New Jersey State Legislature
Office of Legislative Services
Office of the State Auditor

Department of Children and Families
Office of Education

July 1, 2004 to November 15, 2006

Richard L. Fair
State Auditor
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Department of Children and Families
Office of Education

Scope

We have completed an audit of the Department of Children and Families, Office of Education for the period July 1, 2004 through November 15, 2006. Our audit included financial activities accounted for in the state’s General Fund.

Annual expenditures of the agency were $58 million. The Office of Education was created with the passage of the State Facilities Education Act of 1979. Effective July 1, 2006, the Office of Education is now under the newly created Department of Children and Families. The state aid accounts in the Department of Education provide year-round educational programming for students who have been referred to the office through arrangements with other governmental agencies. These students generally require intensive educational services and support that are not available through public schools. The Office of Education employs 670 individuals. They operate 18 regional schools throughout the state and administer 35 state operated or contracted sites across the state servicing 1,600 students annually.

Fiscal year 2006 revenue totaling $7.5 million is received from Medicaid recoveries and is deposited into the General Fund. The program which is designed to recover a portion of the cost of services provided to Medicaid eligible students, is administered by the Department of the Treasury.

Objectives

The objectives of our audit were to determine whether financial transactions were related to the agency's programs, were reasonable, and were recorded properly in the accounting systems.

This audit was conducted pursuant to the State Auditor's responsibilities as set forth in Article VII, Section 1, Paragraph 6 of the State Constitution and Title 52 of the New Jersey Statutes.
Methodology

Our audit was conducted in accordance with *Government Auditing Standards*, issued by the Comptroller General of the United States.

In preparation for our testing, we studied legislation, administrative code, circular letters promulgated by the State Comptroller, and policies of the agency. Provisions that we considered significant were documented and compliance with those requirements was verified by interview, observation, and through our samples of financial transactions. We also read the budget message, reviewed financial trends, and interviewed agency personnel to obtain an understanding of the programs and the internal controls.

A nonstatistical sampling approach was used. Our samples of financial transactions were designed to provide conclusions about the validity of transactions as well as internal control and compliance attributes. Sample populations were sorted and transactions were judgmentally selected for testing.

Conclusions

We found that the financial transactions included in our testing were related to the agency's programs, were reasonable, and were recorded properly in the accounting systems. In making these determinations, we noted certain internal control weaknesses relating to the Office of Education’s operations meriting management’s attention.
Effective oversight of the vendor is needed so that the state will receive Medicaid recoveries for all eligible claims.

Contract Vendor for Medicaid Recoveries

Special Education Medicaid Initiative (SEMI) is a program designed to recover a portion of the cost for certain related services provided to Medicaid eligible special education pupils. The SEMI program is managed by the Department of the Treasury, utilizing a third party contractor.

The Office of Education provides medical/health-related services to special education students. The Office of Education’s regional schools prepare documents indicating the days where a related service was provided and submits them to the outside contractor. It is the contractor’s responsibility to then file SEMI claims to Medicaid for those registered students that are Medicaid eligible. The contractor’s scope of work is to assist the state with administrative claiming activities and in maximizing revenues by processing accurate claims, preparing management and reconciliation reports, monitoring payments, and providing quality assurance functions.

Revenue from Medicaid recoveries are received by the Department of Human Services and deposited into the General Fund. The funds received are not recorded in the Office of Education’s revenue accounts.

We reviewed all Medicaid claims paid for services provided by the Office of Education for the period July 2000 through November 2006. We found that approximately $13 million in claimable dollars, $6.4 million of which represents state revenues, was not recovered by Medicaid because:

- Claims were not reprocessed when new rates were approved.
- Claims were not submitted to Medicaid because the current vendor’s automated
system was not operational. These claims cannot currently be submitted since the one year period for submission has elapsed.

- Claims were rejected due to errors and were not corrected by the contractor.

We found that based upon the limited accessibility of Medicaid claims data available to the state’s contract manager in the Department of the Treasury that it was difficult to ensure that the contractor processed all eligible claims correctly and timely. Moreover, the current contract does not have sufficient recourse by the state against the contractor in cases where eligible claims are known but not processed.

**Recommendation**

We recommend the Department of the Treasury review their responsibility for managing this contract and consider implementation of procedures necessary to obtain access to adequate Medicaid claims data. Their review should consider analysis as to whether the Medicaid unit within the Department of Human Services possesses the expertise required to more effectively monitor and manage the contract in the future. The contractor should be required to provide useful management reports that would include the service periods of the claim submitted and paid.

We further recommend that the Department of the Treasury initiate steps to have Medicaid reprocess those claims previously paid at the old rates. In addition, Treasury officials should request that the state’s Medicaid officer seek approval to submit those claims the contractor failed to submit within the time period allowed by regulation.

We also recommend that an amendment to the contract be made that would protect the state’s interest in cases where the contractor has not performed its due diligence in processing eligible claims within a timely manner.
Employee Time Reporting

The Office of Education has 670 employees working at 20 different locations throughout the state. Each site employs informal policies on the expected hours of work of their staff. Additionally, each site had their own timekeeping procedures, and time sheets were kept at each location without oversight from central office. Due to the decentralized operation, we tested 100 percent of the time sheets from May and June 2006.

We found that the Office of Education does not have formal policies and procedures on the hours of work and the recording of time by their employees. An April 2005 directive was issued outlining the expectations for the proper completion and verification of the time sheet. However, no subsequent training or monitoring was performed to ensure adherence to that directive. Our testing over a year later found the following weaknesses.

- Ninety-six time sheets did not have supervisory approval. Such approval should attest to the accuracy of the time sheet. Significant weaknesses were found at three locations with missing approval rates ranging between 10 percent and 45 percent. In addition, 15 percent of time sheets at one location were not properly signed by the employee. Without employee or supervisory signatures, the reliability of the time sheet is significantly reduced.

- Eighteen of the work locations had mathematical and recording errors in recording time on 209 time sheets. Some of these errors resulted in employees being paid for time not worked. Five locations had excessive error rates ranging from 10 percent to 38 percent.
- When an employee works beyond their expected hours during any given day, the additional time can be offset by reducing their work hours on another day within the same pay period. This is recorded on the time sheet as “adjusted time.” This is an informal mechanism for employees to adjust their work hours by coming in early, working later, or working through lunch. We found 140 time sheets where employees were using and/or carrying forward balances of “adjusted time.” The rate of occurrences at three locations range between 14 percent and 30 percent of the time sheets reviewed. “Adjusted time” is not a recognized practice in union contract agreements. The practice of allowing employees to carry forward “adjusted time” should be discontinued.

- There are multiple employees who work through lunch without taking the thirty minute lunch break which is required by the union contract. While the April 2005 directive specifically stated that the lunch break must be taken, we found 163 time sheets where the employee did not take the mandated lunch break. In 94 cases the employees work time was changed to either leave work early or earn “adjusted time”. One location had an occurrence rate of 23 percent.

**Recommendation**

We recommend existing policies and procedures be revised so that each party is informed of the due diligence expected of them for the proper completion, recording, and approval of time sheets. All staff involved should be trained on the proper completion of a time sheet. Monitoring of completed time sheets should be performed by the Office of Education’s Human Resource Unit to ensure compliance with established rules and consistent application for all locations.
Criminal History Background Checks

N.J.S.A. 30:4-3.5 requires that all prospective and current employees of the Department of Human Services (DHS) must submit to a criminal history background check as a condition of their employment and at least once every two years thereafter. A determination must be made that the employee has no criminal history for specific crimes on the Federal Bureau of Investigation (FBI), Identification Division database, or the State Bureau of Identification (SBI) database at the Division of State Police. To comply, DHS requires a two-year criminal history background check with the FBI to ensure that the employee's information is current and up-to-date. SBI provides immediate notification when an employee is arrested based on the employer of record in the system.

We tested 75 employees at four schools and found that 69 percent of the employees did not have background checks performed within the two year statutory requirement. Since the Office of Education has moved organizationally several times and SBI records have not been updated, the office would not be notified when an employee arrest occurs. As a result, students could be at risk.

Recommendation

We recommend that the Office of Education ensure that employees comply with the statutory requirement to obtain a criminal history background every two years. In addition, corrections to SBI's system should be made to ensure proper notification when an employee is arrested.
Cost savings and improved efficiencies can be achieved with the bus fleet and its administration.

Student Transportation Fleet

The Office of Education's bus fleet was acquired at the end of fiscal year 2003 by purchasing 170 buses for the 18 regional schools at approximately $42,000 per bus. A standard three-year warranty was received through the manufacturer. The office contracted with a third party provider to oversee the fleet management for these buses. They currently pay $43,000 per month of which $24,000 is administrative cost and $19,000 is preventative maintenance. In addition, a three-year extended warranty plan was purchased for $479,500 through the vendor.

Our review disclosed an underutilization of buses, non-performance of contract requirements, and potential cost savings with improved fleet management services.

Typically, 58 buses sit idle on any given day. Although it would be advantageous to have a certain number of buses available when other buses are being serviced or otherwise not operational, having 58 buses, which represents 34 percent of the fleet, as backups is excessive. In addition, we reviewed the mileage for 100 percent of the buses and noted that 92 of the buses, representing 54 percent of the fleet, traveled had 29,250 miles or less during their 39 months of service.

The contract stipulates that the vendor is responsible for warranty work and repairs. However, management has stated when necessary repairs were brought to the attention of the vendor, the vendor did not perform the required work. The contract also states that the vendor must provide a mechanic on site for the bi-annual Motor Vehicle Commission (MVC) inspections. There have been numerous times when a mechanic was not present during the MVC inspections. The Office of Education is having difficulties enforcing the terms of the contract with the vendor and have yet to file formal complaints with the contract compliance unit within the Division of Purchase and Property.
**Recommendation**

We recommend that the extra buses be taken from the regional schools and a pool of buses be setup at various locations throughout the state. We also recommend that Office of Education take recourse available to them by filing a complaint in an effort to get the vendor to comply with the contracted terms. In addition, the Office of Education should consider restructuring their fleet management operations.

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**Information System Security Controls**

Technology in Education NET (TIENET) is a system used by the Office of Education which contains all the students’ profiles. The system data is used to calculate state aid funding and includes confidential information such as social security numbers, medical files, and the Individual Education Plan for each student.

During our review, we found that a Statement on Auditing Standard (SAS) 70 review is not required and therefore it is not performed. SAS 70 provides guidance for independent auditors who issue audit reports on the processing of transactions by a service organization. These reports provide statements on the operating effectiveness of the control procedures placed in operation.

We recommend that a SAS 70 review be performed on the TIENET system to provide reasonable assurance on the reliability of the data and safeguarding of assets.
March 13, 2007

Stephen M. Eells
Assistant State Auditor
New Jersey State Legislature
Office of Legislative Services
Office of the State Auditor
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P.O. Box 067
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Dear Mr. Eells:

I am in receipt of the Confidential Draft Audit Report of the Department of Children and Families (DCF), Office of Education (OOE), dated February 27, 2007. Comments are provided to address each identified Internal Control Weakness and associated Recommendation(s) in order that this information be included within the Final Report.

Thank you for conducting a comprehensive audit of the OOE and for your recommendations to strengthen the Internal Controls of this operational unit within the DCF. As indicated within the Report, the financial transactions tested were related to the agency’s programs and found to be reasonable and recorded properly in the accounting systems.

**DCF, OOE Audit – Comments**

**Employee Time Reporting**

All recommendations have been fully implemented across all OOE work locations.

- Timesheets have been revised and implemented system wide. Timesheets include clear directives for accurate recording of time; lunch breaks; and signatures of the employee and immediate supervisor.

- All timesheets are forwarded to the OOE’s Human Resource Unit for direct review/monitoring and payroll posting. Each timesheet requires the
signature of the timekeeper and payroll clerk, verifying that the timesheet is complete and accurate and that the time has been posted in the payroll.

- Employee hours of work are recorded on the “Employee Hours of Work” Memorandum, signed by the employee and supervisor and retained by both individuals.

- A request for adjustment of time within the pay period must be submitted on the “Adjustment to Daily Work Schedule” form. Written supervisory approval is required. The form is attached to the timesheet for the corresponding pay period. An adjustment of work hours beyond the pay period has been discontinued.

- Training of all staff involved in employee time reporting has been conducted either on-site or via video-conferencing.

Criminal History Background Checks

Effective March 19, 2007, all employee fingerprints will be brought into compliance with the statutory requirement to obtain a criminal history background check every two years. The Department of Human Services is notifying the OOE of any employee arrests.

Student Transportation Fleet

All recommendations have been fully implemented.

- A formal complaint against the current Fleet Management Vendor has been filed within the Contract Compliance Unit with the Department of Treasury, Division of Purchase and Property.

- The current Fleet Management Contract expires on October 31, 2007. Extensive revisions and internal controls have been incorporated in the upcoming Treasury Request for Proposal for School Bus Fleet Management and Maintenance.

- Based upon analysis, the number of buses assigned to each school has been adjusted to accommodate current and potential transportation routes. An appropriate number of pool/spare buses has been assigned to
each school for ease of access during routine bus maintenance and required repairs.

- Procedures are in place to rotate the bus fleet twice per year to equalize the mileage across the fleet. This is necessary due to both rural and urban school locations.

Information System Security Controls

The vendor for the TIENET student data base system has agreed to arrange for a Statement of Auditing Standard (SAS) 70 review to provide reasonable assurance on the reliability of the data and safeguarding of assets. The required Internal Control activities will be initiated during the current fiscal year. An Independent Service Auditor Report will be issued, which describes the operating effectiveness of the control procedures of the service organization.

Thank you for your review of our comments and anticipated acknowledgment of the actions taken in response to your recommendations.

Sincerely,

Kevin M. Ryan
Commissioner

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c: Susan Stradling, Principal Auditor, Office of the State Auditor
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   Cathy Schafer
   Arbuta Jones
   Debra Stewart
March 8, 2007

Stephen M. Eells
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Re: Audit of the Department of Children and Families (DCF), Office of Education
Finding Related to “Contract Vendor for Medicaid Recoveries”

Dear Mr. Eells:

The Department of the Treasury appreciates the efforts of your office in its review of the Special Education Medicaid Initiative (SEMI) claiming at the DCF, Office of Education. We would like to thank you for giving us this opportunity to comment on the OLS findings. The departmental response to the recommendations follows:

**Recommendation 1**
The Department of the Treasury should review its responsibility for managing the SEMI contract and consider implementation of procedures necessary to obtain access to adequate Medicaid claims data. Treasury’s review should consider analysis as to whether the Medicaid unit within the Department of Human Services possesses the expertise required to more effectively monitor and manage the contract in the future.

**Response**
As was noted in the audit report, Treasury’s limited access to the Medicaid claims data does make it very difficult for us to ensure the SEMI contractor is processing all eligible claims correctly and timely. We agree with the auditor’s recommendation that Treasury’s responsibility for managing the SEMI contract should be reviewed. Given that SEMI is a Medicaid program, the contract for this program may be a better fit in the DHS because they have the specific expertise, access to the necessary information systems, and the technical resources necessary to more effectively oversee this program, especially since Medicaid claiming is part of the DHS core business functions. Treasury plans to initiate this review as recommended.
**Recommendation 2**
The SEMI contractor should be required to provide useful management reports that would include the service periods of the claim submitted and paid.

**Response**
Treasury plans to work with the contractor to get additional management reports that includes the recommended information. However, to more effectively review and monitor the claims submissions to identify the types of issues that were found during this audit, routine internal reports generated directly from the DHS Medicaid Management Information System (MMIS) would be more useful. It should be noted that in order for the OLS to identify the details of the claims that were cited in the audit, the auditor was given direct access to the MMIS and worked closely with DHS Medicaid staff at their location to decipher the claims data. Due to confidentially and HIPAA concerns related to patient information, Treasury did not have the benefit of this same access to properly review the claims submissions. The Medicaid claiming expertise and the technical resources that are necessary to adequately monitor and review detailed, contractor claims submissions rests in the DHS, and not in Treasury. As such, Treasury plans to initiate the review recommended by the auditor in Recommendation 1.

**Recommendation 3**
Treasury should initiate steps to have Medicaid re-process those claims previously paid at the old claiming rates. Treasury should also request that the state’s Medicaid officer seek approval to submit those claims the contractor failed to submit within the time period allowed by regulation.

**Response**
As was noted and documented at the exit conference for this audit, back in October 2003 Treasury initiated the steps to have those claims reprocessed at the revised rates, and we received confirmation and approval from the DHS Medicaid office in January 2004. Based on recent discussions with Medicaid staff and the OLS auditor, the DHS Medicaid office has already begun reprocessing these claims at the revised rates. Once the reprocessing is complete, the State will realize the revenues in the current fiscal year.

In addition, Treasury has submitted the necessary waiver requests to the state’s Medicaid officer to obtain approval for the claims that are past the timely filing window. If the Medicaid officer approves the waiver requests, the contractor will be instructed to submit these claims to Medicaid so the State can realize the revenues in the current fiscal year.

**Recommendation 4**
An amendment to the SEMI contract should be made that would protect the state’s interest in cases where the contractor has not performed its due diligence in processing eligible claims within a timely manner.
Response
Treasury agrees that the SEMI contract should be amended to add language that would protect the State’s interest. Treasury plans to discuss this issue with the Director of the Division of Purchase and Property.

As always, the Department of the Treasury appreciates the constructive recommendations offered by the Office of the State Auditor. If you require anything further, please let me know.

Sincerely,

[Signature]

Charles Chianese
Associate Deputy State Treasurer &
Director and Chief Financial Officer

c: Bradley Abelow
   Michellene Davis
   David Ridolfino
   Albertha Hyche
March 12, 2007

Stephen M. Eells
Assistant State Auditor
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Dear Mr. Stephen Eells:

This is in response to your correspondence of February 27, 2007 concerning the draft audit report of the Department of Children and Families (DCF), Office of Education (OoE). Your correspondence provides an opportunity to comment on the audit report.

The report states that the Office of Legislative Services (OLS) found that approximately $13 million in claimable dollars, $6.4 million of which represents state revenues was not recovered by Medicaid. The findings included in your audit report and the Division of Medical Assistance and Health Services (DMAHS) responses are provided below:

Claims were not reprocessed when new rates were approved.

This finding appears correct. Upon notification from the OLS auditor, Susan Stradling that this situation existed, DMAHS initiated a request to Unisys (our fiscal agent) to recycle the claims and have them paid at the proper rates. This request has been approved and is pending implementation in our claims processing system.

Claims were not submitted to Medicaid because the current vendor’s automated system was not operational and these claims cannot currently be submitted since the one year period for submission has elapsed.
DMAHS is not in the position to know what services have been rendered but not processed for payment by our providers. Under normal circumstances this would be the provider's responsibility to provide services and seek payment from DMAHS.

Since the preliminary findings of OLS were shared with all of the parties involved in this program, the Department of Treasury (Treasury) has requested waivers of the timely filing requirements from DMAHS to allow some of these claims to be submitted and paid. Currently, these waiver requests are under review by our legal specialist in our Office of Regulatory Affairs to determine if the circumstances cited by the contractor/billing agent and Treasury allow us the ability to waive the time limit requirement.

**Claims were rejected due to errors and were not corrected by the contractor.**

Customarily, Medicaid providers receive direct payments for services rendered. Therefore, they have an interest in accounting for their billing and payments. Even if providers employ billing agents, the provider would still be vigilant as to whether their payments were being processed or not; and follow up with the billing agent on the adjudication of their denied and pended claims. However, under the circumstances created with the established operations of Special Education Medicaid Initiative (SEMI) this innate interest is obscured.

Under the auspice of SEMI, the total payments are not directed to the providers. In the case of the DCF, day training centers, the payments are suppressed and the revenue is retained by Treasury. This is why the contract for the billing agent for the SEMI program was a contingency based contract and Treasury was appointed the contract manager. The contingency fee was to be an incentive to the contractor to work with the providers and successfully process as many billable services as possible. This approach would increase the revenue for the state, the provider and the contractor.

It is not an appropriate responsibility of DMAHS to initiate claims for providers. In fact, it would be perceived as a conflict of interest, for the DMAHS to manage the submission of claims for providers as well as control the operations of adjudicating their claims. However, to assist with the oversight of the submission of claims, monthly reports were created for each of the SEMI components (Early Intervention, Day Training and the Local Education Agencies) and distributed to Treasury. These reports summarize the number of claims that are processed, denied, or paid and include a total of the paid claims. One report contains this data by provider and another contains this data in aggregate. In addition, remittance advices (RAs) are distributed to providers/billing agents weekly in which there are details of all claim activity. These RAs supply the provider with a summary of all of
the claims that were processed for the period, classified by pended, denied, or paid status.

The report also states that your office found that based upon the limited accessibility of Medicaid claims data available to the state's contract manager in the Department of the Treasury that it was difficult to ensure that the contractor processed all eligible claims correctly and timely.

DMAHS does not feel that remittance advices (supplied to the providers and contracted billing agent), monthly reports (by provider and in aggregate), and ancillary reporting supplied to Treasury, upon request, is limited accessibility of Medicaid claims data. In fact, DMAHS feels that we have provided Treasury, DCF, OoE, Day Training Centers and the contracted billing agent with all of the necessary tools to monitor payments beyond the means that is supplied to any other Medicaid provider for the management of their claims.

It is your office's recommendation that the Department of the Treasury:

- Review their responsibility for managing this contract and consider implementation of procedures necessary to obtain access to adequate Medicaid claims data.
- Consider whether the Medicaid Unit possesses the expertise required to more effectively monitor and manage the contract in the future.
- Initiate steps to have Medicaid reprocess claims previously paid at the old rates.
- Request that the State's Medicaid officer seek approval to submit those claims the contractor failed to submit within the time period allowed by regulation.
- Amend the contract to protect the state's interest in cases where the contractor has not performed its due diligence in processing eligible claims within a timely manner.

As indicated in the aforementioned responses, DMAHS:
- believes that a conflict of interest would exist if we were to be responsible for managing and monitoring the contract of the billing agent for SEMI;
- has initiated rate adjustments for the claims previously paid at a prior rate; and
- is currently reviewing the regulations and allowance of payment for claims submitted beyond the 12 month timely filing deadline.
Please note that the considerate and professional approach of your audit staff is commendable and greatly appreciated. If you have any questions or require additional information, please contact me or Patricia Dix at 609-588-2820.

Sincerely,

Ann Clemency Kohler,
Director

ACK:D

c:  David Lowenthal
    Barbara Waugh
    Michael Chiofolo