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

Department of the Treasury
Bureau of Risk Management

July 1, 2002 to August 26, 2004

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State Auditor

New Jersey State Legislature

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The Honorable Richard J. Codey
President of the Senate

The Honorable Albio Sires
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Mr. Albert Porroni
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Enclosed is our report on the audit of the Department of the Treasury, Bureau of Risk Management for the period July 1, 2002 to August 26, 2004. If you would like a personal briefing, please call me at (609) 292-3700.

Richard L. Fair
State Auditor

December 22, 2004

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Department of the Treasury
Bureau of Risk Management

Scope

We have completed an audit of the Department of the Treasury, Bureau of Risk Management for the period July 1, 2002 to August 26, 2004. Our audit included all expenditure activities accounted for in the state's General Fund.

Total expenditures of the bureau were $68.8 million during fiscal year 2003 and $76.5 million for fiscal year 2004 through June, 30, 2004. The prime responsibility of the Department of the Treasury, Bureau of Risk Management is to protect the state's physical assets from the impact of accidental loss and to mitigate the adverse effect of any accidental loss on the state's revenues. The bureau administers the self funding of losses involving workers' compensation, tort liability, auto liability, subrogation for property damage and foster parent liability.

Objectives

The objectives of our audit were to determine whether financial transactions were related to the bureau's programs, were reasonable, and were recorded properly in the accounting systems. We also tested for resolution of significant conditions noted in our prior report dated December 20, 1999.

The 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 bureau. 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 bureau personnel to obtain an understanding of the programs and the internal controls.

Both statistical and nonstatistical sampling approaches were 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 randomly and judgmentally selected. We utilized information from fiscal year 2000 through March 2004 for the verification of sick leave injury and temporary compensation overlap payments as well as claim information for the testing of current claim expenditures. In addition, we utilized subrogation file information from fiscal years 1998 through 2004 to test the disposition of claims.

Conclusions

We found that the financial transactions included in our testing were related to the bureau's programs, were reasonable, and were recorded properly in the accounting system. In making this determination, we noted weaknesses in the coordination of benefits between the sick leave injury and the workers' compensation programs, the subrogation of property damage claims, and the Risk Management Information System (RMIS) controls meriting management's attention.

We also found that the bureau has resolved some of the significant issues noted in our prior report. Weaknesses regarding workers' compensation liens and managed care contracts have been improved. However, weaknesses pertaining to workers' compensation claims, computer systems, subrogation claims, and internal controls over the timely depositing and recording of cash receipts received by the bureau have not been adequately addressed and have been restated in the applicable sections of this report.

Coordination of Benefits

Coordination of SLI and Workers' Compensation benefits needs to be improved.

The Bureau of Risk Management (BRM) Workers' Compensation program is governed by N.J.S.A. 34:15-1 et. seq. and provides medical treatment for all state employees injured while working and nontaxable compensation to those who are eligible. Through Workers' Compensation, employees may receive temporary compensation (TC) and/or permanent awards. The bureau receives approximately 6000 new cases per year. The cost of the program for fiscal year 2004 totaled $52.8 million. TC is awarded at a rate of 70 percent of the employee's salary up to a weekly maximum as determined by the Commissioner of Labor($650 weekly for calendar year 2004) and is limited to 450 weeks. Medical providers in coordination with bureau investigators establish the length of leave time and the amount of TC to be paid. Permanent awards are determined by a workers' compensation court judgment.

State employees injured or who become ill while working may be eligible for the Sick Leave Injury (SLI) program. This program, established by N.J.S.A. 11A:6-8 and defined in N.J.A.C. 4A:6-1.6 et. seq., provides continuation of pay, limited to a period beginning on the initial date of injury and ending one year from that date. Eligibility differs from workers' compensation because benefits are not available for workers who lose time because of a pre-existing illness or condition which is aggravated in a work related accident when such aggravation was reasonably foreseeable, when the employee is injured through gross negligence or for injuries occurring during the employees' commute, lunch, or break period. All of these situations may be compensable under the workers' compensation law. Compensability determinations are made by the human resources or administrative sections within state agencies. An employee may appeal the denial of a claim to the Department of Personnel's Merit Board. Approved SLI claims are paid to the injured employee by his employing agency and these payments appear as regular, taxable payroll.

Employees receive TC while SLI is on hold, or denied and under appeal. There were 1164 employees who received TC payments with a due date between July 1, 2001 and April 30, 2004. If SLI is later approved for the same TC period, the employing agency is responsible to reimburse the BRM for TC paid during the approved SLI period and to pay the employee for the difference between the nontaxable TC and taxable SLI. We found agencies which did not reimburse the BRM, and reimbursements owed to the BRM that were miscalculated. We sampled 111 employees where an overlap in benefit payments appeared likely and noted the following exceptions.

- We noted 50 occurrences, totaling $151,925, where agencies owe the BRM for TC payments made when SLI was approved after the commencement of TC. These cases did not go through the appellate process and the BRM was therefore not aware of any reimbursement due.

- There were 33 occurrences, totaling $196,717, where BRM has requested reimbursement from the employing agency for the TC payments made during an approved SLI period, which remain unpaid. All of these SLI claims were approved via the Merit System Boards' appellate process.

- We found 21 requests for reimbursements which were miscalculated due to lack of SLI information provided by agency human resource personnel.

- We found 47 claimants who received $47,809 of TC for the same period that regular payroll was processed by their employing state agency and paid to the claimant.

- We found 19 employees who were not paid the difference between TC and SLI by their employing agency.

Ninety-three percent (57 of 61 tested) of the employees who did receive the difference between SLI and TC were paid the improper amount because of the taxability differences between the two programs. SLI is fully taxable, while TC is a tax-free benefit. The total SLI amount must be shown on the employees' payroll records. Agencies would improperly compensate the employee for the difference between SLI and TC and withhold taxes based only on the difference instead of the full SLI amount. Thus, the employees' W-2 income and payroll taxes are understated.

Recommendation

We recommend that the SLI and Workers' Compensation programs be managed by one function which would reduce or eliminate overlapping TC and SLI occurrences, duplicate payments, and potential tax implications. A centralized coordination of these benefit programs could provide consistent benefit determination and payment calculations to be completed.

Caseload Management

Claims are not being properly investigated due to unmanageable caseload levels.

The BRM Claims Investigators are responsible for determining compensability on a work related injury. In making this determination, the investigator may be required to interview any and all parties involved, visit accident scenes and make sketches or take photos, obtain all medical and police reports which may be necessary in litigated claims, attend hearings, and have ongoing interaction with injured workers, state agencies, Horizon Casualty Services, and attorneys. In addition to these duties, the investigators are required by BRM to make bi-weekly visits to agencies within their territory to train agency human resources personnel on workers' compensation procedures. As of July 2004, the bureau employed 14 claims investigators.

According to BRM management, each investigator carries a caseload which averages 751 cases. A recent Wyoming Legislative Audit report notes private industry standard caseload is 150 to 175 cases per investigator. Staffing practices within an organization are widely understood to have a profound impact on efficiency and productivity. BRM investigators interviewed agree that their caseloads are unmanageable due to present staffing levels. Thorough documentation provides evidence for internal review and also supports the decisions made when cases go to court. Investigators are unable to perform their titled duties, they simply process claims after minimal screening and have little time to investigate.

Recommendation

We recommend the BRM reduce their staff-to-case ratio which would enable investigators to perform their duties.

Internal Controls over Subrogation Functions

Improved collection procedures could enhance recoveries.

The bureau's subrogation unit is responsible for the administration and recovery of claims on behalf of the state against others responsible for damages to the state, its employees, and property. Over the past six fiscal years the subrogation unit has compiled $4 million in outstanding open and closed claims with no payments. The following factors contribute to the loss of potential revenue for the bureau.

- The subrogation unit has an outdated computer system that does not provide management the ability to monitor and track open and closed claims properly. Furthermore, the computer system can not handle multiple users at one time, slowing down the overall efficiency of the unit. This condition was noted in our previous report dated December 1999.

- There are no formal procedures or written policies for claims investigators to follow regarding the collection process. Claims investigators have no clear understanding of when uncollected claims greater than $1,000 should be handed over to the Division of Law for investigation. Currently unresolved cases are not being handed over at all. Additionally, cases under $1,000 that are deemed uncollectible are not being forwarded to the Division of Revenue for possible collection through the Set-Off of Individual Liability (SOIL) program, as noted in our previous report. Furthermore, the unit wastes valuable time by waiting too long between claim notices. After a first notice is mailed, the investigators wait eight weeks before sending out a follow-up notice and wait another eight weeks for a response.

- The bureau/unit does not have a reconciliation process established for incoming claims. Currently, management does not reconcile how many claims come into each investigator to ensure that all claims are accounted for appropriately. Without a reconciliation process, the risk of losing claims increases.

- There is a lengthy time lapse from when an accident occurs to when the bureau/unit receives a report from the applicable state agency. We reviewed 20 claims and found, on average, it takes 7 ½ months before the proper documentation is submitted to the subrogation unit.

- The unit did not maintain adequate records. We sampled ten closed cases with no payments and found seven had unacceptable supporting documentation. Five of the seven cases had no support on file.

- The bureau/unit does not have direct access to motor vehicle records/files that could be matched against the bureau's records in order to find new addresses for individuals with outstanding claims. They rely on other divisions for assistance; however, this process is burdensome, time consuming, and often not productive.

In addition, as was noted in our previous report dated December 1999, the bureau is not complying with Circular Letter 94-24 OMB, which states, "Agencies are to ensure that all money's are deposited on the same day received." A cash count of the bureau's subrogation unit discovered that 47 checks totaling $140,000 were on hand ranging between 3 to 20 days after receipt. The unit is holding onto checks in order to determine what agency will be reimbursed for the payment received. Furthermore, there is no segregation of duties regarding the deposit process. The same individual receives, inputs, and deposits checks for the subrogation unit. Without strong internal controls, the bureau is more vulnerable for misappropriation of state funds.

Recommendation

We recommend that the bureau:

- Implement the necessary computer enhancements to provide management with sufficient information regarding subrogation claims to improve the overall effectiveness of collections. Upgrades to the RMIS system to include subrogation data could be an effective solution to the bureau's outdated system.

- Develop written policies and procedures for investigators. Particularly, the unit needs to develop a faster timeline for responses to claims in question. Furthermore, the subrogation unit needs to improve its cooperation with the Division of Law and the Division of Revenue to improve upon the collection of outstanding claims.

- Establish a reconciliation process to monitor incoming claim activity to ensure all of the incoming claims are being processed properly.

- Improve its cooperation and coordination with outside agency's regarding the time it takes to collect and submit claim information to the subrogation unit.

- Institute a records storage policy for subrogation files that extends to the Records Retention Center. Furthermore, written guidelines should be developed in order to help investigators determine if a case should be considered closed.

- Gain access to motor vehicle records.

- Deposit checks received in accordance with statewide policy per OMB circular letter.

RMIS Internal Controls

A business continuity plan should be developed and data edit controls should be improved.

The Risk Management Information System (RMIS) is utilized by the bureau for administration and payment of workers' compensation, auto liability, and tort liability claims. The RMIS is a Department of the Treasury system that is supported by the Office of Treasury Technology (OTT).

The bureau does not have a written business continuity plan. A plan would provide the bureau with a written set of instructions should a disaster occur. Lack of a business continuity plan places the bureau at risk in their ability to process information or review the information that payments are based upon. It also places employees at risk of receiving their correct benefits timely. Industry best practices indicate that a plan should be written, in place, and tested periodically. The bureau is not solely responsible for this function. The OTT is aware of the need and is in the process of developing a plan and obtaining an alternate site where operations would continue in the event of a disaster.

Investigators at the bureau process claim information and payments. Investigators have the ability to make temporary address changes directly to the claim. This temporary change is a one-time change to the address in the file. The on-site OTT staff member has the ability to make permanent address changes to the claim file. There is no required form to submit an address change. Changes can be verbally requested or written on any piece of paper. The OTT employee makes the change in the system. In addition, there is no system log of the address change. Therefore, there is no system record that states what the address was prior to the change or the changes that were made. A written form or letter submitted by the employee would substantiate the change in address and when kept in the claim file would provide evidence of authorization. In addition, a system log of the specific changes made to the address field would provide information for an independent review. Allowing an investigator to make a temporary change or allowing information technology personnel to make permanent changes without proper documentation could allow for improper address changes resulting in improper payments to be disbursed.

Recommendation

We recommend the bureau develop a business continuity plan in conjunction with OTT and schedule periodic testing to ensure the plan works. We also recommend the bureau request in writing from the claimant any address changes and that the letters be retained in the claimant's file. The addition of an address change edit in the system and a proper review process of the log for these changes would strengthen the internal control system.

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RICHARD J. CODEY
Acting Governor

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December 17, 2004

DEPARTMENTAL RESPONSE

James Patterson
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Office of Legislative Services
Office of the State Auditor
P.O. Box 067
Trenton, NJ 08625

RE: Audit Report – July 1, 2002 to August 26, 2004
Department of the Treasury – Bureau of Risk Management

Dear Mr. Patterson:

The Department of the Treasury appreciates the efforts of your staff in the audit performed at the Bureau of Risk Management, and for the courteous and professional manner in which your staff worked with the Bureau. The Departmental response to the recommendations is as follows:

COORDINATION OF BENEFITS

Audit Recommendation: Recommend that the SLI and Workers' Compensation programs be managed by one function which would reduce or eliminate overlapping temporary compensation and SLI occurrences, duplicate payments and potential tax implications.

Response: The Bureau strongly agrees and supports improved coordination of the administration of the Sick Leave Injury (SLI) program and the Workers Compensation program to ensure the proper processing of payments to employees, so as to reduce or eliminate overlapping and duplicate payments.

The Sick Leave Injury program is administered by the Department of Personnel with decision-making authority vested across all of the state departments, while the Workers

Compensation program is administered by the Department of Treasury, Bureau of Risk Management.

For SLI cases which are administratively denied by the department, appealed by the employee to the Department of Personnel Merit Board and then granted, the Bureau receives a copy of the decision. The Bureau then sends out a letter to the particular department requesting reimbursement for any temporary payments made under the Workers Compensation program. The Bureau is implementing a further follow-up program for departments which do not respond to this letter.

For SLI cases where temporary payments are requested from the Bureau, and thereafter the particular department makes a decision to grant SLI, the Bureau currently is not made aware of this SLI decision and related payments. The Department of Treasury has contacted the Department of Personnel to seek access for the Bureau to the Department of Personnel PMIS (Personnel Management Information System), so as to be able to confirm an employee's status and avoid overlapping or duplicate payments.

CASELOAD MANAGEMENT

Audit Recommendation: Recommend the BRM reduce their staff-to-case ratio which would enable investigators to perform their duties.

Response: The Bureau is working aggressively with the state departments that generate the most workers compensation claims to develop strategies to reduce the number of claims. In addition, the Bureau will review its internal policies and procedures to identify ways to more effectively manage claims.

INTERNAL CONTROLS OVER SUBROGATION FUNCTIONS

Audit Recommendation. Recommend that the Bureau implement the necessary computer enhancements to provide management with sufficient information regarding subrogation claims to improve the overall effectiveness of collections.

Response: The Bureau already has secured the funding, completed and accepted the design and begun the programming of enhancements to the RMIS system to provide management of subrogation and third party claims. The Bureau expects to move these enhancements into production by the last quarter of FY2005.

Audit Recommendation: Recommend that the Bureau develop written policies and procedures for investigators.

Response: The Bureau will develop written policies and procedures for investigators.

Audit Recommendation: Recommend that the Bureau establish a reconciliation process to monitor incoming claim activity to ensure all of the incoming claims are being processed properly.

Response: New enhancements being developed for the RMIS system will enable management of claim activity and payments. Meanwhile, the Bureau is developing a new system, and has assigned an employee to ensure full reconciliation of receipt of payments and entry into the system for crediting as a recovery against amount due.

Audit Recommendation: Recommend that the Bureau improve its cooperation and coordination with outside agencies regarding the time it takes to collect and submit claim information to the subrogation unit.

Response: The Bureau will send a letter to all state departments seeking improved cooperation and requesting timelier reporting of claim information to the Bureau.

Audit Recommendation: Recommend that the Bureau institute a records storage policy for subrogation files that extends to the Records Retention Center, and that written guidelines should be developed in order to help investigators determine if a case should be considered closed.

Response: The Bureau will develop a formal written Records Retention Policy.

Audit Recommendation: Recommend that the Bureau deposit checks received in accordance with statewide policy per OMB circular letter.

Response: The Bureau will work to deposit checks received in accordance with statewide policy per OMB circular letter.

RMIS INTERNAL CONTROLS

Audit Recommendation: Recommend the Bureau develop a business continuity plan in conjunction with OTT and schedule periodic testing to ensure the plan works.

Response: The issue of business continuity on a statewide scale started to be addressed in November 2003, when the Office of Treasury Technology (OTT) in the Department of Treasury, Division of Administration, partnered with the Department of Law and Public Safety, to configure a disaster recovery site. A site, known as the "Rt. 130 Disaster Recover" site was acquired, and the proposed occupation date is June 2005. The Office of Information Technology (OIT) also is planning to use this site for its disaster recovery project (OARS), which will provide disaster recovery services for its own server environment and eventually for other requesting departments throughout the State.

Additionally, the Department of Treasury and Department of Law and Public Safety contracted with an outside vendor, RICOMM Systems, Inc., to prepare a disaster recovery plan for both departments. The vendor currently is preparing a draft plan that will propose how to best equip the backup data center. The RMIS system has been included in the list of systems designated as critical and will be part of the final proposed product. The draft vendor report is expected in October 2005. Thereafter, a budget plan and funding will need to be addressed.

Audit Recommendation: Recommend the Bureau request in writing from the claimant any address changes and that the letters be retained in the claimants' file.

Response: A new system has been put in place. A new form has been designed that is sent to an employee who wishes to make any address changes, which will verify the request and thereafter be maintained in the claimants' files.

As always, the Department of Treasury accepts the constructive recommendations identified by the Office of the State Auditor. Please do not hesitate to contact me should you require any further clarification on these matters.

Sincerely,

Robert L. Smartt
Deputy State Treasurer

c: Carol Ehrlich, Chief of Staff
Richard L. Fair, State Auditor
James Collins, Director, Bureau of Risk Management