider's attention, so they may address any claims transmission issues or submission lapses. A review of FY17 claims submissions showed a large discrepancy between the total claims submitted and the total expenditures for an FMS provider. It was immediately brought to their attention and it was determined that the computer crashed during a claims transmission to MMIS. The provider addressed the issue immediately and the claims were subsequently resubmitted and paid.</p> <p>The DDA received federal reimbursement of \$4,948,184 in June and July 2018.</p>		

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Financial Restructuring Contract

Finding 5
DDA did not adequately justify a \$2.7 million sole source contract awarded to an incumbent vendor to continue assisting in the financial restructuring of DDA operations, and could not support a significant increase in the contract rates for one vendor employee.

We recommend that DDA

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

Agency Response			
Analysis			
Please provide additional comments as deemed necessary.	The title of the sole source contract is Management Consulting Support for the DDA's Transformation and Adoption of the Long Term Services and Supports (LTSS System).		
Recommendation 5a	Choose an item	Estimated Completion Date:	Complete
Please provide details of corrective action or explain disagreement.	The DDA concurs. The contract for management consulting support services was reviewed and approved by the Department of Budget and Management, the control agency, and approved by the Board of Public Works without discussion. An approved justification for the sole source contract was included in the paperwork		
Recommendation 5b	Choose an item	Estimated Completion Date:	Upon occurrence
Please provide details of corrective action or explain disagreement.	The DDA concurs. The DDA will ensure that contract rates in future contract modifications will be properly supported.		

Auditor's Comment: DDA, with the concurrence of DBM, disputes that the sole source justification it provided to the BPW was inadequate. However, the written sole source justification stated that the incumbent vendor who was awarded the contract was uniquely qualified to perform the work and that transitioning the services to a new vendor would result

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in significant costs, risk, and time delays. These conditions are not provided for in State procurement regulations as sole source justification.

Specifically, State procurement regulations provide that sole source procurement is not permissible “unless a requirement is available from only a single vendor”. In this case, we understand that neither DDA nor DBM dispute that there were other vendors who could have provided the services, albeit with certain time and development concerns; and we note that the services were put out for bid at a later time, receiving multiple bids. Consequently, we continue to believe the use of the sole source method in this instance does not appear to be proper. Finally, DDA’s and DBM’s position, if accepted, appears to set a lower threshold for future sole source procurement justifications, which could provide undue preference to incumbent vendors.

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Coordination of Community Services Agency Billings

Finding 6
DDA did not have an adequate process to ensure that amounts invoiced by Coordination of Community Services (CCS) agencies properly reflected consumer services provided.

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

Agency Response			
Analysis			
Please provide additional comments as deemed necessary.			
Recommendation 6	Choose an item	Estimated Completion Date:	December 2019
Please provide details of corrective action or explain disagreement.	<p>The DDA concurs. The DDA is finalizing the selection of a vendor to conduct utilization reviews. These reviews will include CCS agencies. Additionally, the DDA transitioned CCS activities and billings from PCIS2 to the Long-Term Support Services system (LTSS) on August 1, 2018. The functionality in LTSS is more robust than in PCIS2 and supports DDA's effort to improve accountability. DDA can see in real time CCS progress notes, activities, and billing. DDA is reviewing a sample of activity and progress notes, as well as completed comprehensive assessments to verify submitted invoices.</p>		

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Contribution to Care

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

We recommend that DDA

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

Agency Response			
Analysis			
Please provide additional comments as deemed necessary.			
Recommendation 7a	Choose an item	Estimated Completion Date:	January 2020
Please provide details of corrective action or explain disagreement.	<p>DDA does not concur. The DDA determined the extent of improperly collected CTC in Calendar Year 2013, the year analyzed and reported in the 2016 OLA audit report. The DDA sent files to affected residential providers for verification of amounts owed to individuals for CY 2013. Simultaneously the DDA worked with the Maryland Medicaid office to mitigate any adverse impact on individuals such as a loss of waiver services. To protect MA eligibility and eligibility for waiver services, the Eligibility Determination Division (EDD) can apply a remedial rule based on the Social Security Program Operations Manual System (POMS) procedure for SSI back payments to allow affected recipients nine (9) months following the month of receipt to spend or otherwise dispose of retroactive payments that would otherwise become excess resource amounts and thus affect eligibility beginning the month after the month of receipt.</p> <p>The DDA sent a letter to all affected individuals with an explanation, an opportunity to dispute the amount and included an invoice to facilitate the payments. In December 2018, the DDA began disbursements as invoices were submitted. As of June 17, 2019, 551 people have received payments totaling \$1,143,242.19.</p>		

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	<p>DDA is preparing to send a second letter to those individuals who did not respond to the initial letter.</p> <p>DDA providers are also Medicaid providers. Medicaid regulations require providers to retain records for six years. At this point, there is no guarantee that providers will have the records to verify the amount of CTC collected prior to CY 2013.</p>		
Recommendation 7b	Choose an item	Estimated Completion Date:	Complete
Please provide details of corrective action or explain disagreement.	<p>The DDA does not concur. The DDA consulted with the Eligibility Determination Division (EDD) to determine if approval from the Centers for Medicare and Medicaid Services (CMS) to mitigate the loss of waiver eligibility was needed. Based on their research of similar repayment issues, there was no written approval from CMS for the application of the SSI program “lump sum” rules to protect Medicaid waiver recipients from losing eligibility based on excess resources due to receipt of a repayment through no fault of their own. Consequently, no written approval from CMS was required.</p>		

Auditor’s Comment: While citing a disagreement, DDA’s comments do not conflict with the audit finding. Specifically, DDA cites actions either already mentioned in the report or those taken after the July 2018 date highlighted in the audit report. Ultimately, while certain efforts may have been initiated during the audit period, DDA had not made any reimbursements as of the time of our most recent audit testing. In addition, the DDA efforts to date appear limited to calendar year 2013 activity whereas the improper collections had been occurring for many years and continued through July 2014. We continue to believe that DDA needs to develop a plan to identify and reimburse the consumers for amounts improperly collected, as practical.

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Federal Funds

Finding 8
DDA did not recover certain federal funds timely, resulting in lost interest income of approximately \$126,000. These delays were due, in part, to untimely Medicaid eligibility redeterminations.

We recommend that DDA

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

Agency Response			
Analysis			
Please provide additional comments as deemed necessary.			
Recommendation 8a	Choose an item	Estimated Completion Date:	July 2020
Please provide details of corrective action or explain disagreement.	<p>The DDA concurs. However, this issue will continue until the DDA is able to transition from a legislatively mandated prospective payment system for community-based providers to a fee-for-service reimbursement model.</p> <p>This transition is dependent on changes to DDA's statute, the completion of the rate setting study, the operation of a new IT platform to support the new payment structure, and the simultaneous implementation of new services under the Community Pathways Waiver. DDA estimates the full implementation of these initiatives on or about July 2020</p> <p>In the interim, the DDA will continue its efforts to submit claims timely which have dramatically reduced lost interest. In FY 2002, the OLA cited the potential loss of \$4 million. The November 2009 audit cited the potential loss amount to \$421,000. The amount was further reduced in October 2013 to \$262,000 and in November 2016, was reduced to \$210,000. The amount estimated in this finding is \$125,000, or less than 0.009% of all federal revenue collected during the audit period.</p>		

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Recommendation 8b	Choose an item	Estimated Completion Date:	Complete
Please provide details of corrective action or explain disagreement.	The DDA concurs. Release 1.0 of the DDA functionality for CCS activities and billing in LTSS became operational in August 2018. The system is more robust than PCIS2 and generates alerts to the CCS 90, 60, and 30 days prior to the due date for the financial redetermination.		

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Provider Consumer Information System II (PCIS2)

Finding 9
DDA did not verify the accuracy and completeness of critical adjustments that were processed in PCIS2, resulting in errors such as overpayments going undetected, and did not adequately restrict user access in the system.

We recommend that DDA

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

Agency Response			
Analysis			
Please provide additional comments as deemed necessary.			
Recommendation 9a	Choose an item	Estimated Completion Date:	Complete
Please provide details of corrective action or explain disagreement.	The DDA does not concur. The DDA does not agree that this is a repeat finding / recommendation. The 2016 OLA audit report recommended that review procedures of adjustments in PCIS2 that were related to manual adjustments made at the request of the Division of Cost Accounting and Reconciliation. DDA established a review procedure with DCAR. Documentation of the procedure was provided during the audit review.		
Recommendation 9b	Choose an item	Estimated Completion Date:	June 2019
Please provide details of corrective action or explain disagreement.	The DDA concurs. Effective June 2019, as part of the Q1 FY 20 payment process, a report was generated showing all adjustments made in the quarterly payment. Fiscal staff then compare the report to the ticket system to ensure the adjustments were done correctly. This process will be done for each quarterly payment process.		

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Recommendation 9c	Choose an item	Estimated Completion Date:	Complete
Please provide details of corrective action or explain disagreement.	<p>The DDA does not concur. DDA does not agree that this is a repeat finding/recommendation. The DDA implemented and provided documentation showing the periodic review of user access capabilities. Lists were sent to supervisors to review the access of randomly selected staff. Supervisors responded by indicating the access was appropriate or it was not.</p> <p>There is defined access for fiscal staff that differs from program staff. Although one or two staff may be primary users of certain functionality in a system, there needs to be other staff that have access as a back-up in case of absence, especially long-term absence or in the case of a vacancy. DDA believes it is following Section 7.0 Access Control Requirements of the Department of Information Technology Security Policy in that the roles established support the concepts of “least possible privilege” and “need to know” and the separation of duties.</p>		
Recommendation 9d	Choose an item	Estimated Completion Date:	Complete
Please provide details of corrective action or explain disagreement.	<p>The DDA concurs. The DDA again reviewed the chart of the 13 people identified with the rights assigned to them with their current roles. Only one appears to be an inappropriate role assignment. The role for this employee was changed to better align with their job responsibilities</p>		

Auditor’s Comment: DDA disagrees that this finding is a repeat because it established reviews of critical adjustments in PCIS2 and user access. However, the reviews referenced in their response were not sufficient to ensure the propriety of critical adjustments or the appropriateness of user access. For example, this conclusion is supported by our audit finding, in which we identified improper access that should have been detected had sufficient reviews been conducted. Finally, although DDA disputes the number of individuals with improper access, this position is not consistent with prior audit discussions, and as of July 2, 2019, has not been supported.

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Finding 10

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

We recommend that DDA, for PCIS2, ensure that

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

Agency Response			
Analysis			
Please provide additional comments as deemed necessary.			
Recommendation 10a	Choose an item	Estimated Completion Date:	Sept 2019
Please provide details of corrective action or explain disagreement.	The DDA concurs. DDA recently initiated a Purchase Order Request For Proposals (PORFP) to purchase current database licenses for its PCIS2 database. Once the licenses are secured, DDA will migrate to the upgraded database software version and will ensure that all security patches issued will be tested and applied to the database as they are released.		
Recommendation 10b	Choose an item	Estimated Completion Date:	Sept 2019
Please provide details of corrective action or explain disagreement.	The DDA concurs. Upon discovery, DDA immediately updated the operating system for the PCIS2 database server on November 5, 2018. All critical security-related patches have been installed since and the operating system is currently up to date with most recent releases. In preparation for the end of support of this operating system in January of 2020, DDA has submitted a PORFP for new servers to include newer operating system versions which will be monitored regularly for security related patches		

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Finding 11

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

We recommend that DDA

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

Agency Response			
Analysis			
Please provide additional comments as deemed necessary.			
Recommendation 11a	Choose an item	Estimated Completion Date:	Complete
Please provide details of corrective action or explain disagreement.	The DDA concurs. DDA has reinstated the practice of sending encrypted backups off site weekly. A record of each backup is included with MDH Office of Enterprise Technology. The vendor picks up the media each week with other backups created by other units in the Department.		
Recommendation 11b	Choose an item	Estimated Completion Date:	Sept 2019
Please provide details of corrective action or explain disagreement.	The DDA concurs. The DDA recently hired a Network Specialist. Plans to create an updated Disaster Recovery Plan are underway. Weekly backups that would allow recovery from a disaster are already stored offsite. DDA has submitted a PORFP to purchase new database and web application servers to be housed at an alternative location. These machines will be used along with the backup media to restore PCIS2 in the event a disaster recovery is necessary. Our IT Security Group has reviewed the DoIT Disaster Recovery Guidelines and plans to complete our own documented plan with all relevant instruction and personnel by the end of the summer 2019.		

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Recommendation 11c	Choose an item	Estimated Completion Date:	Dec 2019
Please provide details of corrective action or explain disagreement.	The DDA concurs. Once the DDA Disaster Recovery Plan has been completed, DDA will implement documented testing on a quarterly basis to ensure continuity of operations should a disaster strike.		

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