Audit Report

Department of Health and Mental Hygiene
Family Health Administration

August 2011

OFFICE OF LEGISLATIVE AUDITS
DEPARTMENT OF LEGISLATIVE SERVICES
MARYLAND GENERAL ASSEMBLY

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DEPARTMENT OF LEGISLATIVE SERVICES
OFFICE OF LEGISLATIVE AUDITS
MARYLAND GENERAL ASSEMBLY

Karl S. Aro
Executive Director

August 23, 2011

Bruce A. Myers, CPA
Legislative Auditor

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

Ladies and Gentlemen:

We have audited the Family Health Administration (FHA) of the Department of Health and Mental Hygiene for the period beginning November 1, 2007 and ending August 3, 2010. FHA works to assure the availability of quality primary, preventive, and specialty health care services, with special attention to at-risk and vulnerable populations.

Our audit disclosed certain deficiencies relating to FHA's oversight of the Breast and Cervical Cancer Diagnosis and Treatment Program. Specifically, the automated payment system used to pay provider medical claims was not sufficiently controlled to ensure that all system program changes were authorized by management. In addition, system access controls were not adequate, and FHA did not have adequate policies regarding the identification and investigation of certain questionable claims.

The Department of Health and Mental Hygiene's response to this audit, on behalf of FHA, is included as an appendix to this report. We wish to acknowledge the cooperation extended to us during the course of this audit by FHA.

Respectfully submitted,

Bruce A. Myers

Bruce A. Myers, CPA
Legislative Auditor

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Table of Contents

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

Background Information

Agency Responsibilities

The Family Health Administration (FHA) protects, promotes, and improves the health and well-being of all Marylanders and their families by working to assure the availability of quality primary, preventive, and specialty health care services, with special attention to at-risk and vulnerable populations. In so doing, FHA aims to prevent and control chronic diseases, prevent injuries, provide public health information, and promote healthy behaviors.

FHA is also responsible for administering the Tobacco Use Prevention and Cessation Program and the Cancer Prevention, Education, Screening, and Treatment Program, which are designed to reduce tobacco use, cancer deaths, and tobacco-related diseases in the State. These Programs are financed by the Cigarette Restitution Fund.

According to FHA's records, its expenditures totaled approximately $209 million during fiscal year 2010, including $31 million applicable to the Cigarette Restitution Fund. FHA funding included approximately $128 million in federal funding, which was received primarily for the Women, Infants, and Children supplemental nutrition program. As noted in the Audit Scope, Objectives, and Methodology section of this report, an evaluation of internal controls for federal assistance programs and an assessment of FHA's compliance with applicable federal laws and regulations is not within the scope of this audit.

Status of Findings From Preceding Audit Report

Our audit included a review to determine the status of the eight findings contained in our preceding audit report dated July 18, 2008. We determined that FHA satisfactorily addressed seven of the findings. The remaining finding is repeated in this report.

Findings and Recommendations

Breast and Cervical Cancer Diagnosis and Treatment Program

Background

FHA is responsible for the Breast and Cervical Cancer Diagnosis and Treatment Program (BCCDTP) that uses an automated Electronic Claims Management System (eCMS) to pay BCCDTP authorized medical providers for diagnostic and treatment services provided to eligible individuals. BCCDTP, which is financed with general and special funds, is designed for low-income individuals whose income exceeds that which is allowable to qualify for the Medical Assistance Program (Medicaid) and who have a qualifying medical condition. According to FHA's records, payments to providers in BCCDTP totaled approximately $14.6 million on behalf of approximately 3,200 recipients that received services during fiscal year 2010.

Finding 1
FHA did not have sufficient procedures in place to ensure that only management authorized changes were made to eCMS production programs and related databases.

Analysis

FHA lacked sufficient procedures to ensure that only management authorized changes were made to the eCMS production programs and related databases. Specifically, our review disclosed the following conditions:

- Documentation (such as comparison reports) of program changes that were made to production programs was not generated and subject to independent review and approval by FHA supervisory personnel. In addition, although certain system program change requests were formally documented and recorded in a database, we were advised by FHA management personnel that other program change requests are occasionally made verbally or via e-mail. However, documentation of the verbal and e-mail requests was not always maintained and these requests were not always recorded in the database.

- Although FHA had established a process to identify and report direct access to eCMS-related databases (such as the database of authorized service providers) by employees who did not routinely maintain the databases, our review of the reports generated for fiscal year 2010 disclosed that reported access by certain employees was frequently not reviewed by supervisory personnel. Additionally, although employees who access the databases were required to complete a report noting the reason for their access, the reports were

frequently not completed by one employee who regularly accessed the databases, and supervisory personnel did not question the employee's access to the databases.

As a result of these conditions, there was a lack of assurance that only management authorized program changes to the eCMS system have been placed into production, and that all employee access to the related databases was appropriate.

The eCMS payment system is an off-the-shelf program purchased from a vendor that was implemented, with customizations, by BCCDTP. The system resides in the BCCDTP server and references BCCDTP databases containing eligible patient and provider information during the claims payment process. Due to the proprietary nature of the eCMS system software, requested program changes can only be made by the vendor.

Recommendation 1

We recommend that FHA

a. ensure that documentation of program changes made is generated and subject to supervisory review and approval, and that all requests for eCMS program changes are documented; and

b. ensure that all direct access to eCMS-related databases is reported and reviewed by supervisory personnel.

Finding 2

FHA did not establish adequate policies regarding the identification and investigation of certain questionable claims.

Analysis

FHA did not establish adequate policies regarding the identification and investigation of certain questionable claims. Specifically, FHA had not established the frequency with which certain eCMS reports were generated to identify questionable claims nor had it specified the extent of any follow-up to be performed.

In this regard, as of October 2010, FHA had not generated eCMS reports to identify questionable claim payments since November 2009. The report generated in November 2009 identified claims paid during the period from January 2008 to July 2009 that would appear to require multiple services, yet only one type of service was received by the patient on the date of service. (For example, a claim was paid for a surgical procedure with no related anesthesia or pathology service.) Although the report identified 322 questionable claims

totaling approximately $88,000 related to 106 providers, FHA only conducted an on-site review of one provider with questionable claims totaling approximately $1,700 (approximately two percent of total questionable claims identified). Based on this review, FHA determined that payments made to the provider were appropriate.

Recommendation 2
We recommend that FHA

a. establish a policy regarding the identification and investigation of questionable claims, and

b. pursue recovery of any improper payments identified.

Cigarette Restitution Fund (CRF)

Background

In November 1998, five major tobacco companies executed a settlement agreement with numerous states, including Maryland, whereby the companies agreed to pay the states approximately $206 billion over 25 years to settle all outstanding litigation. The Cigarette Restitution Fund (CRF) was established as a special non-lapsing fund used to distribute funds received by the State under this settlement for a variety of programs and initiatives. Annually, the funds are initially received by the Department of Budget and Management and subsequently distributed to the appropriate State agencies, including FHA.

Section 13 of the Health General Article of the Annotated Code of Maryland established the Cancer Prevention, Education, Screening, and Treatment Program (CPESTP) to be funded by the CRF. The intent was to coordinate the State's use of these funds to reduce tobacco use, tobacco-related diseases, and cancer deaths in the State.

State law further provides for the distribution of grants to various entities (including local health departments and certain academic institutions) for services such as screening, treatment, and research, and establishes a public relations component to counteract tobacco industry marketing and advertising efforts. According to the State's records, FHA's fiscal year 2010 expenditures for the CPESTP totaled approximately $11.5 million, including $9.5 million in grant expenditures for screening and treatment services.

Finding 3 (Policy Issue)
The financial eligibility criteria for CPESTP participants were not consistent among the local health departments.

Analysis

The eligibility criteria that FHA used to determine if an individual has the financial means to pay for services provided through CPESTP were not consistent throughout the State. According to FHA's records, CPESTP expenditures which include treatment services, totaled approximately $7 million during fiscal year 2010.

Our review disclosed that, according to the grant awards, 15 local health departments (LHDs) anticipated using a portion of their grant awards to pay for treatment services for eligible clients and thus were required to submit eligibility criteria to FHA for review. However, we noted inconsistencies among the LHDs in determining maximum income levels and family unit size for purposes of establishing a client's financial eligibility to receive services. For example, 14 of the 15 LHDs used annual gross income to determine income level while the remaining LHD used net income. Similarly, two LHDs did not consider a spouse's income and three other LHDs did not consider certain other income (such as worker's compensation payments and alimony) when calculating the income level. Additionally, when determining the family unit size, one LHD did not include the client's spouse or financially dependent children, and five LHDs did not include other financially dependent relatives of the client. These disparities occurred because State regulations require local health departments to develop written financial eligibility criteria for their individual jurisdictions.

A similar condition was commented upon in our preceding audit report. In response to our preceding audit finding, FHA issued guidance to the LHDs instituting a maximum income level (that is, the household income level must not exceed 250 percent of the federal poverty level) and requiring written documentation of household income and family unit size for clients seeking treatment services. However, this guidance did not establish statewide eligibility criteria clarifying how to determine household income and the definition of a family unit.

Recommendation 3

We recommend that FHA establish Statewide eligibility criteria to clarify the determination of household income and the definition of a family unit for CPESTP (repeat).

Audit Scope, Objectives, and Methodology

We have audited the Family Health Administration (FHA) of the Department of Health and Mental Hygiene for the period beginning November 1, 2007 and ending August 3, 2010. 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 FHA's financial transactions, records, and internal control, and to evaluate its compliance with applicable State laws, rules, and regulations. We also determined the status of the findings contained in our preceding audit report.

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

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

Our audit did not include an evaluation of internal controls for federal assistance programs and an assessment of FHA's compliance with federal laws and regulations pertaining to those programs because the State of Maryland engages an independent accounting firm to annually audit such programs administered by State agencies, including FHA. According to FHA's records, federal funding received during fiscal year 2010 totaled approximately $128 million.

FHA'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 FHA's ability to maintain reliable financial records, operate effectively and efficiently, and/or comply with applicable laws, rules, and regulations. Our report audit did not disclose any significant instances of noncompliance with applicable laws, rules, or regulations. Other less significant findings were communicated to FHA that did not warrant inclusion in this report.

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

APPENDIX

STATE OF MARYLAND

DHMH

Maryland Department of Health and Mental Hygiene
201 W. Preston Street • Baltimore, Maryland 21201
Martin O'Malley, Governor – Anthony G. Brown, Lt. Governor – Joshua M. Sharfstein, M.D., Secretary

August 11, 2011

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

Dear Mr. Myers:

Thank you for your letter regarding the draft audit report for the Department of Health and Mental Hygiene – Family Health Administration for the period beginning November 1, 2007 and ending August 3, 2010. Enclosed you will find the Department's response and plan of correction that addresses each audit recommendation. I will work with the appropriate Administration Directors, Programs Directors, and Deputy Secretary to promptly address the audit exceptions. In addition, the Office of Inspector General's Division of Internal Audits will follow-up on the recommendations to ensure compliance.

If you have any questions or require additional information, please do not hesitate to contact me at 410-767-4639 or Thomas V. Russell of my staff at 410-767-5862.

Sincerely,

Joshua M. Sharfstein, M.D.
Secretary

Enclosure

cc: Russell W. Moy, M.D., Director, FHA
Donna Gugel, Deputy Director, FHA
Frances B. Phillips, R.N., Deputy Secretary for Public Health Services, DHMH
Thomas V. Russell, Inspector General, DHMH
Ellwood L. Hall, Jr., Assistant Inspector General, DHMH

Department of Health and Mental Hygiene
Family Health Administration
Legislative Audit Report: Findings and Responses
August 11, 2011

Findings and Recommendations

Breast and Cervical Cancer Diagnosis and Treatment Program

Background

FHA is responsible for the Breast and Cervical Cancer Diagnosis and Treatment Program (BCCDTP) that uses an automated Electronic Claims Management System (eCMS) to pay BCCDTP authorized medical providers for diagnostic and treatment services provided to eligible individuals. BCCDTP, which is financed with general and special funds, is designed for low-income individuals whose income exceeds that which is allowable to qualify for the Medical Assistance Program (Medicaid) and who have a qualifying medical condition. According to FHA's records, payments to providers in BCCDTP totaled approximately $14.6 million on behalf of approximately 3,200 recipients that received services during fiscal year 2010.

Finding 1
FHA did not have sufficient procedures in place to ensure that only management authorized changes were made to eCMS production programs and related databases.

Recommendation 1
We recommend that FHA

a. **Ensure that documentation of program changes made is generated and subject to supervisory review and approval, and that all requests for eCMS program changes are documented; and**
b. **Ensure that all direct access to eCMS-related databases is reported and reviewed by supervisory personnel.**

FHA Response:

The financial eligibility requirements as noted in COMAR 10.14.02.03 states the income requirement for the BCCDT Program is $\leq$ 250% of the Federal Poverty Guidelines and not "those whose income exceeds that which is allowable to qualify for Medicaid".

a. The Administration concurs with recommendation #1a, regarding the need to document all eCMS program changes and that documentation needs to be subject to supervisory review and approval. Specifically, FHA will maintain the eCMS "Change Tracking Report" and will ensure that the eCMS vendor writes notes to indicate the solution to the problem, the date of testing, and who tested the solution. Effective July 1, 2011, another column was added to the report to allow the sign-off from the IT Programmer Analyst Supervisor/contract monitor to indicate that the solution was reviewed and all changes were approved.

b. The Administration concurs with recommendation #1b and will ensure that all direct access to eCMS –related database is reported and reviewed by supervisory personnel all direct access triggers will be reviewed and updated. The eCMS Auditing Exception Report will include more identifying information specific to the database change noted in the report. This will make it easier for the reviewer to match the documentation justifying the database change with the reported exception. BCCDT trained a new reviewer to question every exception that is not documented and any documentation that is not clear. This information is now routinely being reported to the IT Programmer Analyst Supervisor for review and follow-up. This procedure has been in place since July 1, 2011.

Finding 2
FHA did not establish adequate policies regarding the identification and investigation of certain questionable claims.

Recommendation 2
We recommend that FHA

a. Establish a policy regarding the identification and investigation of questionable claims; and
b. Pursue recovery of any improper payments identified.

FHA Response:

a. The Administration concurs with the finding and will establish a policy to identify and investigate questionable claims. However, the Administration would like to point out that the questionable claims do not necessarily represent an overpayment of services, in reality a stand alone claim (questionable claim) may represent an underpayment of services. In general, the policy will include:

    1) Generation of the eCMS report every 6 months to identify those claims with only one service billed, that would appear that other services/providers should also have billed for different aspects of the same procedure(s)

    2) Follow-up of the questionable claims by requesting documentation from the provider to support the claim(s).

b. The Administration concurs with the recommendation and will pursue recovery of any improper payments identified. Specifically, if adequate documentation is not forthcoming, such as a surgery report, pathology report, anesthesia report, etc., the BCCDT Program will investigate further and recoup any improper payment(s) if necessary.

Cigarette Restitution Fund (CRF)

Finding 3 (Policy Issue)
The financial eligibility criteria for CPESTP participants were not consistent among the local health departments.

Recommendation 3
We recommend that FHA establish Statewide eligibility criteria to clarify the determination of household income and the definition of a family unit for CPESTP (repeat).

FHA Response:

The Administration concurs with this recommendation and has established statewide eligibility criteria that is used to determine household income and the definition of a family unit.

FHA would like to clarify the following statement, "According to FHA's records, CPESTP expenditures for treatment services totaled approximately $7 million during fiscal year 2010." In FY 2010, a total of $7,033,218 was awarded to all of the local public health programs including the academic medical center CPEST programs. The vast majority of the $7 million was spent on cancer screening and education, and on staff to administer the program and provide case management services to clients at the local level. All programs are required to either pay for treatment or "link" clients to treatment services if they are found to have cancer. Only 9 of the 25 CPESTP funded programs allocated funding to cover any treatment costs. The remaining 16 counties help link patients to treatment. The budget for treatment services among the 9 programs was only a small percentage of their total CPESTP program funding. For FY2010, a total of approximately 3.5% (or about $250,000) of the $7 million was budgeted for treatment services. [1]

As a result of the same audit finding in the previous audit (September 14, 2004- October 31, 2007) the Department issued written guidance to the local CPESTP programs regarding eligibility requirements for clients to receive CRF-funded services for cancer treatment. Written guidance was issued on December 16, 2008 and again on November 24, 2009. Additionally, the eligibility criteria was discussed on several conference calls with the local programs in 2008 and 2009. However, there was still some inconsistency among some local health departments in determining family size and maximum income levels. Effective June 15, 2011, FHA established statewide standard client eligibility criteria for CPESTP, for both the local health department and academic center program(s), for clients who undergo treatment. The establishment of the statewide criteria was communicated to the programs through Health Officer Memo #11-33, and became effective for the Fiscal Year 2012 CPESTP grant awards.

[1] **Auditor's Comment**: Based on the FHA response, the report item has been modified to indicate that the $7 million total relates to all CPEST program expenditures including treatment services. The $250,000 cited by FHA is an incomplete budget total for fiscal year 2010 because it does not include all applicable counties' treatment services. FHA could not provide actual expenditures for treatment services. Nevertheless, FHA has agreed to implement the recommendation.

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