

STATE OF NEVADA

Performance Audit

Department of Health and Human Services
Aging and Disability Services Division

2016



Legislative Auditor
Carson City, Nevada

Audit Highlights



Highlights of performance audit report on the Aging and Disability Services Division issued January 18, 2017. Legislative Auditor report # LA18-04.

Background

The Division develops, coordinates, and delivers a comprehensive support system of services for Nevada residents aged 60 and over, and children and adults with disabilities or special health care needs. Most of the Division's expenditures relate to services for intellectually disabled persons, which are primarily funded through state appropriations and Medicaid funds. Expenditures for these services totaled about \$160 million in fiscal year 2016, mostly for payments to SLA and JDT providers.

SLA providers offer residential support services to individuals who require assistance to live in the least restrictive community setting possible. SLA services were provided to about 1,900 persons per month in fiscal year 2016. JDT providers assist individuals in obtaining meaningful employment and living skills to help them achieve community inclusion, independence, and productivity. JDT services were provided to about 2,400 persons per month in fiscal year 2016.

Purpose of Audit

The purpose of this audit was to determine whether the Division has: (1) adequate controls over payments to providers of Supported Living Arrangement services and Jobs and Day Training services, and (2) effectively monitored these providers to ensure the safety and welfare of individuals with intellectual disabilities. The scope of our audit was calendar year 2015, although we included some activities in 2016.

Audit Recommendations

This audit report contains 10 recommendations to improve the Division's oversight of providers of services to intellectually disabled persons. Six recommendations improve controls to ensure the Division only pays providers for services performed. Four recommendations help ensure the Division effectively monitors providers to ensure the safety and welfare of individuals with intellectual disabilities.

The Division accepted the 10 recommendations.

Recommendation Status

The Division's 60-day plan for corrective action is due on April 13, 2017. In addition, the six-month report on the status of audit recommendations is due on October 13, 2017.

Aging and Disability Services

Department of Health and Human Services

Summary

The Division needs additional controls to prevent overpayments to providers of services to individuals with intellectual disabilities. Based on our test results, we estimate the Division overpaid providers a combined total between \$3.5 million and \$4.3 million in 2015. Overpayments to providers included those providing 24-hour care, as well as those providing jobs and day training to the Division's clients. The combined total is based on overpayments identified in three areas: (1) overbilling issues for 24-hour care homes (\$2.2 million to \$3.0 million); (2) billing for more supported living arrangement (SLA) services than were agreed upon (\$504,000); and (3) billing for more jobs and day training (JDT) services than were provided (\$766,000). Improved controls would help ensure the Division receives the services it pays for and intellectually disabled individuals receive the services they need. Furthermore, by eliminating overpayments to providers, the Division can serve more clients. The Division paid a total of \$106 million in calendar year 2015 to providers serving clients of the Desert Regional Center (DRC) and Sierra Regional Center (SRC).

Some of the overbilling problems described in this report may be the result of provider fraud, while others may be unintentional errors. Therefore, as required by NRS 218G.140(2), we reported this information to the Governor, each Legislator, and the Attorney General.

Although the Division has a thorough process for certifying SLA providers, the timeliness of certifying these providers needs to be improved. In addition, the Division has not yet developed a rigorous process for certifying JDT providers, several years after legislation was passed requiring them to do so. A well-developed certification process will include standards for the provision of quality care and training by JDT providers to the Division's intellectually disabled clients. Finally, the Division did not always have documentation showing that deficiencies noted during home inspections were corrected.

Key Findings

We estimate the Division overpaid providers of 24-hour SLA services between \$2.2 million and \$3.0 million in 2015. Our estimate is based on a detailed review of about \$550,000 in payments for about 1,800 days of service, which found overbillings of between 3.1% and 4.3% of the total billed. (page 7)

The level of SLA services provided to the Division's clients often varied from the level agreed upon. In about one-fourth of the days tested, the number of staff hours provided were less than the number established when the contract was developed. On days that clients are underserved, it can affect their health and welfare, as well as the safety of provider staff. Conversely, in about one-fourth of the days tested, the number of hours provided was greater than the number agreed upon. We estimate the Division overpaid providers of SLA services an additional \$504,000 in 2015 for days when more hours were provided than were agreed upon. (page 10)

For 27 of 150 (18%) JDT billings tested, the number of days billed was more than the number shown on providers' logs of staff and client daily attendance or other records. We estimate the Division overpaid providers of JDT services about \$766,000 in calendar year 2015. Based on the average cost of providing JDT services for a year, eliminating overpayments to JDT providers could have paid for JDT services to about 50 more clients for one year. (page 13)

Our testing of the 29 largest SLA providers found 27 were not certified timely. Certification reviews include inspections and testing to help ensure that clients' living conditions are safe and provider staff are properly trained and have cleared criminal background checks. (page 16)

The Division's certification process for JDT providers is limited to administrative requirements, such as verifying the provider has a Nevada business license. The process excludes criminal background checks, documentation of employee licensure, and proof of staff training. The Division has not yet adopted regulations with more rigorous certification requirements, as required by legislation passed in 2009. In addition, the Division has not documented that additional certification requirements from legislation passed in 2011 have been met. (page 18)

Although the Division inspected homes timely, it did not have an effective process to ensure deficiencies identified during home inspections were corrected. In 14 of the 29 homes we tested that were inspected, corrective action was required to address deficiencies found in the home. However, for 6 of the 14 (43%) homes with deficiencies, the Division did not have documentation showing that corrective action was completed. (page 21)

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This report contains the findings, conclusions, and recommendations from our performance audit of the Department of Health and Human Services, Aging and Disability Services Division. This audit was conducted pursuant to the ongoing program of the Legislative Auditor as authorized by the Legislative Commission. The purpose of legislative audits is to improve state government by providing the Legislature, state officials, and Nevada citizens with independent and reliable information about the operations of state agencies, programs, activities, and functions.

This report includes 10 recommendations to improve the Division's oversight of providers of services to intellectually disabled persons. We are available to discuss these recommendations or any other items in the report with any legislative committees, individual legislators, or other state officials.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Rocky Cooper".

Rocky Cooper, CPA
Legislative Auditor

December 14, 2016
Carson City, Nevada

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Introduction

Background

The Aging and Disability Services Division (Division) is an agency in the Department of Health and Human Services. The Division develops, coordinates, and delivers a comprehensive support system of services for Nevada residents aged 60 and over, and children and adults with disabilities or special health care needs. In 2013, the Legislature approved the Governor's recommendation to consolidate department-wide disability services within the Aging and Disability Services Division. To accomplish this, responsibility for providing services to intellectually disabled persons was transferred from the Division of Mental Health and Developmental Services to the Division. Early Intervention Services was also transferred to the Division from the Health Division.

Services for Intellectually Disabled Persons

The majority of the Division's expenditures relate to services for intellectually disabled persons. These services are provided through three regional centers: Desert Regional Center (DRC), Sierra Regional Center (SRC), and Rural Regional Center (RRC). DRC serves Clark County and parts of Lincoln and Nye Counties. SRC serves Washoe County, and RRC serves the remaining counties.

The centers provide assistance to individuals diagnosed with intellectual disabilities and related conditions. Intellectual disabilities include having significantly subaverage general intellectual functioning, existing concurrently with deficits in adaptive behavior and manifested during the developmental period. Persons with related conditions refers to persons who have manifested before attaining the age of 22 years a severe, chronic disability which is attributable to cerebral palsy, epilepsy, or similar conditions that limit or impair a person's general intellectual functioning or adaptive behavior.

Regional centers used to perform all services for individuals with disabilities when individuals with disabilities were treated in facilities managed and run by the State. However, a U.S. Supreme Court decision in 1999, Olmstead v. L.C. and E.W., mandated that individuals with disabilities be integrated into communities and assimilated into society if treatment professionals determine integration is appropriate for an individual. The criterion of integration was written in the majority opinion, including the following:

States are required to place persons with mental disabilities in community settings rather than in institutions when the State's treatment professionals have determined that community placement is appropriate, the transfer from institutional care to a less restrictive setting is not opposed by the affected individual, and the placement can be reasonably accommodated, taking into account the resources available to the State and the needs of others with mental disabilities.

Developmental services currently provided by regional centers include service coordination; family support, such as respite care; Supported Living Arrangements (SLA); Jobs and Day Training (JDT); autism and psychological services; and quality assurance. Most of the services provided by regional centers are done through SLA and JDT service providers.

In accordance with the Supreme Court decision mentioned above, the SLA program offers supported living services to individuals who require assistance to live in the least restrictive community setting possible. These services are designed to maximize independence in the community. Regional centers contract out SLA services to various providers. Providers that manage services in homes may have several individuals that need assistance at each home. Some of these homes are staffed with a home supervisor/manager and support staff consistent with providing the appropriate amount of contracted services and support hours for each individual. Exhibit 1 shows the most common home settings used to provide SLA services to clients.

Supported Living Arrangement Home Types and Descriptions**Exhibit 1**

Home Type	Description
24-Hour	24-hour homes provide services to clients that require the maximum level of SLA services. Provider staff is present whenever there are clients at home. Clients typically live in a home with roommates in a community neighborhood and share the support service from the provider. There are about 260 24-hour homes utilized by DRC and SRC.
Host	Clients who desire or need a family living situation receive services from a host home provider who includes the service recipient in their family life and activities. Direct services/supports are to assist in the acquisition, retention, or improvement of skills for the client to successfully reside in the community. There are about 60 host homes utilized by DRC and SRC.

Source: Division records.

Jobs and Day Training assists individuals in obtaining meaningful employment and living skills to help them achieve community inclusion, independence, and productivity. JDT services include: 1) day habilitation that enables a participant to increase or maintain capacity for independent functioning and decision making; 2) facility-based work/prevocational services that teach skills such as self-care, social skills, attendance, mobility training, task completion, self-direction, problem-solving, and safety; and 3) supported employment, which is a combination of supports and services that enable participants to perform in a work setting. JDT takes place separate from SLA because most of the JDT activities usually are done outside of the individuals' residences. Exhibit 2 shows the average number of SLA and JDT clients per month by regional center in fiscal year 2016.

**Monthly Average Number of SLA and JDT Clients by Center
Fiscal Year 2016****Exhibit 2**

Service Type	Desert Regional Center	Sierra Regional Center	Rural Regional Center	Totals
Supported Living Arrangements	1,005	569	301	1,875
Jobs and Day Training	1,750	421	240	2,411

Source: Division records.

Budget and Staffing

The Division administers 14 budget accounts, including a budget account for each of the three regional centers providing services to intellectually disabled persons. The centers are primarily funded through State appropriations and Medicaid funds. Exhibit 3 shows

funding details on each of the three regional centers for fiscal year 2016.

Fiscal Year 2016 Funding Sources by Center

Exhibit 3

Source	DRC	SRC	RRC	Totals
Beginning Cash	\$ 533,880	\$ -	\$ -	\$ 533,880
Appropriations	54,402,525	19,864,790	9,131,201	83,398,516
Medicaid	51,660,288	18,802,081	7,544,147	78,006,516
County Reimbursements	1,967,863	712,119	66,281	2,746,263
Federal Title XX	727,255	258,854	172,569	1,158,678
Client Charges	229,517	-	-	229,517
Other ⁽¹⁾	10,412	4,369	-	14,781
Subtotal	\$109,531,740	\$39,642,213	\$16,914,198	\$166,088,151
Less Reversion to General Fund	\$ (4,316,860)	\$ (1,040,216)	\$ (945,360)	\$ (6,302,436)
Total Revenues	\$105,214,880	\$38,601,997	\$15,968,838	\$159,785,715

Source: State accounting system.

⁽¹⁾ Other includes transfers from other accounts, excess property sales, and reimbursements.

Expenditures for the three regional centers totaled about \$160 million in fiscal year 2016. The majority of the expenditures were for payments to SLA and JDT providers. Exhibit 4 shows details on expenditures for the three regional centers in fiscal year 2016.

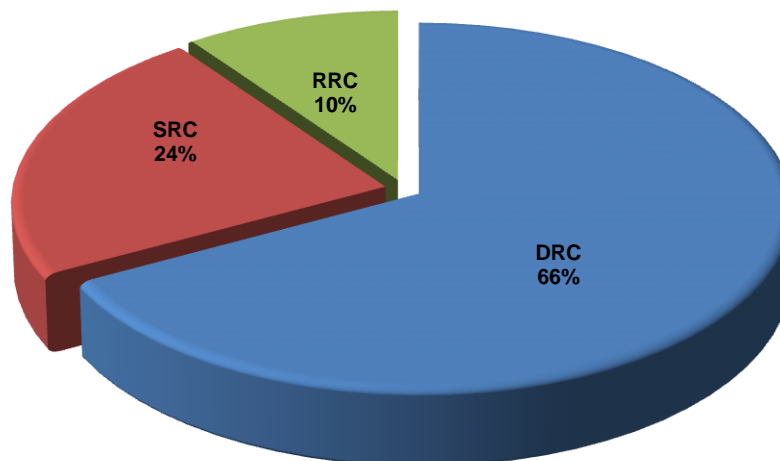
Fiscal Year 2016 Expenditures by Center**Exhibit 4**

Description	DRC	SRC	RRC	Totals
Supported Living Arrangement	\$ 53,972,556	\$25,625,653	\$ 9,774,585	\$ 89,372,794
Jobs & Day Training	23,398,712	5,842,883	2,660,794	31,902,389
Personnel Services	21,005,851	4,698,348	2,542,670	28,246,869
Family Support	1,666,830	259,248	105,285	2,031,363
Cost Allocations and Assessments	1,575,079	346,186	183,879	2,105,144
Reserve for Reversion	-	1,232,500	230,609	1,463,109
Operating	1,412,387	163,476	292,330	1,868,193
Information Services	433,662	198,284	85,917	717,863
Computer System Funding	835,416	-	-	835,416
Other ⁽¹⁾	914,387	235,419	92,769	1,242,575
Total Expenditures	\$105,214,880	\$38,601,997	\$15,968,838	\$159,785,715

Source: State accounting system.

⁽¹⁾ Other includes travel, equipment, utilities, rent, maintenance, food contracts, grant expenditures, training, and loan repayments.

DRC and SRC have the majority of the Division's expenditures for services to intellectually disabled persons. Exhibit 5 shows the percentage breakdown of expenditures by regional center in fiscal year 2016.

Expenditure Comparison by Regional Center For Fiscal Year 2016**Exhibit 5**

Source: State accounting system.

For fiscal year 2016, the legislatively approved budget authorized 422 authorized positions for the regional centers. The Division's administrative office is located in Carson City. In addition, the

regional centers are located in Carson City, Las Vegas, and Sparks.

Scope and Objectives

The scope of our audit included a review of the Division's oversight of providers at DRC and SRC because those centers account for 90% of expenditures for providers that serve intellectually disabled clients. Our focus was on activities in calendar year 2015, although we included some activities in 2016. Our audit objectives were to determine whether the Division has:

- Adequate controls over payments to providers of Supported Living Arrangement services and Jobs and Day Training services.
- Effectively monitored these providers to ensure the safety and welfare of individuals with intellectual disabilities.

This audit is part of the ongoing program of the Legislative Auditor as authorized by the Legislative Commission, and was made pursuant to the provisions of NRS 218G.010 to 218G.350. The Legislative Auditor conducts audits as part of the Legislature's oversight responsibility for public programs. The purpose of legislative audits is to improve state government by providing the Legislature, state officials, and Nevada citizens with independent and reliable information about the operations of state agencies, programs, activities, and functions.

Division Overpaid Some Providers

The Division needs additional controls to prevent overpayments to providers of services to individuals with intellectual disabilities. Based on our test results, we estimate the Division overpaid providers a combined total between \$3.5 million and \$4.3 million in 2015. Overpayments to providers included those providing 24-hour care, as well as those providing jobs and day training to the Division's clients. The combined total is based on overpayments identified in three areas: (1) overbilling issues for 24-hour care homes (\$2.2 million to \$3.0 million); (2) billing for more supported living arrangement (SLA) services than were agreed upon (\$504,000); and (3) billing for more jobs and day training (JDT) services than were provided (\$766,000). Improved controls would help ensure the Division receives the services it pays for and intellectually disabled individuals receive the services they need. Furthermore, by eliminating overpayments to providers, the Division can serve more clients. The Division paid a total of \$106 million in calendar year 2015 to providers serving clients of the Desert Regional Center (DRC) and Sierra Regional Center (SRC).

Some of the overbilling problems described in this report may be the result of provider fraud, while others may be unintentional errors. Fraud involves obtaining something of value through willful misrepresentation. Therefore, as required by NRS 218G.140(2), we reported this information to the Governor, each Legislator, and the Attorney General. See Appendix A for a copy of this report.

Overpayments to Supported Living Arrangement Providers Were Caused by Various Factors

SLA providers overbilled the Division in a variety of ways, some of which may potentially involve fraud. For example, some providers billed the Division for more hours than were actually worked by provider staff, based on our review of provider payroll records. The overbillings were not detected by the Division due to inadequate review of providers' records supporting the amounts billed. Our

detailed review of about \$550,000 in payments for about 1,800 days of service found overbillings of between 3.1% and 4.3% of the total billed. Based on our testing, we estimate the Division overpaid providers of 24-hour SLA services between \$2.2 million and \$3.0 million in 2015.

We estimated a minimum and maximum amount of overpayments for the following reason. In some cases when providers overbilled, the Division reduced the amount paid to the provider. However, the Division did not specify which employees' hours it was not paying. Without this information, it was not possible to determine the exact number of overpaid hours. In general, if the overbilled hours that we found were the same hours that were not paid by the Division, then our minimum estimate is appropriate. However, if the overbilled hours that we found were different hours than the ones reduced by the Division, then our maximum estimate is appropriate. The most likely amount of overpayments is somewhere between the minimum and maximum amounts.

Providers Billed for More Hours Than Were Actually Worked

In some cases, the hours billed to the Division for 24-hour SLA services were greater than the hours actually worked by provider staff, based on our review of provider payroll records. Because it is highly unlikely that employees would not notice they were underpaid, we believe the hours billed by providers in excess of hours paid to employees is indicative of potential fraud.

Our testing of 25 randomly selected payments to 24-hour SLA providers found 16 (64%) had this type of error. The number of hours overbilled ranged from 4 to over 350 hours for the month tested. The average hours overbilled was 59 hours. Our sample included about half (15 of 31) of the 24-hour SLA providers serving clients of the DRC and SRC in 2015.

We identified the overbillings by comparing records submitted by providers when they billed the Division to providers' payroll records. Provider staff record daily hours worked on a log kept in each home where clients live. Providers then submit the log to the Division to support the hours on the monthly bill for that home. For the months tested, we requested providers submit payroll

records (timesheets and pay stubs) for staff. In some cases, the total number of hours shown on the log for a staff person were greater than the number of hours paid to the staff by the provider. We spoke to some providers about the overbillings. They indicated the overbillings were either caused by staff underreporting the hours worked on their timesheets or calculation errors in preparing the monthly bills.

The Division did not detect this problem because it has not established a process to perform periodic comparisons of provider payroll records to verify hours billed were actually paid to provider staff. Requesting payroll records from providers periodically will not only detect this type of problem, it will also help deter it. Implementing a disciplinary process for providers overbilling the Division will further deter providers from overbilling the Division. The Division does not have such a process at this time.

Providers Billed for More Hours Than Shown on Supporting Logs

In 6 of 25 (24%) monthly payments to 24-hour SLA home providers, we found providers billed the Division for more hours than were actually shown on the staff logs kept in each home. For example, a provider billed a total of about 1,400 hours for staff hours worked in a home, which included about 600 hours for one client and 400 hours each for two other clients. However, the log for the home showed a total of about 1,200 hours was provided in the home that month. Because the provider is only permitted to bill for hours worked in the home, about 200 hours were overbilled. Since the hourly reimbursement rate was \$18.86 per hour, the amount overpaid was about \$3,600 for that month for one home. The Division did not detect this type of error because its controls focus on ensuring the number of hours billed does not exceed the contract maximum, not on ensuring hours billed were actually provided.

This type of overbilling was caused by two main factors. First, provider bills are reviewed by program staff, not accounting personnel. Reviewing provider bills, including lengthy staffing logs, is relatively time-consuming. Accounting personnel are generally more likely to detect this type of error. Furthermore,

performing a detailed review of provider bills may not be the best use of program personnel's time. Second, the Division has not established detailed written procedures to instruct staff on how to review provider billing records.

Providers Billed Twice for the Same Hours of Staff Time Worked

Our review of monthly bills found providers billed twice for the same hours of staff time worked. For 6 of 25 (24%) monthly billings for 24-hour SLA services, supporting documentation showed the same hours were billed twice. Specifically, the same hours billed on the supplemental support services log were also billed on the main log. The supplemental services log is used by providers to bill for additional hours needed because of an unexpected situation.

Our testing also found that for 5 of 25 (20%) monthly billings, providers billed for the same hours on the management hours log and the main log. The management hours log is used to track hours for the provider's management on such things as visiting the home to monitor the services being provided and checking on the cleanliness of the home. However, the same hours should not be billed on both logs. The number of hours that providers billed twice for was relatively small, ranging from 3 to 19 hours for the month tested in that home. Nevertheless, provider bills and supporting logs should have been reviewed more closely by the Division to detect such overbillings.

Uneven Levels of Service Results in Underserving Clients and Additional Overbilling

The level of SLA services provided to the Division's clients often varied from the level agreed upon. In about one-fourth of the days tested, the number of staff hours provided were less than the number established when the contract was developed. On days that clients are underserved, it can affect their health and welfare, as well as the safety of provider staff. Conversely, in about one-fourth of the days tested, the number of daily hours provided was greater than the number agreed upon. On days when more staff hours are provided than what is agreed upon, funds are potentially wasted that could better be used to provide services to clients on a waiting list. Due to this problem, we estimate the Division overpaid providers of SLA services an additional \$504,000 in 2015

for days when more hours were provided than were agreed upon. The uneven levels of service being provided were not detected by the Division because it focuses on monitoring the number of monthly hours provided, not the daily hours.

For 207 out of 758 (27%) days tested, we found providers of SLA services underserved clients almost 7 hours a day on average. With the average number of daily hours provided in a home being 32, the average of 7 hours underserved is significant. During our testing of 25 homes that provide 24-hour SLA services, we compared daily hours billed by providers to the established daily hours. Although many days tested had less hours of service provided than was established, we only considered a day to be underserved if the daily hours underserved exceeded 10% of the established hours. Exhibit 6 provides additional detail on the 20 homes where we noted clients were underserved.

Homes Tested Where Clients Were Underserved

Exhibit 6

24-Hour Homes	Days Underserved	Total Hours Underserved	Average Hours For Days Underserved	Days in Month Tested
1	29	329	11.3	31
2	29	229	7.9	30
3	23	139	6.0	31
4	21	138	6.6	30
5	13	87	6.7	31
6	18	85	4.7	31
7	27	65	2.4	30
8	8	46	5.8	31
9	7	41	5.9	31
10	4	36	9.0	30
11	6	35	5.8	31
12	4	34	8.5	28
13	4	30	7.5	30
14	5	24	4.8	30
15	3	12	4.0	30
16	1	10	10.0	31
17	2	7	3.5	30
18	1	5	5.0	30
19	1	5	5.0	31
20	1	5	5.0	28
Totals and Average	207	1,362	6.6	605

Source: Auditor comparison of provider staffing logs to records showing expected daily hours needed.

In addition to underserving clients, our testing found some providers were overpaid because the number of daily hours provided exceeded the number agreed upon. For 167 of 758 (22%) days tested, providers billed more daily hours than were agreed upon. For example, 1 home required 30 hours of direct support for most weekdays; however, the provider regularly billed about 40 hours a day.

Based on our test results, we estimate the Division overpaid providers about \$504,000 in 2015 due to this problem. The amount overpaid was conservatively estimated because we did not consider time overbilled if a provider or Division staff made adjustments to billings that decreased the hours billed below the total daily hours we identified as being overpaid. Although providers and Division staff made adjustments to overall hours billed, most of these adjustments did not identify why or which hours were being adjusted. In addition, for overpayments calculated from the monthly contract hours, we did not consider a day as overpaid unless the daily hours were 10% or greater than the hours agreed upon.

When calculating overpayments, we also did not include hours above the agreed upon hours if the provider provided justification. As discussed previously, additional service hours are justified on days when providers are required to give more services than anticipated when the contract was established. This would require the provider to maintain staff in the home when there normally would not be staff since the client was not in the home. The Division has established a process to document and approve these additional hours. When the provider followed this process, we excluded these hours in determining whether there were overpayments.

The uneven level of services was not detected by the Division because regional centers have not established controls to ensure that hours billed by providers, on a daily basis, are appropriate. Although one regional center prepares a spreadsheet to document daily service hour requirements at each of its 24-hour homes, staff did not compare the daily hours to staffing logs completed by providers. For the other regional center tested, a formal document

**Overbillings by
Jobs and Day
Training
Providers Were
Not Detected**

establishing daily service hour requirements is not prepared by the regional center. Without monitoring hours provided on a daily basis, the Division has less assurance clients are consistently receiving the appropriate level of care and state funds are used efficiently to pay for only those services needed.

We estimate the Division overpaid providers of JDT services about \$766,000 in calendar year 2015. The providers tested account for about 99% of the payments made by DRC and SRC in 2015. Providers billed for a greater number of days of JDT services than were worked, according to the providers' supporting documentation of services provided. The Division needs to detect overbillings so it can serve as many clients as funding allows. Based on the average cost of providing JDT services for a year, eliminating overpayments to JDT providers could have paid for JDT services to about 50 more clients for one year.

Our estimate of \$766,000 is based on the overbilling rate we found from testing 150 monthly JDT billings. For 27 of 150 (18%) billings randomly selected and tested, the number of days billed was more than the number of days shown on providers' logs of staff and client daily attendance or other records we reviewed. In our sample, JDT providers were overpaid \$4,085 (2.4%) of the \$174,078 in payments tested. Eight of 17 JDT providers tested overbilled the Division.

The Division did not detect the overbillings because it did not request providers to submit daily attendance logs to support the number of days that services were provided during the month. In addition, the Division does not have written policies and procedures regarding the processing of JDT provider payments. Therefore, each regional center has developed its own procedures for processing JDT payments. For DRC and SRC, providers report the days clients were provided services. While neither regional center requires supporting documentation, DRC recently started testing a sample of JDT payments when provider certifications are performed. When DRC tests JDT payments, it compares the number of days billed to a provider's log showing the number of days that services were provided to the client, just like we did in our testing.

Additional Work Needed to Determine Extent of Overpayments by Provider

The Division needs to perform additional work to determine the extent that each provider was overpaid in recent years. We provided Division management with a complete list of overpayments, by provider, that were found in our testing. We detected the overpayments from testing a sample of monthly provider payments made in 2015. By taking a sample, not all providers were tested and not all monthly payments were tested. For providers in our sample with overpayments, the Division should review supporting documentation for other payments to detect additional overpayments.

The number of additional payments the Division should review for these providers depends on various factors. These factors include the dollar amount and percentage of overpayments, by provider, found in our testing. The Division should also consider the dollar amount of payments made to each provider. However, the number of months it reviews may be limited by the records retained by each provider. Based on the extent of overpayments from its review of a few months, the Division should evaluate whether it is appropriate to review more monthly payments.

After completing its review of each provider in our sample that was overpaid, the Division should also review billings for other SLA providers that were not picked in our sample. Since all overpayments we found were limited to providers that operate 24-hour SLA homes, the Division can limit its review to those types of SLA providers/homes. Similar review procedures should also be performed to detect the extent of overpayments to JDT providers. When the Division completes its review to determine the extent of overpayments, it should request refunds from providers and communicate overpayments, by provider, with the Office of the Attorney General, as appropriate.

Recommendations

1. Review recent billings of 24-hour care providers and Jobs and Day Training (JDT) providers to determine the amount of significant overpayments, obtain refunds, and refer potential fraud to the Office of the Attorney General.

2. Ensure bills submitted by Supported Living Arrangement (SLA) providers are reviewed by staff with the appropriate training and skills.
3. Establish written policies and procedures for reviewing and processing SLA provider billings, including a checklist of items to review and a process to verify hours billed were worked.
4. Develop a graduated process for imposing sanctions on providers that overbill the Division, including contract termination.
5. Develop controls to ensure that providers of 24-hour SLA services provide clients with the daily number of hours agreed upon.
6. Develop written procedures for reviewing bills submitted by JDT providers, including comparison to provider attendance logs supporting the number of days that services were provided.

Monitoring of Providers Can Be Strengthened

Although the Division has a thorough process for certifying Supported Living Arrangement (SLA) providers, the timeliness of certifying these providers needs to be improved. The latest certifications of most SLA providers tested exceeded timeframes established in regulation. In addition, the Division has not yet developed a rigorous process for certifying Jobs and Day Training (JDT) providers, several years after legislation was passed requiring them to do so. A well-developed certification process will include standards for the provision of quality care and training by JDT providers to the Division's intellectually disabled clients. Finally, the Division did not always have documentation showing that deficiencies noted during home inspections were corrected.

Timeliness of Certifying Supported Living Arrangement Providers Needs Improvement

The Division needs to improve the timeliness of certifying providers. Our testing of the 29 largest providers, accounting for over 90% of payments made for SLA services in calendar year 2015, found 27 were not certified timely. Certification reviews include, among other things, inspections and testing to help ensure that clients' living conditions are safe and provider staff are properly trained and have cleared criminal background checks. The untimely performance of certifications for existing providers, and the associated corrective action process, increases the time the Division's clients are exposed to unnecessary health and safety risks.

Current regulations (NAC 435.522) require SLA service providers to be certified at least every 2 years. The Division drafted revised regulations that, if adopted, would allow for high-performing providers to be certified every 3 years. However, the certification for 17 of 29 (58%) providers tested still exceeded the proposed time of 3 years. Exhibit 7 shows the time elapsed between the two most recent certifications for the providers we tested.

Time to Certify SLA Service Providers**Exhibit 7**

Status of Timeliness	Elapsed Time	Number	Percent
Timely under current regulation	Less than 2 years	2	7%
Timely under proposed regulation	2 to 3 years	10	35%
Untimely	3 to 4 years	12	41%
Untimely	Greater than 4 years	5	17%
Totals		29	100%

Source: Auditor testing of Division records.

The time required by providers and the Division to ensure deficiencies are corrected was a significant factor in the untimely certifications. Providers are not certified until all deficiencies are corrected. In some cases, the Division did not perform timely follow-up activities to verify corrective actions were implemented. In addition, the Division extended the certification process for long periods allowing some low-performing providers to continue operations. The average time to complete a certification review for the 29 providers tested was 1 year. However, for 7 of 29 (24%) provider certifications, the time to complete the certification process took more than 1.5 years, with 3 exceeding 2 years. Corrective action items included:

- Provider was not reporting accurate client behavioral data to Division staff, regarding instances of agitation and aggression.
- Provider did not have documentation showing some employees or subcontractors had current training or certification in areas related to first aid, crisis prevention, and physical intervention.
- Provider did not have a system to ensure direct service hours were accurately billed to the Division.
- Provider did not have a system to ensure safety within the home/living environment. Many observations of holes in walls and doors, stained and ripped carpet, lighting not working, broken appliances and fixtures.

- Provider did not have a system to ensure accurate and efficient delivery of prescribed medications, and documentation regarding the administration of medication.

The Division allows the provider to establish timeframes for taking corrective action on deficiencies, instead of establishing the timeframes for providers. Best practices dictate that as part of an effective inspection process, a licensing agency should provide the licensee with corrective action items and timeframes for completing corrective action. In addition, NAC 435.524 allows the Division to impose sanctions, including suspending or reducing payments to providers, for any aspect of SLA services that pose a risk to the health and welfare of clients, and for failure to implement or maintain any actions requested by the Division to correct a deficiency.

Certification of Jobs and Day Training Providers Is Inadequate

Although the Division certified all JDT providers we tested, its process is inadequate. The Division's certification process is limited to administrative requirements, such as verifying the provider has a Nevada business license and proof of insurance. The process excludes things like criminal background checks, documentation of employee licensure, and proof of staff training. The Division has not yet adopted regulations with more rigorous certification requirements, as required by legislation passed in 2009. In addition, the Division has not ensured additional certification requirements from legislation passed in 2011 have been met.

Ensuring JDT providers meet these requirements will provide greater assurance that JDT providers meet standards for the provision of quality care and training for the Division's intellectually disabled clients.

More Rigorous Certification Requirements Have Not Been Adopted

Although the Division drafted regulations in 2014 that included more rigorous certification requirements, the regulations have not been adopted. The Division's current process for certifying entities to be JDT providers is very limited. The process includes a review of documentation obtained from providers, including:

- Business license;
- Articles of Incorporation/Bylaws;
- Proof of auto, liability, and workers compensation insurance; and
- Fire inspection reports.

Staff also indicated they perform unannounced visits to JDT sites and perform informal assessments of the safety and welfare of the work environment, but this work is not documented.

Legislation passed in 2009 (codified as NRS 435.220) requires the Division adopt regulations governing JDT certifications. NRS 435.220 states:

- 1. The Division shall adopt regulations governing jobs and day training services, including, without limitation, regulations that set forth:**
 - (a) Standards for the provisions of quality care and training by providers of jobs and day training services;**
 - (b) The requirements for the issuance and renewal of a certificate;**
 - (c) The rights of consumers of jobs and day training services, including, without limitation, the right of a consumer to file a complaint and the procedure for filing the complaint.**

The Division did not initially develop a draft of these regulations until 2014. Since that time, the Division has revised the draft regulations based on comments from Legislative Counsel staff. The next step in the process is for the Division to hold hearings on the draft regulations.

Delaying the development of a formal certification process for JDT providers could place JDT clients at risk of inferior services. The draft regulations developed by the Division would require a more thorough review and certification process for JDT providers. For example, the draft regulations require the following:

- A provider must obtain background checks for employees or independent contractors to ensure company employees have not been convicted of a crime relevant to

any aspect of providing JDT services, including sexual assault, assault or battery, or abuse or neglect of children or elderly.

- A provider's activities must conform to individual support plans and a provider must establish procedures for internal quality assurance.
- A provider must establish policies and procedures concerning the provision of JDT services.

The draft regulations also provide for a process to correct deficiencies and impose sanctions if deficiencies are not corrected. The above items are not required under the current JDT certification process.

Review of Required Financial Information Was Not Documented

Legislation passed in 2011 (codified as NRS 435.227) requires the Division, before certifying a JDT provider and annually thereafter, to obtain audited financial statements. Furthermore, when the provider is a non-profit entity, their federal tax return must also be provided. Although the Division indicated these documents were reviewed by program staff during the certification process, the Division did not retain a copy and we did not find evidence they were reviewed. Even though this requirement has been in place for over 5 years, the Division does not have procedures to document its review of financial information obtained from JDT providers.

Since the Division has not documented the review of annual audited financial statements or federal tax returns, the Division is unable to demonstrate that it knows the financial position of JDT providers. Understanding the finances of a provider can help ensure JDT clients receive quality services as the Division can gain an understanding of how provider resources are being used. For example, financial statements can help identify if a provider is under financial pressure and may cut corners when providing services.

Home Inspection Process Can Be Strengthened

Although the Division inspected homes timely, it did not have an effective process to ensure deficiencies identified during home inspections were corrected. Specifically, for almost half of the homes inspections we reviewed with deficiencies, the Division did not have documentation showing the deficiencies were corrected. Without an effective follow-up process to ensure deficiencies are corrected, the health and safety of the Division's clients is at risk.

For 14 of the 29 homes we tested that were inspected, corrective action was required to address deficiencies found in the home. However, for 6 of the 14 (43%) homes with deficiencies, the Division did not have documentation showing that corrective action was completed. While most of these homes required corrective action for items that would not immediately threaten the health and safety of the disabled individuals, the reviews for two homes did involve items that would affect the individual's health and safety. For example, one home had a broken grab bar in the bathroom, soiled linens, and a strong odor of urine emanating from one individual's room. In the other home, Division staff observed a missing smoke detector in one individual's room and the door alarm was not functioning, which is required to prevent unwanted entry or exit.

As noted previously, best practices dictate that a licensing agency should provide the licensee with corrective action items and timeframes for completing corrective action. In addition, an agency should maintain a record of the monitoring process and track the actions taken to ensure that corrective action items are being addressed appropriately.

Although the Division has a form to help document corrective action items and monitoring activities, we found the form was not always completed or used by Division staff. When monitoring activities are not documented, there is an increased risk that items affecting the health and safety of intellectually disabled individuals will not be corrected.

Recommendations

7. Develop policies and procedures to ensure deficiencies identified during the SLA certification process are corrected timely, including timeframes to take corrective action and sanctions for not timely correcting items posing a risk to the health and welfare of clients.
8. Complete the process to adopt regulations for certifying JDT providers.
9. Develop policies and procedures to document the review of JDT provider financial information.
10. Develop a process to track and document deficiencies identified in home inspections are corrected.

Appendix A

NRS 218G.140(2) Report Regarding Potential Provider Fraud

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LEGISLATIVE COUNSEL BUREAU

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December 2, 2016

Members of the Nevada State Legislature
Legislative Building
Carson City, Nevada 89701

This report is issued in accordance with NRS 218G.140(2) which requires the Legislative Auditor to report evidence of illegal transactions to the Governor, each Legislator, and the Attorney General. During our audit of the Aging and Disability Services Division (Division), we identified some providers overbilled the Division for services. Some of the overbilling problems may be the result of provider fraud, while others may be unintentional errors. Based on a sample of payments tested, we estimate the Division overpaid providers several million dollars in calendar year 2015.

The Aging and Disability Services Division is responsible for coordinating services to persons with intellectual disabilities. Many services are provided through contractors that directly serve these persons. One type of contractor provides supported living arrangement (SLA) services to clients. SLA providers offer residential support to individuals who require assistance to live in the least restrictive community setting possible. Another type of contractor provides jobs and days training (JDT) services. JDT providers assist individuals in obtaining meaningful employment and living skills to help them achieve community inclusion, independence, and productivity.

During our audit, we found SLA providers overbilled the Division in a variety of ways. For example, some providers billed the Division for more hours than were actually worked by provider staff, based on our review of provider payroll records. The overbillings were not detected by the Division due to the inadequate review of providers' records supporting the amounts billed. Our detailed review of payments for about 1,800 days of SLA services found overbillings of about 4% of the total dollars billed. Based on our testing, we estimate the Division overpaid providers of 24-hour SLA services between \$2.2 million and \$3.0 million in calendar year 2015 due to potentially fraudulent overbillings. Furthermore, we estimate an additional \$504,000 was paid to SLA providers for services beyond what was agreed upon. Most of the SLA providers tested (14 of 15) had overbillings in the month tested. During 2015, the Division paid about \$78 million to SLA providers serving clients of the two main regional centers.

Our audit also found JDT providers billed for more days of service than were worked, according to the providers' supporting documentation of services provided. For 27 of 150 (18%) billings randomly selected, the number of days billed was more than the number of days shown on providers' records of services provided. Our detailed review of payments for about 2,900 days billed found overbillings of 2.4% of the total dollars billed. Eight of 17 JDT providers

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December 2, 2016
Page 2

tested overbilled the Division in the month examined. Based on our testing, we estimate the Division overpaid JDT providers about \$766,000 in calendar year 2015 due to potentially fraudulent billings. During 2015, the Division paid about \$28 million to JDT providers serving clients of the two main regional centers.

Because we tested a random sample of monthly provider payments, the Division needs to perform additional work to identify providers with significant overbillings and determine amounts that each provider was overpaid in recent years. As we complete our audit, we will continue to work with the Division to establish efficient processes for preventing, detecting, and recovering overpayments. After the Division completes its review to determine the extent of overpayments, by provider, it should request refunds and communicate the significant overpayments to the Office of Attorney General, as appropriate.

Our audit report of the Aging and Disability Services Division will be issued at the next meeting of the Audit Subcommittee of the Legislative Commission, planned for January 2017.

Respectfully Submitted,



Rocky Cooper, CPA
Legislative Auditor

RC:da

cc: The Honorable Brian Sandoval, Governor of Nevada
The Honorable Adam Paul Laxalt, Attorney General, State of Nevada
Michael J. Willden, Chief of Staff, Office of the Governor
Richard Whitley, MS, Director, Department of Health and Human Services (DHHS)
Edward Ableser, PhD, Administrator, Aging and Disability Services Division, DHHS

Appendix B

Audit Methodology

To gain an understanding of the Aging and Disability Services Division, we interviewed staff and reviewed statutes, regulations, and policies and procedures significant to the Division's operations. We also reviewed financial information, legislative committee minutes, prior audits, and other information describing the Division's operations. We documented and assessed internal controls for processing Supported Living Arrangement (SLA) and Jobs and Day Training (JDT) provider payments. We also reviewed controls involved with the process for certifying SLA and JDT providers, and inspecting SLA homes.

To determine if the Division has adequate controls over payments to providers of SLA and JDT services, we tested provider payments to ensure payments did not exceed contracted amounts, and documentation supported the amounts paid. To test SLA provider payments, we randomly selected 60 provider homes, and randomly selected a month for each home in 2015, which the Division reported as receiving SLA services. The number of homes tested at Desert Regional Center (DRC) and Sierra Regional Center (SRC) was based on their share of total SLA expenditures. We tested a total of 1,792 days billed for 123 clients.

To test SLA provider payments, we traveled to DRC and SRC, and collected client contracts and provider billing documentation. We then tested provider billings to ensure Division staff reviewed and approved payments, and billings were mathematically accurate and agreed to contracted amounts. In addition, we verified billing documentation supported the amounts billed and the provider payments were correctly recorded in the state accounting system.

Our test of 60 SLA payments randomly selected included 25 homes that provided 24-hour services to intellectually disabled clients. The majority of expenses for these homes relates to provider staff hours. To test the validity of staff hours billed by providers for these homes, we requested payroll records from providers for those staff that worked the homes during the months we tested. We calculated the hours billed for each staff member on the direct support log and compared those hours to payroll records we requested from providers. In addition, to identify duplicate billings, we compared staff hours billed by providers on supplemental support logs and management logs to the direct support logs.

To evaluate levels of service provided at the 24-hour homes tested, we compared expected daily staffing hours to actual staffing hours provided, based on provider staff logs used to bill the Division. For all but one SRC home tested, the expected daily staffing hours used were documented when developing the client's contract for the monthly contracted staffing hours. DRC staff did not have documentation showing the expected daily staffing hours for each home. Therefore, to calculate daily staffing hours for homes without supporting documentation, we analyzed the actual staffing patterns for the month of each home tested and applied these patterns to the monthly contractual hours. Next, we compared the expected daily staffing hours to actual hours provided. When reporting the number of days and hours underserved by providers, we only counted those days when the difference between expected and actual staffing levels exceeded 10%. We also conservatively calculated the days and hours overbilled using the same 10% threshold. Furthermore, if a provider erroneously billed supplemental support hours as direct staff hours, we adjusted the expected daily staff hours to ensure these errors did not affect our count of days and hours overbilled.

To test JDT payments, we randomly selected a total of 150 monthly payments for clients made by DRC and SRC in 2015. Our sample included 120 from DRC and 30 from SRC and was based on the percentage of total JDT expenditures made by both regional centers for the year. For each payment, we obtained JDT contract and payment information related to the clients and

months tested. We then compared the amounts billed to the contract rates. In addition, we requested JDT providers submit client and staff attendance logs, and compared the days on the logs to those billed to the Division. Furthermore, if JDT clients also received SLA services, we obtained SLA provider billing information for the month tested and determined if JDT providers billed the Division for times when SLA providers also billed for services. For instances when billed SLA and JDT services overlapped, we considered JDT services as overbilled because the SLA documentation was more detailed and credible.

To calculate our estimate of SLA overpayments of \$2.2 million to \$3.0 million on page 7, we used statistical principles to determine the error mean in our random sample of homes and then multiplied it by the number of DRC and SRC payments to 24-hour homes in calendar year 2015. The additional \$504,000 in SLA overpayments on page 12 was calculated by multiplying the error mean for that test by the number of DRC and SRC payments to 24-hour homes in calendar year 2015. The estimate of JDT overpayments of \$766,000 on page 13 was calculated by multiplying the error mean in our sample by the number of DRC and SRC payments to JDT providers in calendar year 2015. Based on statistical principles and using a 95% confidence level, the margin of error is 12% for our SLA dollar estimates and 10% for the JDT dollar estimate.

To determine whether the Division effectively monitors SLA providers to ensure the safety and welfare of individuals with intellectual disabilities, we selected the 29 providers that received the most SLA payments from DRC and SRC in 2015. For each provider, we reviewed certification files at the regional centers. We verified a recent certification was performed and documented, the scoring of the certification review was accurate, and the certification period agreed to the score. In addition, we reviewed Division records to verify corrective action items identified during the certification process were resolved. We also ensured the providers had active Nevada business licenses and did not owe debts to the State. Furthermore, we reviewed federal provider databases to verify the provider and individual officers were not barred from providing services. We also documented the time

that elapsed between the two most recent certifications, the time required to complete the most recent certification review, and the time between the last certification and the beginning of the review process for the most recent certification. Finally, we verified that the Division performed reasonable action to ensure deficiencies noted during the certification process were corrected.

To evaluate the JDT certification process, we reviewed statutes, draft regulations, and Division processes for performing JDT certifications. We reviewed the 15 providers that received the highest JDT payments from DRC and SRC in 2015. For each provider, we reviewed regional center files and verified certifications were performed, and performed timely. We also ensured the providers had active Nevada business licenses and did not owe debts to the State. Furthermore, we reviewed federal provider databases to verify the provider and individual officers were not barred from providing services. In addition, we reviewed Division records to determine whether audited financial statements and federal tax returns were obtained from providers as required by law. Finally, we reviewed documentation and discussed with the Legislative Counsel Bureau legal staff the timing of draft regulations pertaining to JDT certifications.

To verify the Division performed inspections of SLA homes, we selected the SLA homes that corresponded to the SLA payments tested. We reviewed regional center files and documented the two most recent home inspections performed on each home, when applicable. In addition, we documented the time that elapsed between each review and any corrective action items observed during the most recent inspection. Finally, we reviewed documentation to verify corrective action items identified during the home inspection process were resolved.

For our tests regarding provider certification and home inspections, we used nonstatistical audit sampling, which was the most appropriate and cost effective method for concluding on our audit objectives. Based on our professional judgement, review of authoritative sampling guidance, and careful consideration of underlying statistical concepts, we believe that nonstatistical samples provided sufficient, appropriate audit evidence to support

the conclusions in our report. Our samples included randomly and judgmentally selected items. Judgmental selections were made based on an analytical review of data and the amount of payments made to providers. For these tests, we did not project the errors noted in our samples to the population.

Our audit work was conducted from August 2015 to September 2016. We conducted this performance audit 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 provided a reasonable basis for our findings and conclusions based on our audit objectives.

In accordance with NRS 218G.230, we furnished a copy of our preliminary report to the Division. On November 30, 2016, we met with agency officials to discuss the results of the audit and requested a written response to the preliminary report. That response is contained in Appendix C which begins on page 30.

Contributors to this report included:

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Appendix C

Response From the Aging and Disability Services Division

BRIAN SANDOVAL
Governor



RICHARD WHITLEY, MS
Director

EDWARD ABLESER, Ph.D.
Administrator

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Rocky Cooper, CPA, Legislative Auditor
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December 12, 2016

Re: Audit Report of December 6, 2016

Dear Mr. Cooper:

Thank you for the information provided in your audit report of November 15, 2016. The Aging and Disability Services Division (Division) appreciates all of the efforts of the Legislative Counsel Bureau (Bureau) in conducting this review and the work to complete it. Our response to your recommendations is provided below. We have also attached the "Division's Response to Audit Recommendations" indicating our acceptance of the recommendations.

Recommendation 1: Review recent billings of 24 hour care providers and Jobs and Day Training (JDT) providers to determine the amount of significant overpayments, obtain refunds, and refer potential fraud to the Office of the Attorney General.

Response: We accept this recommendation.

Effective October 2015, contracted provider agencies were required to enter into a formal Provider Agreement with ADSD in preparation for the launch of our new information management system (Harmony). Our Provider Agreements require timely submission of valid and accurate claims, reimbursement for payments not verified by Provider documentation, and a Provider system in place to routinely assess financial solvency. These Agreements also inform the Provider that:

- Excess payments beyond authorized reimbursements may be deducted from future payments.
- Providers are responsible for sanctions or remedies including reimbursement, withholding, recovery, suspension, termination or exclusion on any claims or payments.
- Any false claims, statements or document concealment or omission of any material facts may be prosecuted under applicable federal or state laws.

The Division currently has a pre-audit process which includes a review of service delivery by the service coordinator and a fiscal review of the daily documentation by fiscal staff. As a result, reductions may be made to invoices based on the fiscal review of the claim and back up documentation.

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Developmental Services also conducts post audits of claims for supported living services. Staff has developed a policy that will support ASD with formalizing post audit procedures for both supported living and jobs and day training services. The information management system, once fully launched, should result in the ability of accounting and fiscal staff to complete increased post audits of services. Additionally, ASD has requested additional staff in its legislative budget request which, if approved, will support our compliance with this recommendation.

Recommendation 2: Ensure bills submitted by Supported Living Arrangement (SLA) providers are reviewed by staff with the appropriate training and skills.

Response: We accept this recommendation. Staff has developed a policy, "Monitoring and Oversight of Provider Direct Services and Claims" which can be modified to include additional pre and post audit procedures. Per LCB recommendations, we agree that streamlining current provider documents in a manner rendering them easier to audit should help staff conduct an improved review process making it easier to identify irregularities. Division also agrees that SLA billing should be reviewed by staff with appropriate training and skill in fiscal practices.

Recommendation 3: Establish written policies and procedures for reviewing and processing SLA provider billings, including a checklist of items to review and process to verify hours billed were worked.

Response: We accept this recommendation. Harmony is being designed with a fiscal management component and provider portal that will facilitate an improved verification process. However, a thorough review process which addresses all identified concerns may require more components than are currently being configured. A budget enhancement may be needed to fully implement this recommendation in Harmony. As mentioned above, the draft policy, "Monitoring and Oversight of Provider Direct Services and Claims", provides more specific guidance and defines provider responsibilities and staff roles. This draft also includes an audit tool. If Developmental Services (DS) legislative budget request for additional staff is approved, our ability to improve in this area by conducting additional verifications in a more timely manner will be enhanced. DS plans to review billing and make corrections as necessary at the pre-audit stage, which is crucial in maintaining provider viability. Our primary objective is to maintain, if not increase our provider pool while also holding them fiscally accountable. Unfortunately, many of our providers lack the financial viability to enter into a costly or lengthy repayment process; further emphasizing the critical need for a thorough pre-audit process.

Recommendation 4: Develop a graduated process for imposing sanctions on providers that overbill the Division, including contract termination.

Response: We accept this recommendation. Currently NAC 435.725 addresses provider sanctions which covers grounds for revocation of certification and termination of services. This language has been strengthened in the proposed NACs that have not yet been approved. As such, we have the opportunity to further clarify sanctions as recommended. The Division also has a policy, "Certification Process for Contracted Providers of Supported Living and Jobs and Day Training Services" which provides direction, including the following:

- Basic Standards Of Quality Services – to ensure providers meet protective oversight requirements to maintain the health and welfare of individuals receiving services;
- Quality Assurance Review Process – defines oversight of the provider service delivery system;
- Plan of Improvement – to address provider corrective action;

- Sanctions:
 - Immediate measures of correction by the provider
 - End provision of services by the provider
 - Removal of Individuals served by the provider
 - Termination of the contractual relationship

This policy can be improved with additional clarity surrounding fiscal responsibilities and sanctions as noted in the recommendation.

Recommendation 5: Develop controls to ensure that providers of 24 hour SLA services provide clients with the daily number of hours agreed upon.

Response: We accept this recommendation. Creating a new fee structure that replaces our current hourly billing criteria with a daily rate is in process to partially address this issue. When combined with the implementation of the new Harmony fiscal management components, our internal controls to monitor the service delivery system will be strengthened. It is important to note that our person centered process gives individuals in services the right to determine their day to day needs and desires. There are many times that, while staffing grids and support plans identify specific services to be provided, in actuality, the individual may not want the service that day or that week and their decision can occur at a moment's notice. The right of self determination includes refusal of services.

There are other reasons service provision may not match the number of hours agreed upon. These include:

- The health status of the individual, which is unpredictable.
- Provider recruitment and staffing levels - providers report that positions are hard to fill. Also, when staff become ill, it impacts the ability of the provider to staff as outlined in the service agreement. This results in the provision of only the basic skills needed to ensure the health and welfare of an individual.

Recommendation 6: Develop written procedures for reviewing bills submitted by JDT providers, including comparison to provider attendance logs supporting the number of days that services were provided.

Response: We accept this recommendation. Modifying our current draft policy, "Monitoring and Oversight of Provider Direct Services and Claims", to provide additional written procedures and a checklist to guide accounting staff in the review of provider bills will address this area and achieve consistency.

Recommendation 7: Develop policies and procedures to ensure deficiencies identified during the SLA certification process are corrected timely, including timeframes to take corrective action and sanctions for not timely correcting items posing a risk to the health and welfare of clients.

Response: We accept this recommendation. The Division's policy, "Certification Process for Contracted Providers of Supported Living and Jobs and Day Training Services" establishes procedures for the quality assurance review process, plans of improvement (POI), validation of a completed POI and sanctions. The Division agrees the policy can be strengthened by including specified timeframes for completion of the POI and provide more clarity regarding graduated sanctions. Additional staff, per our current budget request, will enhance the Division's

ability to conduct a meaningful certification process and investigate identified deficiencies and irregularities within timelines outlined in DS policy.

Recommendation 8: Complete the process to adopt regulations for certifying JDT providers.

Response: We accept this recommendation. Outlined below is the Division timeline of events surrounding the adoption of Developmental Services JDT regulations:

- Public workshops were held by the Division regarding proposed SLA and JDT regulation changes in April 2013.
- A public hearing was held on May 17, 2013 during a meeting of the Commission on Mental Health and Developmental Services. During this meeting, the need was identified to address medication administration procedures and repeal the administration of Schedule II and opioid agonist medications. Several revisions were drafted and resubmitted to LCB regarding language for an appeals process on an ongoing basis until agreement was reached.
- Revised NACs were submitted to LCB on March 5, 2014.
- Draft NACs were returned to the Division from LCB in October 2014.
- Edits to the NACs were submitted by ADSD to LCB on 11/14/14.
- LCB reviewed and resubmitted NACs to ADSD for review followed by a request by the Division for minor changes. These were resubmitted to LCB on 12/12/14.
- The Legislative session began in January, 2015 resulting in a hold by LCB on the proposed regulations until conclusion of the session.
- Legislative changes affected the NAC (SB 78, for example) resulting in required updates impacting DS's ability to move forward with proposed NAC changes for jobs and day training services.
- The Legislative Committee on Health Care met to review DS's proposed NAC for supported living services (SLA) on 11/16/15. There was feedback regarding legislation DS needed to review that would impact DS's proposal once finalized.
- The Fair Labor Standards Act interpretations between 2014 through 2016 affected the administration of the shared living/host home options for supported living arrangements. Until DS had a good understanding of the impact of this Act, DS could not complete the changes to NAC, which were resubmitted in July, 2016.
- The Home and Community Based Settings Rule with Centers for Medicare and Medicaid Services (CMS) changed in 2015, affecting the administration of home and community based waivers. The NAC required more updates to ensure the language for our community based settings was congruent with CMS rule changes.
- Due to these delays, DS was unable to complete the process in the desired timeframe.
- The Legislative Committee on Health Care met to review DS's latest revision for the proposed NAC changes for both SLA and JDT on 8/24/16. These revisions received approval. DS received the new numbering convention and was advised to submit a fiscal impact statement.

DS will now need to re-initiate the public workshops and hearing process. It is DS's intention to submit the revised JDT and SLA NACs at the conclusion of the upcoming legislative session.

Recommendation 9: Develop policies and procedures to obtain and review JDT provider financial information as required by law.

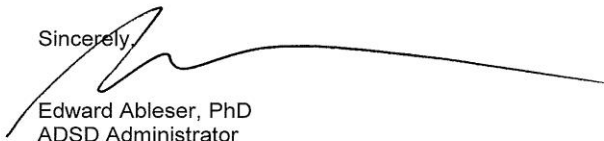
Response: We accept this recommendation. We support the recommendation to obtain copies of financial information, involve fiscal staff in the review of the documents, and develop new policy and procedures to meet this recommendation. The Division's current provider standards require providers to have a system in place to routinely assess its financial solvency, which includes an external audit in accordance with Generally Accepted Auditing Principles (GAAP) for organizations with \$1,000,000.00 of revenue or greater. For agencies under this revenue threshold, they must submit annual financial statements that consist of a balance sheet, income statement, and statement of cash flows within 120 days after the fiscal year.

Recommendation 10: Develop a process to track and document deficiencies identified during home inspections are corrected.

Response: We accept this recommendation. The Division supports this recommendation and notes that the implementation of our new Harmony case and financial management components will support these efforts. The requested legislative QA position increase and Division restructure creating a distinct Division QA unit will also facilitate adherence to a thorough review schedule. DS previously had difficulty meeting the demand due to position vacancies and urgent program/provider issues that drew quality assurance staff away from on-site inspections. Additionally, the Division has a draft policy, "Environmental Review of Supported Living arrangements" that provides direction on how to conduct reviews of these homes, timeframes required and a specific review tool to be used. The tracking process can be strengthened in this policy.

Thank you again for the opportunity to review, identify and address areas in which DS can improve our service delivery system to support the individuals we serve.

Sincerely,



Edward Ableser, PhD
ADSD Administrator

cc: Richard Whitley, Director of DHHS

Division's Response to Audit Recommendations

<u>Recommendations</u>	<u>Accepted</u>	<u>Rejected</u>
1. Review recent billings of 24-hour care providers and Jobs and Day Training (JDT) providers to determine the amount of significant overpayments, obtain refunds, and refer potential fraud to the Office of the Attorney General.	<u> X </u>	<u> </u>
2. Ensure bills submitted by Supported Living Arrangement (SLA) providers are reviewed by the staff with the appropriate training and skills.	<u> X </u>	<u> </u>
3. Establish written policies and procedures for reviewing and processing SLA provider billings, including a checklist of items to review and a process to verify hours billed were worked	<u> X </u>	<u> </u>
4. Develop a graduated process for imposing sanctions on providers that overbill the Division, including contract termination.	<u> X </u>	<u> </u>
5. Develop controls to ensure that providers of 24-hour SLA services provide clients with the daily number of hours agreed upon.	<u> X </u>	<u> </u>
6. Develop written procedures for reviewing bills submitted by JDT providers, including comparison to provider attendance logs supporting the number of days that services were provided.	<u> X </u>	<u> </u>
7. Develop policies and procedures to ensure deficiencies identified during the SLA certification process are corrected timely, including timeframes to take corrective action and sanctions for not timely correcting items posing a risk to the health and welfare of clients.	<u> X </u>	<u> </u>
8. Complete the process to adopt regulations for certifying JDT providers.	<u> X </u>	<u> </u>
9. Develop policies and procedures to document the review of JDT provider financial information	<u> X </u>	<u> </u>
10. Develop a process to track and document deficiencies identified during home inspections are corrected.....	<u> X </u>	<u> </u>
TOTALS	<u> 10 </u>	<u> </u>