Federal Award Findings

2019-002 The Department of Social and Health Services improperly charged $717,011 to the SNAP Cluster.

Federal Awarding Agency:	U.S. Department of Agriculture	
Pass-Through Entity:	None	
CFDA Number and Title:	10.551	Supplemental Nutrition Assistance Program (SNAP)
	10.561	State Administrative Matching Grants for SNAP
Federal Award Number:	197WAWA4S2514, 197WAWA5Q3903	
Applicable Compliance Component:	Period of Performance	
Known Questioned Cost Amount:	$717,011	

Background

The Department of Social and Health Services (Department) administers the Supplemental Nutrition Assistance Program (SNAP) Cluster. The Department is responsible for ensuring grant money is used for costs that are allowable and related to each grant's purpose. Each federal grant specifies a performance period during which program costs may be obligated or liquidated. These periods typically align with the federal fiscal year of October 1 through September 30. Payments for costs charged before a grant's beginning date are not allowed without the grantor's prior approval.

The Department spent about $1.3 billion in federal grant funds during fiscal year 2019.

The Department uses a financial system that is heavily automated and assigns expenditures to a specific grant year. In the prior audits, we reported the Department improperly charged multiple federal grants before their beginning dates. These were reported as finding numbers 2018-002, 2017-002, 2016-002, 2015-003 and 2014-022.

Description of Condition

The Department had adequate internal controls to ensure it materially complied with period of performance requirements. However, we found it charged $717,011 in expenditures to the SNAP Cluster for activities that occurred before the grant was open.

The Department did not have prior authorization from the grantor to charge these grants.

Cause of Condition

Staff followed documented procedures and all improper charges were identified before the close of the state fiscal year. However, the Accounting Unit was short staffed and did not have the capacity or time to process the journal vouchers in time to reverse the improper charges prior the closing of the state fiscal year accounting records.

Effect of Condition and Questioned Costs

We are questioning $717,011 of improperly charged expenditures made to the SNAP Cluster before the start of the performance period.

We question costs when we find an agency has not complied with grant regulations or when it does not have adequate documentation to support its expenditures.

Recommendations

We recommend the Department:

- Charge expenditures to federal grants only if the expenditures are obligated during the period of performance
- Consult with the grantor to discuss whether the questioned costs identified in the audit should be repaid

Department's Response

The Department partially concurs with the finding.

While the Department concurs we initially charged $717,011 in expenditures to the SNAP-Ed grant before the start of the performance period, we do not concur the Department was out of compliance with grant regulations as the Department corrected the charges within the grant's two-year federal period of performance cycle, and before the auditors started their review of period of performance at Economic Services Administration for the state fiscal year 2019 Statewide Single Audit. The state fiscal year runs from July 1 of the current year to June 30 of the following year, while the federal fiscal year runs from October 1 of the current year to September 30 of the following year.

The Department performs a monthly review to identify and correct expenditures that are out of compliance with period of performance requirements. In addition, the Department performs a final end-of-the year review to ensure we correct all expenditures charged outside the period of performance before the state accounting records close.

For state fiscal year 2019, during the final end-of-the year review, the Department identified expenditures totaling $717,011 that were out of compliance with period of performance requirements. On August 21, 2019, the Department processed a journal voucher moving the $717,011 in expenditures from charging to the 2019 SNAP-Ed grant and applied the expenditures appropriately to the 2018 SNAP-Ed grant. Since the Department's last day to process transactions in the Agency Financial Reporting System for state fiscal year 2019 close was August 16, 2019,

the aforementioned journal voucher technically processed under state fiscal year 2020. However, per the Federal SNAP-Ed Plan and federal guidance, the SNAP-Ed grant has a two-year period of performance. The Department receives a SNAP-Ed grant every year, therefore will always have an overlapping year – where we use the First-In, First-Out (FIFO) method. The Department maintains we corrected the non-compliance issue concurrent to closing the state fiscal year accounting records and within the two-year federal period of performance, and were in compliance with federal regulations pertaining to a First In, First Out Grant.

The Department missed the August 16, 2019 deadline due to being short staffed. When a prior employee left, their workload transitioned to the employee responsible for monitoring compliance with period of performance. With this increased workload, the current employee did not have the capacity or time to reverse all improper charges prior to the Department's August 16, 2019 state fiscal year close deadline.

As an immediate solution, the Department will set an internal deadline for completing the final end-of-the year review for period of performance compliance prior to the Department's end of the state fiscal year deadline to process transactions in the Agency Financial Reporting System. In addition, the Administrator will assist the employee responsible for monitoring compliance with period of performance as needed. However, this is not a sustainable coverage plan.

As a long term solution to address the staffing issue, the Department will request an additional full time accounting position to assume the workload left from the prior employee in addition to taking on the responsibility to monitor compliance with period of performance requirement ensuring the Department charges expenditures to federal grants only if the expenditures are obligated during the period of performance.

If the grantor contacts the Department regarding questioned costs that should be repaid, the Department will confirm these costs with the Department of Health and Human Services and will take appropriate action.

Auditor's Remarks

We thank the Department for its cooperation and assistance throughout the audit. We will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.53 Improper Payments states:

(a) *Improper payment* means any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; and
(b) *Improper payment* includes any payment to an ineligible party, any payment for an ineligible good or service, any duplicate payment, any payment for a good or

service not received (except for such payments where authorized by law), any payment that does not account for credit for applicable discounts, and any payment where insufficient or lack of documentation prevents a reviewer from discerning whether a payment was proper.

Section 200.403 Factors affecting Allowability of costs.

Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under Federal awards.

(a) Be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles.
(b) Conform to any limitations or exclusions set forth in these principles or in the Federal award as to types or amount of cost items.
(c) Be consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the non-Federal entity.
(d) Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the sample purpose in like circumstances has been allocated to the Federal award as an indirect cost.
(e) Be determined in accordance with generally accepted accounting principles (GAAP), except, for state and local governments and Indian tribes only, as otherwise provided for in this part.
(f) Not be included as a cost or used to meet cost sharing or matching requirements of any other federally-financed program in either the current or a prior period. See also §200.306 Cost sharing or matching paragraph (b).
(g) Be adequately documented. See also §§200.300 Statutory and national policy requirements through 200.309 Period of performance of this part.

Section 200.410 Collection of unallowable costs.

Payments made for costs determined to be unallowable by either the Federal awarding agency, cognizant agency for indirect costs, or pass-through entity, either as direct or indirect costs, must be refunded (including interest) to the Federal Government in accordance with instructions from the Federal agency that determined the costs are unallowable unless Federal statute or regulation directs otherwise. See also Subpart D—Post Federal Award Requirements of this part, §§200.300 Statutory and national policy requirements through 200.309 Period of performance.

Section 200.516 Audit findings, states in part:

(a) *Audit findings reported*. The auditor must report the following as audit findings in a schedule of findings and questioned costs:

    (3) Known questioned costs that are greater than $25,000 for a type of compliance requirement for a major program. Known questioned costs are those specifically identified by the auditor. In evaluating the effect of questioned costs on the opinion on compliance, the auditor considers the best estimate of total costs questioned (likely questioned costs), not just the questioned costs

specifically identified (known questioned costs). The auditor must also report known questioned costs when likely questioned costs are greater than $25,000 for a type of compliance requirement for a major program. In reporting questioned costs, the auditor must include information to provide proper perspective for judging the prevalence and consequences of the questioned costs.

2019-003 **The Office of the Superintendent of Public Instruction did not ensure Child Nutrition Cluster program reimbursements were made only to entities operating under a written agreement with the Office.**

Federal Awarding Agency:	United States Department of Agriculture	
Pass-Through Entity:	None	
CFDA Number and Title:	10.553	Child Nutrition Cluster Program
	10.555	
	10.556	
	10.559	
Federal Award Number:	187WAWA3N1099	
	197WAWA3N1099	
Applicable Compliance Component:	Eligibility	
Known Questioned Cost Amount:	$33,923	

Background

The Office of the Superintendent of Public Instruction (Office) administers the Child Nutrition Cluster program (program) to: provide healthy and nutritious meals to eligible children in public and non-profit private schools, residential child care institutions, and summer recreation programs; and to encourage the domestic consumption of nutritious agricultural commodities. The Office spent about $298 million, including non-cash assistance, in federal funds on the program during the audit period. All but about $200,000 of the amount was passed through to school food authorities (SFA) and other sponsors as subawards.

Federal regulations require each SFA, or other sponsor approved to participate in the child nutrition program, to enter into a written agreement with the state agency. The regulations also require reimbursement payments to be made only to school food authorities or sponsors operating under a written agreement.

Description of Condition

We found the Office had adequate internal controls to ensure material compliance with program eligibility requirements. However, the Office did not ensure program reimbursements were made only to entities operating under a written agreement with the Office.

The Office renews all program agreements annually. During the audit period, the Office renewed 442 sponsor agreements and entered into three new sponsor agreements. We used a statistical sampling method to randomly select and examine 55 of the 442 sponsors with renewed agreements and the three new sponsors.

We determined one new sponsor was determined eligible to participate in the program without a written agreement. The sponsor received a total of $33,923 in Child Nutrition cluster funds from the Office.

This condition was not reported in the prior audit.

Cause of Condition

The sponsor was previously participating in the program and then took a year break from participating. When the sponsor reapplied, Child Nutrition program staff had difficulties in communicating with this sponsor, which resulted in them forgetting to collect a signed agreement.

Effect of Condition and Questioned Costs

A signed permanent agreement is required to participate in the Child Nutrition Cluster Program. We are questioning $33,923 that was paid to the sponsor without a written agreement. Federal regulations require the auditor to issue a finding when the known or estimated questioned costs identified in a single audit exceed $25,000.

We question costs when we find an agency has not complied with grant regulations or when it does not have adequate documentation to support its expenditures.

Recommendations

We recommend the Office:

- Ensure that all SFAs, or other sponsors approved to participate in the child nutrition program, enter into a written agreement
- Consult with the U.S. Department of Agriculture regarding whether the known questioned costs identified by the audit should be repaid

Agency's Response

OSPI concurs with this finding. This was an isolated incident where the sponsor was previously participating, went off the program and then wanted to come back. Part way through the application process the sponsor changed their mind on what program they wanted to operate. During the switch between programs a permanent agreement for the program was not collected from the sponsor. Steps taken to ensure this will not happen in the future include:

- *Implementation of a single permanent Child Nutrition Programs Agreement. This will eliminate any confusion regarding what program agreement is to be used.*
- *Updated internal process for review and approval of Sponsor Program applications.*

OSPI consulted with USDA regarding the reimbursement provided to the sponsor. After providing details of what happened and the sponsors past and current administration of USDA Child Nutrition Programs, USDA has determined that the funds reimbursed to the sponsor during the time a permanent agreement was not in place, do not need to be recovered.

Auditor's Remarks

We thank the Office for its cooperation and assistance throughout the audit. We will review the status of the Office's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.53 Improper Payments states:

(a) *Improper payment* means any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; and
(b) *Improper payment* includes any payment to an ineligible party, any payment for an ineligible good or service, any duplicate payment, any payment for a good or service not received (except for such payments where authorized by law), any payment that does not account for credit for applicable discounts, and any payment where insufficient or lack of documentation prevents a reviewer from discerning whether a payment was proper.

Section 200.403 Factors affecting Allowability of costs.

Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under Federal awards.
(a) Be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles.
(b) Conform to any limitations or exclusions set forth in these principles or in the Federal award as to types or amount of cost items.
(c) Be consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the non-Federal entity.
(d) Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the sample purpose in like circumstances has been allocated to the Federal award as an indirect cost.
(e) Be determined in accordance with generally accepted accounting principles (GAAP), except, for state and local governments and Indian tribes only, as otherwise provided for in this part.
(f) Not be included as a cost or used to meet cost sharing or matching requirements of any other federally-financed program in either the current or a prior period. See also §200.306 Cost sharing or matching paragraph (b).
(g) Be adequately documented. See also §§200.300 Statutory and national policy requirements through 200.309 Period of performance of this part.

Section 200.410 Collection of unallowable costs.

Payments made for costs determined to be unallowable by either the Federal awarding agency, cognizant agency for indirect costs, or pass-through entity, either as direct or indirect costs, must be refunded (including interest) to the Federal Government in accordance with instructions from the Federal agency that determined the costs are

unallowable unless Federal statute or regulation directs otherwise. See also Subpart D—Post Federal Award Requirements of this part, §§200.300 Statutory and national policy requirements through 200.309 Period of performance.

Section 200.516 Audit findings, states in part:

(a) *Audit findings reported*. The auditor must report the following as audit findings in a schedule of findings and questioned costs:

(3) Known questioned costs that are greater than $25,000 for a type of compliance requirement for a major program. Known questioned costs are those specifically identified by the auditor. In evaluating the effect of questioned costs on the opinion on compliance, the auditor considers the best estimate of total costs questioned (likely questioned costs), not just the questioned costs specifically identified (known questioned costs). The auditor must also report known questioned costs when likely questioned costs are greater than $25,000 for a type of compliance requirement for a major program. In reporting questioned costs, the auditor must include information to provide proper perspective for judging the prevalence and consequences of the questioned costs.

Title 7, Code of Federal Regulations, Section 210.7 Reimbursement for school food authorities, states in part:

(a) General. Reimbursement payments to finance nonprofit school food service operations shall be made only to school food authorities operating under a written agreement with the State agency. Subject to the provisions of § 210.8(c), such payments may be made for lunches and meal supplements served in accordance with provisions of this part and part 245 in the calendar month preceding the calendar month in which the agreement is executed.

Title 7, Code of Federal Regulations, Section 210.9 Agreement with State Agency, states in part:

(b) Agreement. Each school food authority approved to participate in the program shall enter into a written agreement with the State agency that may be amended as necessary.

2019-004 The Office of Superintendent of Public Instruction did not have adequate internal controls over and did not comply with suspension and debarment requirements for Child Nutrition Cluster program subrecipients.

Federal Awarding Agency:	United States Department of Agriculture	
Pass-Through Entity:	None	
CFDA Number and Title:	10.553	Child Nutrition Cluster
	10.555	
	10.556	
	10.559	
Federal Award Number:	187WAWA3N1099	
	197WAWA3N1099	
Applicable Compliance Component:	Suspension and Debarment	
Known Questioned Cost Amount:	None	

Background

The Office of Superintendent of Public Instruction (Office) administers the Child Nutrition Cluster program to: provide healthy and nutritious meals to eligible children in public and non-profit private schools, residential child-care institutions, and summer recreation programs; and encourage the domestic consumption of nutritious agricultural commodities. The Office spent about $298 million, including non-cash assistance, in federal funds on the program during the audit period. All but about $200,000 of the amount was passed through to school food authorities (SFA) and other sponsors as subawards.

Federal regulations prohibit grantees from making subawards under covered transactions to parties that are suspended or debarred from doing business with the federal government. The regulations require grantees to verify that all subrecipients of federal funds are not suspended or debarred using one of three approved methods. The Office's verification procedure is to add a clause or condition to each subaward in which the signer attests they are not suspended or debarred.

Description of Condition

The Office did not have adequate internal controls over and did not comply with suspension and debarment requirements for Child Nutrition Cluster program subrecipients.

We used a statistical sampling method and randomly selected 55 of 442 subrecipients for review. For the selected subrecipients, we examined the subaward records to confirm that a suspended and debarred clause or condition was included in the agreement. We determined the Office did not require 14 subrecipients to certify that they were not suspended or debarred before receiving federal funds. This is an exception rate of 25 percent.

We consider this internal control deficiency to be a material weakness.

This condition was not reported in the prior audit.

Cause of Condition

Program staff believed that tax-exempt or non-profit organizations were not subject to the suspension and debarment requirements.

Effect of Condition

By not following one of the three federally approved methods, the Office risks not identifying suspended or debarred subrecipients before issuing awards. If payments were made to subrecipients who were suspended or debarred, the payments would be unallowable and the Office may have to repay the grantor.

We confirmed that the subrecipients were not suspended or debarred. Therefore, we are not questioning costs related to these payments.

Recommendation

We recommend the Office establish and implement adequate internal controls to ensure the program meets federal suspension and debarment requirements.

Agency's Response

OSPI concurs with this finding. Steps taken to ensure this does not happen in the future include:

- *Implementation of a single permanent Child Nutrition Programs Agreement that includes information and attestation to Suspension and Debarment requirements.*
- *Updated internal process for review and approval of Sponsor Program applications.*

Auditor's Remarks

We thank the Office for its cooperation and assistance throughout the audit. We will review the status of the Office's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

(a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance

with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

(b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.

(d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.516 Audit findings, states in part:

(a) *Audit findings reported*. The auditor must report the following as audit findings in a schedule of findings and questioned costs:

(1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.

(2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.

Title 2, U.S. Code of Federal Regulation, part 180, states in part:

Subpart B – Covered Transactions, Section 180.200 What is a covered transaction?

A covered transactions is a nonprocurement or procurement transactions that is subject to the prohibitions of this part. It may be a transaction at –

(a) The primary tier, between a Federal agency and a person (see appendix to this part); or

(b) A lower tier, between a participant in a covered transaction and another person.

Subpart C–Responsibilities of Participants Regarding Transactions Doing Business With Other Persons, Section 180.300 What must I do before I enter into a covered transaction with another person at the next lower tier?

When you enter into a covered transaction with another person at the next lower tier, you must verify that the person with whom you intend to do business is not excluded or disqualified. You do this by:

(a) Checking SAM Exclusions; or

(b) Collecting a certification from that person; or
(c) Adding a clause or condition to the covered transaction with that person

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in internal controls over compliance in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, as follows:

.11 For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows: …

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

2019-005 The Office of Superintendent of Public Instruction did not have adequate internal controls over and did not comply with requirements to properly account for USDA donated foods.

Federal Awarding Agency:	United States Department of Agriculture
Pass-Through Entity:	None
CFDA Number and Title:	10.553 Child Nutrition Cluster 10.555 10.556 10.559
Federal Award Number:	187WAWA3N1099 197WAWA3N1099
Applicable Compliance Component:	Special Tests and Provisions – Accountability for USDA-Donated Foods
Known Questioned Cost Amount:	None

Background

The Office of Superintendent of Public Instruction (Office) administers the Child Nutrition Cluster program to: provide healthy and nutritious meals to eligible children in public and non-profit private schools, residential child care institutions, and summer recreation programs; and encourage the domestic consumption of nutritious agricultural commodities. The Office spent about $250 million on eligible child nutrition meals during fiscal year 2019. Most of this amount was passed through to school food authorities (SFA) and other sponsors as subawards.

The United States Department of Agriculture (USDA) makes donated agricultural commodities available for use in operating all child nutrition programs except the Special Milk Program for Children. The Office contracts with four warehouses to perform its storage and distribution duties. Federal regulations require that an appropriate accounting be maintained for USDA-donated foods, that an annual physical inventory is taken and the physical inventory is reconciled with inventory records.

Description of Condition

The Office did not have adequate internal controls over and did not comply with requirements to properly account for USDA-donated foods.

The Office performed an annual physical inventory for all four warehouses. However, we found:

- The Office did not perform proper reconciliations between the federal government distribution report, the Office’s internal inventory tracking spreadsheet and the warehouse documentation
- The Office did not perform a proper reconciliation between physical inventory and the Office’s inventory records
- The Office did not maintain supporting documentation for inventory losses

We consider these internal control deficiencies to be a material weakness.

This condition was not reported in the prior audit.

Cause of Condition

The Office did not have policies and procedures in place to ensure compliance with the USDA-Donated Foods reconciliation requirement. In addition, the Office's Food Distribution Supervisor was new to the position, and the Office did not have sufficient resources to complete the reconciliation.

Effect of Condition

We prepared our own reconciliation worksheet for all USDA-Donated Food items using the Office's State Fiscal Year 2018 physical ending inventory records, USDA food order records, distribution records, and the Office's State Fiscal Year 2019 physical ending inventory records. We found that out of 253 food items maintained by the four warehouses, 236 had discrepancies. The Office could not explain the differences because there was no reconciliation documentation or loss documentation.

Recommendations

We recommend the Office:

- Establish internal policies and procedures about the USDA-Donated Foods reconciliation process
- Establish and implement adequate internal controls to ensure a physical inventory was reconciled with inventory records

Office's Response

OSPI concurs with this finding. We will draft and implement internal policies and procedures for the reconciliation process of USDA-Donated Foods. These policies and procedures will include internal controls to ensure reconciliation of inventory records to physical inventory.

Auditor's Remarks

We thank the Office for its cooperation and assistance throughout the audit. We will review the status of the Office's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

(a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
(b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.
(d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.516 Audit findings, states in part:
(a) *Audit findings reported*. The auditor must report the following as audit findings in a schedule of findings and questioned costs:

(1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.
(2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in internal controls over compliance in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, as follows:

.11 For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows: …
Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person

performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

Title 7 U.S. Code of Federal Regulations, part 250, states in part:

Section 250.16 Claims and restitution for donated food losses.

(a) Distributing agency responsibilities. The distributing agency must ensure that restitution is made for the loss of donated foods, or for the loss or improper use of funds provided for, or obtained as an incident of, the distribution of donated foods. The distributing agency must identify, and seek restitution from, parties responsible for the loss, and implement corrective actions to prevent future losses.

(b) FNS claim actions. FNS may initiate and pursue claims against the distributing agency or other entities for the loss of donated foods, or for the loss or improper use of funds provided for, or obtained as an incident of, the distribution of donated foods. FNS may also initiate and pursue claims against the distributing agency for failure to take required claim actions against other parties. FNS may, on behalf of the Department, compromise, forgive, suspend, or waive a claim. FNS may, at its option, require assignment to it of any claim arising from the distribution of donated foods.

Section 250.14 Storage and inventory management at the recipient agency level.

(a) Safe storage and control. Recipient agencies must provide facilities for the storage and control of donated foods that protect against theft, spoilage, damage, or other loss. Accordingly, such storage facilities must maintain donated foods in sanitary conditions, at the proper temperature and humidity, and with adequate air circulation. Recipient agencies must ensure that storage facilities comply with all Federal, State, or local requirements relative to food safety and health and procedures for responding to a food recall, as applicable, and obtain all required health inspections.

2019-006 The Department of Health did not have adequate internal controls over and did not comply with cash management requirements for the Special Supplemental Nutrition Program for Women, Infants, and Children grant.

Federal Awarding Agency:	U.S. Department of Agriculture, Food and Nutrition Service
Pass-Through Entity:	None
CFDA Number and Title:	10.557 Special Supplemental Nutrition Program for Women, Infants and Children (WIC)
Federal Award Number:	187WAWA7W1002; 187WAWA7W1003; 187WAWA7W1006; 197WAWAW71003; 197WAWA7W1006
Applicable Compliance Component:	Cash Management
Known Questioned Cost Amount:	None

Background

The Department of Health (Department) operates the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC). WIC reaches about 113,000 women and children in over 200 clinics throughout the state and is funded exclusively with federal grants from the U.S. Department of Agriculture.

WIC serves pregnant women, new and breastfeeding moms, and children younger than 5, who are at or below 185 percent of the federal poverty level. WIC provides:

- Nutrition ideas and tips on how to eat well and be more active
- Breastfeeding support, such as access to a peer counselor (varies by clinic)
- Health reviews and referrals
- Monthly checks for healthy food, such as fruit, vegetables and milk, and fortified formula

The primary purpose of the Cash Management Improvement Act (CMIA) agreement is to ensure states request federal funds exactly when they are needed and that no interest is gained or lost by either the federal or state governments. The agreement specifies the funding technique the Department should use when requesting federal funds.

For program administrative costs and payments to providers, the Department must draw funds semi-monthly, according to the state payroll schedule. For daily food benefit payments, the Department must draw funds, which are calculated on the amounts net of rebates from manufacturers, daily.

The Department spent about $119 million in federal grant funds during fiscal year 2019. Of this total, it paid about $67 million in food benefits to WIC clients, and $49 million in administrative costs and payments to providers.

In the prior audit, we reported the Department did not have adequate internal controls over and was not compliant with cash management requirements. The prior finding number was 2018-006.

Description of Condition

The Department did not have adequate internal controls over and was not compliant with cash management requirements for the WIC grant.

When the Department drew federal funds, it ensured the amounts drawn were correct based on actual payments. However, the Department did not monitor its federal drawdown frequency to ensure it complied with the CMIA. We determined 24 semi-monthly and 187 daily draws (depending on the available rebate balance) should have occurred during state fiscal year 2019. We randomly selected and examined 16 of the 106 actual daily draws and all 21 semi-monthly draws the Department performed during the year. We found:

- Nine of the 16 daily draws were not drawn in a timely manner, including two that were drawn four days late. Eight of the draws were a combination of two or more separate food benefit payments. The amounts that were drawn late ranged from $214,394 to $965,574.
- Fifteen of the 21 semi-monthly draws we examined were not drawn on the state payroll schedule, as required. We also determined that the Department made no semi-monthly draws in July 2018 and August 2018.

We consider these internal control deficiencies to be a material weakness.

Cause of Condition

The Department's draw-down pattern did not match the funding technique specified in the CMIA agreement. The Department completed its Corrective Action Plan in response to the prior audit finding in September 2019, which was after our audit period. The Department stated that it did not implement changes to address inadequate internal controls and noncompliance over cash management requirements until after our audit period.

As of September 2019, the Department had revised its CMIA agreement with the Office of Financial Management (OFM) to match its current draw-down pattern.

Effect of Condition

Violations of the CMIA can result in the grantor denying the state payment or credit for the resulting federal interest liability or other sanctions. Delaying federal draw-down requests also results in state funds being advanced longer than necessary and lost interest revenue for the state.

Recommendations

We recommend the Department:

- Improve its internal controls to ensure it performs cash draws following the state's CMIA agreement

- Update policies and procedures to reflect the funding techniques and clearance patterns outlined in the current CMIA agreement

Agency's Response

We appreciate the State Auditor's Office (SAO) audit of the Women, Infant and Children grant. DOH is committed to ensuring our programs comply with federal regulations and understand that it is SAO's point of view that we were not in compliance with the federally approved Cash Management Improvement Act (CMIA). The Department was able to get an approved CMIA for fiscal year 2020 that supports how our food draws are performed. We will work on updating our policies to ensure our administrative draws are also performed in line with the most recently approved CMIA.

Auditor's Concluding Remarks

We thank the Department for its cooperation and assistance throughout the audit. We will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

(a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

(b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.

(d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.516 Audit findings, states in part:

(a) *Audit findings reported*. The auditor must report the following as audit findings in a schedule of findings and questioned costs:

(1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a

significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.

(2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.

Title 31 Code of Federal Regulations part 205.29 What are the State oversight and compliance responsibilities?, states in part:

(d) If a State repeatedly or deliberately fails to request funds in accordance with the procedures established for its funding techniques, as set forth in § 205.11, § 205.12, or a Treasury-State agreement, we may deny the State payment or credit for the resulting Federal interest liability, notwithstanding any other provision of this part.

(e) If a State materially fails to comply with this subpart A, we may, in addition to the action described in paragraph (d) of this section, take one or more of the following actions, as appropriate under the circumstances:

(1) Deny the reimbursement of all or a part of the State's interest calculation cost claim;

(2) Send notification of the non-compliance to the affected Federal Program Agency for appropriate action, including, where appropriate, a determination regarding the impact of non-compliance on program funding;

(3) Request a Federal Program Agency or the General Accounting Office to conduct an audit of the State to determine interest owed to the Federal government, and to implement procedures to recover such interest;

(4) Initiate a debt collection process to recover claims owed to the United States; or

(5) Take other remedies legally available.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in internal controls over compliance in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, as follows:

.11 For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows: …

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person

performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.
Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.
Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

The Cash Management Improvement Act (CMIA) of 2019, states in part:

6.2 Description of Funding Techniques, 6.2.1: The following are terms under which standard funding techniques shall be implemented for all transfers of funds to which the funding technique is applied in section 6.3.2 of this Agreement.

Actual Clearance, ZBA – ACH

The State shall request funds such that they are deposited by ACH in a State account on the settlement date of payments issued by the State. The request shall be made in accordance with the appropriate Federal agency cut-off time specified in Exhibit I. The amount of the request shall be for the amount of funds that clear the State’s account on the settlement date. This funding technique is interest neutral.

6.2.4 The following are terms under which State unique funding techniques shall be implemented for all transfers of funds to which the funding technique is applied in section 6.3.2 of this Agreement.

Modified Direct Program Costs -Admin, Payroll, Payments to Providers (ACH Drawdown on Payroll Cycle)

The State shall request funds for all direct administrative costs and/or payroll costs, and/or payments made to providers and to support providers. The request shall be made in accordance with the appropriate Federal agency cut-off time specified in Exhibit I. The amount of the funds requested shall be based on the amount of expenditures recorded for direct administrative costs and/or payroll costs and/or payments made to providers or to support providers since the last request for funds. The State payroll cycle is payday twice a month. Draws made day before payday are for deposit on payday. The draw request will be made in accordance with cut-off time in Exhibit 1. The amount of the funds requested shall be based on the amount of expenditures recorded for direct administrative costs and/or payroll costs and/or payments made to providers or to support providers since the last request for funds. This funding technique is interest neutral.

6.3.2 Programs

10.557 Special Supplemental Nutrition Program for Women, Infants, and Children

Recipient: 303---Department of Health---DOH
% of Funds Agency Receives: 66.00
Component: Direct program/benefit payments for food voucher redemption through United Community Bank, which acts as the state's fiscal agent in the program. The state's drawdowns are based on the actual expenditures, which are the previous day's activity. Rebates offset the direct program/benefit payments. This is a zero balance account.
Technique: Actual Clearance, ZBA-ACH
Average Day of Clearance: 0 Days

Recipient: 303---Department of Health---DOH
% of Funds Agency Receives: 34.00
Component: Administrative costs including payroll
Technique: Modified Direct Program Costs -Admin, Payroll, Payments to Providers (ACH Drawdown on Payroll Cycle)
Average Day of Clearance: 0 Days

2019-007 The Department of Health did not have adequate internal controls over and did not comply with requirements for procurements of goods and services funded by the Special Supplemental Nutrition Program for Women, Infants, and Children program.

Federal Awarding Agency:	United States Department of Agriculture, Food and Nutrition Service
Pass-Through Entity:	None
CFDA Number and Title:	10.557 Special Supplemental Nutrition Program for Women, Infants and Children (WIC)
Federal Award Number:	187WAWA7W1002; 187WAWA7W1003; 187WAWA7W1006; 197WAWAW71003; 197WAWA7W1006
Applicable Compliance Component:	Procurement
Known Questioned Cost Amount:	None

Background

The Department of Health (Department) operates the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC). WIC reaches about 113,000 women and children in over 200 clinics throughout the state and is funded exclusively with federal grants from the U.S. Department of Agriculture.

WIC serves pregnant women, new and breastfeeding moms, and children younger than 5 with a family income at or below 185 percent of the federal poverty level. WIC provides:

- Nutrition ideas and tips on how to eat well and be more active
- Breastfeeding support, such as access to a peer counselor (varies by clinic)
- Health reviews and referrals
- Monthly checks for healthy food, such as fruit, vegetables and milk, and fortified formula

When procuring property or services with federal funds, federal regulations require states to apply the same policies and procedures as procurements made using non-federal funds.

In Washington, state law (Revised Code of Washington Chapter 39 – Public Contracts and Indebtedness) establishes the requirements that state agencies must follow when contracting for goods and services. The Department of Enterprise Services (DES) has also established policies that agencies must follow and is responsible for overseeing agency contracting. These policies address areas such as competitive awarding of contracts, public works projects, emergency purchases, intergovernmental services, and sole-source exceptions.

The Department spent about $119 million in federal grant funds during fiscal year 2019, and procured four contracts for goods and services with vendors valued at $7.6 million.

Description of Condition

The Department did not have adequate internal controls over and did not comply with procurement requirements.

We reviewed all four contracts procured during the audit period. For one contract (25 percent), we found the Department did not meet the requirements for awarding it. We determined the Department did not have documented approval from the Department of Enterprise Services (DES) to award the contract to a sole-source vendor, as is required. The Department also did not document the vendor's qualifications to justify a sole-source contract.

We consider these internal control deficiencies to be a material weakness.

This condition was not reported in the prior audit.

Cause of Condition

The contracted services in question were originally procured through an intergovernmental agreement, as the Department understood the vendor to be a quasi-governmental entity. However, the Department's Contracts Unit later discovered that the vendor is a non-profit organization, and, therefore, subject to competitive contracting requirements.

A Program Manager reviewed the agreement before its execution. However, this review did not detect the noncompliance. The Department detected the noncompliance before our audit and subsequently replaced the contract in question with a subaward.

Effect of Condition

Without following state requirements for awarding contracts, the Department cannot ensure it acquires goods and services at competitive prices and from qualified vendors.

Because this finding reports non-compliance with state law, state law (RCW 43.09.312(1)) requires the Office of Financial Management to submit the Department's response and plan for remediation to the Governor, the Joint Legislative Audit and Review Committee, and the relevant fiscal and policy committees of the Senate and House of Representatives.

Recommendations

We recommend the Department:

- Ensure staff responsible for procurement of goods and services are familiar with applicable state laws and policies for awarding and executing contracts
- Review its contract policies and procedures to determine if revisions are needed
- Request approval from DES for all future sole-source contracts awarded with program funds

Department's Response

We appreciate the State Auditor's Office (SAO) audit of the Women, Infant and Children grant. DOH is committed to ensuring our programs comply with federal regulations and state laws. DOH Contracts Unit staff are aware of the laws and policies for procurement under RCW 39.26. The cause of the condition in this instance was a misunderstanding of the entities status as a quasi-governmental entity. The non-profit status of this entity has been clearly communicated to staff in the Contracts Unit and in the program. The Contracts Unit has worked with DOH program(s) to clarify the status of this entity and has since filed several contracts with DES for this same entity as a sole source contract or has determined them to be a subrecipient depending on the scope of work in the contract.

Auditor's Concluding Remarks

We thank the Department for its cooperation and assistance throughout the audit. We will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

(a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

(b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.

(d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.516 Audit findings, states in part:

(a) *Audit findings reported*. The auditor must report the following as audit findings in a schedule of findings and questioned costs:

(1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit

finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.

(2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.

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Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.
Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.
Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either

individually or when aggregated with other noncompliance, to the affected government program.

Title 2 Code of Federal Regulations, Section 200.317 – Procurements by states.

> When procuring property and services under a Federal award, a state must follow the same policies and procedures it uses for procurements from its non-Federal funds. The state will comply with 200.322 *Procurement of recovered materials* and ensure that every purchase order or other contract includes any clauses required by section 200.326 *Contract provisions*. All other non-Federal entities, including subrecipients of a state, will follow 200.318 *General procurement standards* through 200.326 *Contract provisions*.

Revised Code of Washington RCW 39.26.120 "Competitive solicitation", states in part:

> (1) Insofar as practicable, all purchases of or contracts for goods and services must be based on a competitive solicitation process. This process may include electronic or web-based solicitations, bids, and signatures.

RCW 39.26.125 "Competitive solicitation – Exceptions," states in part:

> All contracts must be entered into pursuant to competitive solicitation, except for:
> (2) Sole source contracts that comply with the provisions of RCW 39.26.140

RCW 39.26.140 "Sole source contracts" states in part:

> (1) Agencies must submit sole source contracts to the department and make the contracts available for public inspection not less than ten working days before the proposed starting date of the contract. Agencies must provide documented justification for sole source contracts to the department when the contract is submitted, and must include evidence that the agency posted the contract opportunity at a minimum on the state's enterprise vendor registration and bid notification system.
>
> (2) The Department must approve sole source contracts before any such contract becomes binding and before any services may be performed or goods provided under the contract. These requirements shall also apply to all sole source contracts except as otherwise exempted by the director.
>
> (3) The director may provide an agency an exemption from the requirements of this section for a contract or contracts. Requests for exemptions must be submitted to the director in writing.

2019-008 The Department of Social and Health Services did not have adequate internal controls over and did not comply with some Public Assistance Cost Allocation Plan requirements.

Federal Awarding Agency:	Administration for Children & Families	
Pass-Through Entity:	None	
CFDA Number and Title:	10.561	State Administrative Matching Grants for the Supplemental Nutrition Assistance Program
	93.558	Temporary Assistance for Needy Families (TANF)
	93.566	Refugee and Entrant Assistance-State Administered Programs
	93.778	Medical Assistance Program
Federal Award Number:	201818Q750347; 201818S251447; 201919S251447; 1901WATANF; 1901WATAN3; G-1801WARCMA; G-1901WARCMA; G1801WARSOC; G-1907WARSOC; 1905WA5MAP; 1905WA5ADM; 1905WAIMPL; 1905WAINCT	
Applicable Compliance Component:	Activities Allowed/Unallowed Allowable Costs/Cost Principles	
Known Questioned Cost Amount:	None	

Background

The Department of Social and Health Services (Department) uses the Random Moment Time Sample (RMTS) as a method to allocate costs for its field operations to the state and federally funded programs.

Department staff generally work on multiple programs throughout a workday, which makes maintaining a timesheet difficult and time consuming. RMTS simplifies how the Department allocates the cost of time and effort to state and federal programs. RMTS is a sampling tool that is used to generate statistically valid statewide estimates of various activities performed by Department employees. DSHS uses a system called Barcode to allow staff to work on client cases, document information, generate samples and compile RMTS results.

The Department's use of RMTS is included in its Public Assistance Cost Allocation Plan (PACAP) with the federal grantor. The PACAP is approved annually and outlines the general operating policies and procedures that must be followed by RMTS staff.

For RMTS to properly calculate the percentages of activities performed by Department staff, it must start by identifying a sampling universe that is accurate and complete. The sampling universe lists the eligible worker types to be included and is updated monthly to ensure the sample includes all eligible employees. RMTS coordinators are responsible for updating the list of workers by the 19th of each month. Sampled workers are responsible for the accurate and timely completion of the RMTS sample and must complete samples within two hours of receiving them. RMTS coordinators must complete samples on behalf of the worker in accordance with the PACAP if the

worker is unavailable to do so. At the end of the month, the samples are compiled and results are entered into the cost allocation system.

During fiscal year 2019, the Department used RMTS to allocate about $113 million to the following federal programs: State Administrative Matching Grants for the Supplemental Nutrition Assistance Program, Temporary Assistance for Needy Families, Refugee and Entrant Assistance-State Administered Programs, and the Medical Assistance Program.

Description of Condition

The Department did not have adequate internal controls over RMTS and did not comply with some Public Assistance Cost Allocation Plan requirements.

Monthly employee reconciliations for sample universe

An Operation Analyst is responsible for performing monthly employee reconciliations that compare current staff on the payroll to a list of employees that were included in the previous month's sample population to ensure that the sampling population is complete. We requested supporting records to show that the Operation Analyst completed monthly reconciliations. In four instances, the Department did not have records to show the monthly reconciliations were performed.

Monthly employee updates

We randomly selected three of the eight monthly reconciliations the Operation Analyst created and forwarded to the RMTS Coordinator to update eligible staff in Barcode. For all three of the selected months, RMTS coordinators did not update the staff list in Barcode.

RMTS coordinators completing samples on behalf of sampled worker

The PACAP requires RMTS coordinators to respond for sampled workers who are not on the job at the sample time. The coordinator indicates why the sampled worker did not respond for reasons such as:

- Employee development and training
- Vacation and sick leave
- Vacant position
- Employee is working an alternative schedule

We used a statistically valid sampling method to randomly select 58 of the 3,772 RMTS samples that the sampled worker did not respond to and were completed by coordinators. In five instances, the coordinators completed the sample with worker activities rather than stating the reason(s) the worker did not respond. This approach was not allowed by the PACAP.

These conditions were not reported in the prior audit.

Cause of Condition

Monthly employee reconciliations for sample universe

Key personnel responsible for the RMTS staff reconciliation were out of the office. The Department did not have policies to indicate who served as back-up staff.

Monthly employee updates

Department management did not establish a review process to monitor RMTS coordinators updating the staff list in Barcode.

RMTS coordinators completing samples on behalf of sampled worker

Coordinators were trained to complete samples as if they were the worker, which did not align with the PACAP. The Department did not update its PACAP to reflect its current practices, and these new practices were not approved by the grantor.

Effect of Condition

The Department's inadequate internal controls affected the integrity of its RMTS sample universe. An erroneous sample could cause the costs charged by the Department for its headquarters and regional operations to federally funded programs to be unallowable according to the PACAP. If unallowable or unsupported costs were charged to federal programs, the grantors could seek repayment for those costs.

Recommendations

We recommend the Department:

- Ensure monthly staff reconciliations are performed when key personnel are out of the office
- Implement a review process to ensure RMTS coordinators properly update the staff list in Barcode
- Amend its PACAP to reflect current practices and ensure the federal grantor approves the PACAP

Department's Response

The Department concurs with the audit finding.

As an immediate fix, the Department will update the Public Assistance Cost Allocation Plan (PACAP) to reflect our current practice that allows the RMTS Coordinators to complete the sample with the worker's activities, and then submit to the federal grantor for approval.

The Department will also:

- *Develop and implement a process to ensure monthly staff reconciliations are performed when key personnel are out of the office.*
- *Implement a standard procedure for use by the RMTS Coordinators when updating the eligible staff list in Barcode.*
- *Conduct a monthly review of a subset of the staff list in Barcode to ensure the RMTS Coordinators update the list appropriately.*

We anticipate implementing the aforementioned process changes shortly before the end of SFY 2020. Therefore, we acknowledge we are likely to see these same findings for the SFY 2020 Statewide Single Audit.

Auditor's Concluding Remarks

We thank the Department for its cooperation and assistance throughout the audit. We will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

(a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

(b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.

(d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.430 Compensation-personal services, states in part:

(5) For states, local governments and Indian tribes, substitute processes or systems for allocating salaries and wages to Federal awards may be used in place of or in addition to the records described in paragraph (1) if approved by the cognizant agency for indirect cost. Such systems may include, but are not limited to, random moment sampling, "rolling" time studies, case counts, or other quantifiable measures of work performed.

(i) Substitute systems which use sampling methods (primarily for Temporary Assistance for Needy Families (TANF), the Supplemental Nutrition Assistance Program (SNAP), Medicaid, and other public assistance programs) must meet acceptable statistical sampling standards including:

(A) The sampling universe must include all of the employees whose salaries and wages are to be allocated based on sample results except as provided in paragraph (i)(5)(iii) of this section;

(B) The entire time period involved must be covered by the sample; and

(C) The results must be statistically valid and applied to the period being sampled.

(ii) Allocating charges for the sampled employees' supervisors, clerical and support staffs, based on the results of the sampled employees, will be acceptable.

(iii) Less than full compliance with the statistical sampling standards noted in subsection (5)(i) may be accepted by the cognizant agency for indirect costs if it concludes that the amounts to be allocated to Federal awards will be minimal, or if it concludes that the system proposed by the non-Federal entity will result in lower costs to Federal awards than a system which complies with the standards.

(6) Cognizant agencies for indirect costs are encouraged to approve alternative proposals based on outcomes and milestones for program performance where these are clearly documented. Where approved by the Federal cognizant agency for indirect costs, these plans are acceptable as an alternative to the requirements of paragraph (i)(1) of this section.

(7) For Federal awards of similar purpose activity or instances of approved blended funding, a non-Federal entity may submit performance plans that incorporate funds from multiple Federal awards and account for their combined use based on performance-oriented metrics, provided that such plans are approved in advance by all involved Federal awarding agencies. In these instances, the non-Federal entity must submit a request for waiver of the requirements based on documentation that describes the method of charging costs, relates the charging of costs to the specific activity that is applicable to all fund sources, and is based on quantifiable measures of the activity in relation to time charged.

(8) For a non-Federal entity where the records do not meet the standards described in this section, the Federal Government may require personnel activity reports, including prescribed certifications, or equivalent documentation that support the records as required in this section.

Section 200.516 Audit findings, states in part:

(a) *Audit findings reported*. The auditor must report the following as audit findings in a schedule of findings and questioned costs:

(1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.

(2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.

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.11 For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows: …

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.
Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

C-21-1, DSHS RMTS Program Instructions, page 241, states in part:

Community Service Office RMTS Coordinators

By the 19th of each month, the RMTS coordinators must review and update the Barcode list of employees to be sampled to ensure all eligible workers are included for the RMTS sampling. Necessary changes to the list of workers must be completed before the samples for that month can be generated.

RMTS coordinators are responsible for administering the sample. If a sample worker is not signed in or does not respond, the RMTS coordinator is notified with a hyperlink to the RMTS sample form. The RMTS Coordinator is responsible for responding for sample workers who are not on the job at the sample time. The RMTS Coordinator must indicate why the sample worker didn't respond by checking in employee development training, on annual/sick leave, vacant position, alternate schedule, or other.

2019-009 The Department of Social and Health Services did not have adequate internal controls over and did not comply with subrecipient monitoring requirements for the Crime Victims Assistance program.

Federal Awarding Agency:	Department of Justice
Pass-Through Entity:	None
CFDA Number and Title:	16.575 Crime Victims Assistance
Federal Award Number:	2017-VA-GX-0061 2016-VA-GX-0044
Applicable Compliance Component:	Subrecipient Monitoring
Known Questioned Cost Amount:	None

Background

The Department of Social and Health Services (Department) assists in administering the Crime Victim Assistance program (program) through an Inter-local Agreement with the Department of Commerce. The Department subawards federal funds to subrecipients that provide assistance to victims of crime in Washington. During state fiscal year 2019, the Department spent $12.6 million in federal funds for the program and passed through $12.2 million of that to subrecipients.

Subrecipients submit monthly reimbursement requests to the Department using a standardized form developed in coordination with the Department of Commerce. The form itemizes spending by activity, such as salaries and benefits, contract payments and goods and services. For the payments of goods and services, subrecipients must include a list of vendors and items that were purchased. The Department performs desk monitoring of the subrecipient requests before it issues payments. This monitoring focuses only on reimbursement requests for goods and services.

Federal regulations allow subrecipients to charge certain facility and administrative costs to the grant. These costs can be charged as indirect costs because they are incurred for a common or joint purpose benefiting more than one activity. Indirect cost rates can be charged at:

- An approved federally recognized indirect cost rate negotiated between the subrecipient and the federal government or, if no such rate exists, either:
  - A rate negotiated between the pass-through entity and the subrecipient; or
  - A de minimis indirect cost rate of 10 percent of Modified Total Direct Costs (MTDC), which may be used only if the subrecipient has never received a negotiated indirect cost rate or the Department didn't previously negotiate a rate with the subrecipient.

The Department must clearly identify the indirect cost rate in the subaward. If the de minimis rate is chosen, the Department is responsible for knowing whether subrecipients are eligible to use it.

Description of Condition

The Department did not have adequate internal controls over and did not fully comply with subrecipient monitoring requirements. Specifically, the Department did not adequately review supporting documentation during its payment review and approval process for the program.

We randomly selected and reviewed supporting documentation for 57 of the 895 subrecipient payments made during the audit period to identify the percentage of federal funds the subrecipients received that were reviewed by the Department.

The Department reviewed $480,019 (27 percent) out of $1,805,419 of total payments reviewed. The monitoring the Department performed for these payments included only reimbursement requests for goods and services. Other activities, such as salaries and benefits and contracted services, were not subject to supporting documentation review during the invoice approval process. In our judgment, this level of monitoring was insufficient to ensure the Department could reasonably detect unallowable or unsupported costs by the subrecipients.

Additionally, during the subaward process, the Department did not inquire if subrecipients had previously been authorized a Federally Negotiated Indirect Rate (FNIR).

We randomly selected and reviewed seven of 19 subawards issued by the Department during our audit period. We found the subawards did not clearly identify that the indirect cost rate subrecipients were authorized to request for reimbursement.

We consider these internal control deficiencies to be a material weakness.

This condition was not reported in the prior audit.

Cause of Condition

The Department selected goods and services for review of supporting documentation because it believes this expense category has the highest likelihood for unallowable costs. The Department believed that its monitoring practices were sufficient to detect unallowable or unsupported costs by subrecipients.

During the subaward process, the Department did not know it should verify if subrecipients had negotiated an FNIR. Management did not establish a process in which they identify whether the subrecipient had ever had a FNIR, which would allow the Department to ensure subawards were compliant.

Effect of Condition

By not adequately monitoring its subrecipients, the Department is at a higher risk of not detecting or preventing unallowable activities and costs from being charged to the federal grant.

Recommendations

We recommend the Department:

- Expand its fiscal monitoring of subrecipients to include reimbursement requests for all activities and not just those for goods and services
- Establish a process to inquire whether subrecipients have ever negotiated an FNIR with the federal government before allowing a subrecipient to request reimbursement using the de minimis indirect cost rate of 10 percent of MTDC
- Establish a secondary review process to ensure federal requirements are met before issuing subawards
- Ensure that subawards clearly identify indirect cost rates

Department's Response

The Department concurs with the overall findings of the SAO.

Review of Supporting Documentation for Reimbursement Requests

The Department will work with the Department of Commerce to ensure a coordinated and unified approach for expanding the review of supporting documentation to include reimbursement requests for all activities, and not just those for goods and services. We anticipate the aforementioned process change and the associated additional requirements for subrecipients will be effective for contracts awarded in SFY 2021. Therefore, we acknowledge we are likely to see these same findings for SFY 2020.

While the Department concurs that additional review of supporting documentation will help ensure all costs are supported, it is important to note that the Department also reviews supporting documentation of invoice expenses in desk monitoring of medium risk contracts and as part of on-site monitoring.

Documentation of Federally Negotiated Indirect Rate

The Department acknowledges there was an oversight in documentation for all subrecipients on whether they have ever had a Federally Negotiated Indirect Rate (FNIR). We will modify our funding application form to inquire whether the subrecipient has ever negotiated a FNIR with the federal government. The Department does verify the FNIR when the subrecipient self-discloses. Out of 50 subrecipients, only three have a FNIR. We believe the risk is low that we would be unaware of a subrecipients FNIR and would subsequently allow the subrecipient to request reimbursement using the de minimis indirect cost rate of 10 percent of Modified Total Direct Costs (MTDC). The Department will also modify the contract templates to clearly identify the indirect cost rate in the subaward.

Auditor's Concluding Remarks

We thank the Department for its cooperation and assistance throughout the audit. We will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

(a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

(b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.

(d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.331 Requirements for pass-through entities, states in part:

All pass-through entities must:

(a) Ensure that every subaward is clearly identified to the subrecipient as a subaward and includes the following information at the time of the subaward and if any of these data elements change, include the changes in subsequent subaward modification. When some of this information is not available, the pass-through entity must provide the best information available to describe the Federal award and subaward. Required information includes:

1. Federal Award Identification

    xiii. Indirect cost rate for the Federal award (including if the de minimis rate is charged per 200.414 Indirect (F&A) costs).

(d) Monitor the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved. Pass-through entity monitoring of the subrecipient must include:

(1) Reviewing financial and performance reports required by the pass-through entity.

(2) Following-up and ensuring that the subrecipient takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to the subrecipient from the pass-through entity detected through audits, on-site reviews, and other means.

(3) Issuing a management decision for audit findings pertaining to the Federal award provided to the subrecipient from the pass-through entity as required by §200.521 Management decision.

(e) Depending upon the pass-through entity's assessment of risk posed by the subrecipient (as described in paragraph (b) of this section), the following monitoring tools may be useful for the pass-through entity to ensure proper accountability and compliance with program requirements and achievement of performance goals:

(1) Providing subrecipients with training and technical assistance on program-related matters; and

(2) Performing on-site reviews of the subrecipient's program operations;

(3) Arranging for agreed-upon-procedures engagements as described in §200.425 Audit services.

2 CFR 200.414 - Indirect (F&A) costs states in part:

(f) Any non-Federal entity that has never received a negotiated indirect cost rate, except for those non-Federal entities described in Appendix VII to Part 200 - States and Local Government and Indian Tribe Indirect Cost Proposals, paragraph D.1.b, may elect to charge a de minimis rate of 10% of modified total direct costs (MTDC) which may be used indefinitely. As described in § 200.403 Factors affecting allowability of costs, costs must be consistently charged as either indirect or direct costs, but may not be double charged or inconsistently charged as both. If chosen, this methodology once elected must be used consistently for all Federal awards until such time as a non-Federal entity chooses to negotiate for a rate, which the non-Federal entity may apply to do at any time.

Section 200.516 Audit findings, states in part:

(a) *Audit findings reported*. The auditor must report the following as audit findings in a schedule of findings and questioned costs:

(1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor’s determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.

(2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The

auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.

(3) Known or likely fraud affecting a Federal program award, unless such fraud is otherwise reported as an audit finding in the schedule of findings and questioned costs for Federal awards. This paragraph does not require the auditor to report publicly information which could compromise investigative or legal proceedings or to make an additional reporting when the auditor confirms that the fraud was reported outside the auditor's report under the direct reporting requirements of GAGAS.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in internal controls over compliance in its Codification of Statements on Auditing Standards, section 935, Compliance Audits, as follows:

.11 For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows: …

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that

results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

2019-010 The Department of Commerce did not have adequate internal controls over and did not comply with subrecipient monitoring requirements for the Crime Victims Assistance program.

Federal Awarding Agency:	Department of Justice
Pass-Through Entity:	None
CFDA Number and Title:	16.575 Crime Victims Assistance
Federal Award Number:	2017-VA-GX-0061 2016-VA-GX-0044 2015-VA-GX-0031
Applicable Compliance Component:	Subrecipient Monitoring
Known Questioned Cost Amount:	None

Background

The Department of Commerce (Department) administers the Crime Victims Assistance program (program). The Department subawards federal funds to subrecipients that assist victims of crime in Washington. During state fiscal year 2019, the Department spent $50.6 million in federal funds for the program and passed through $47.7 million of that to subrecipients.

Subrecipients submit monthly reimbursement requests to the Department, using a standardized form. The form itemizes spending by activity, such as salaries and benefits, contract payments and goods and services. For the payments of goods and services, subrecipients must include a list of vendors and items that were purchased. The Department performs desk monitoring of the subrecipient requests before it issues payments. This monitoring focuses only on reimbursement requests for goods and services.

Federal regulations allow subrecipients to charge certain facility and administrative costs to the grant. These costs can be charged as indirect costs because they are incurred for a common or joint purpose benefiting more than one activity. Indirect cost rates can be charged at:

- An approved federally recognized indirect cost rate negotiated between the subrecipient and the federal government or, if no such rate exists, either:
    - A rate negotiated between the pass-through entity and the subrecipient; or
    - A de minimis indirect cost rate of 10 percent of Modified Total Direct Costs (MTDC), which may only be used if the subrecipient has never received a negotiated indirect cost rate or the Department didn't previously negotiate a rate with the subrecipient.

The Department must identify if subrecipients had previously negotiated a rate with the federal government. If the de minimis rate is chosen, the Department is responsible for knowing whether subrecipients are eligible to use it.

Description of Condition

The Department did not have adequate internal controls over and did not comply with subrecipient monitoring requirements for the program.

We randomly selected and reviewed the Department's monitoring of 52 subawards issued during the audit period to identify the percentage of federal funds the subrecipients received that were reviewed by the Department.

The Department reviewed $363,867 (19.3 percent) out of $1,889,155 of total payments made for the 52 subawards. The monitoring the Department performed included only reimbursement requests for goods and services. There was no documented evidence to show other activities, such as salaries and benefits and contracted services, were subject to fiscal monitoring. The Department said these activities are reviewed informally; however, staff are not required to retain the documentation showing what they reviewed. In our judgment, this level of monitoring was insufficient to ensure the Department could reasonably detect unallowable or unsupported costs by the subrecipients.

Additionally, during the subaward process, the Department did not inquire if subrecipients had previously been authorized a Federally Negotiated Indirect Rate (FNIR).

During review of the 52 randomly selected subawards issued by the Department, we found the Department allowed subrecipients to choose either a federally negotiated indirect rate or a de minimus rate without first verifying if the subrecipients were eligible for the de minimis rate.

We consider these internal control deficiencies to be a material weakness.

This condition was not reported in the prior audit.

Cause of Condition

The Department believed that its monitoring practices were sufficient to detect unallowable or unsupported costs by subrecipients The Department previously performed more in-depth fiscal monitoring, but discontinued that process after a determination was made that it was more effective and sustainable to focus on the portion of Goods and Services.

During the Subaward process, the Department was not aware it should verify if subrecipients had ever negotiated an Indirect Cost Rate with the Federal Government. Management did not establish a process in which they identify the federal subaward requirements that would allow the Department to ensure subawards were compliant.

Effect of Condition

By not adequately monitoring its subrecipients, the Department is at a higher risk of not detecting or preventing unallowable activities and costs from being charged to the federal grant.

Recommendations

We recommend the Department:

- Expand its fiscal monitoring of subrecipients to include reimbursement requests for all activities and not just those for goods and services
- Require program monitors to retain documentation to evidence what they review during fiscal monitoring
- Establish a process to inquire whether subrecipients have ever negotiated a FNIR with the federal government before allowing a subrecipient to request reimbursement using the de minimis indirect cost rate of 10 percent of MTDC

Department's Response

The Department concurs with this finding. The Department has established procedures to expand fiscal monitoring of its subrecipients during reimbursement, including requiring back up documentation for salaries, benefits, and subcontracted services. The procedure requires the submission of backup documentation for Salaries, Benefits, and Contracted Services that clearly documents the exact costs, calculations, percentage charged to the grant and allocation method if costs are allocated across multiple fund sources, and should clearly link the actual expenditures to the amounts requested for reimbursement on the invoice.

The Department also has an established procedure for documenting fiscal monitoring that occurs during in-person site visits. Fiscal monitoring during site visits will include the review of a sample of real-time timesheets to verify and confirm that salary/benefit charges on a previously submitted invoice have appropriate backup documentation on file. Staff will also document any fiscal policies and procedures reviewed and any other fiscal monitoring activities will be clearly documented in the site visit report.

The Department has updated the certification forms for MTDC eligibility to inquire whether subrecipients have ever negotiated an FNIR with the federal government.

Auditor's Concluding Remarks

We thank the Department for its cooperation and assistance throughout the audit. We will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

(a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
(b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.
(d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.331 Requirements for pass-through entities, states in part:

All pass-through entities must:
(d) Monitor the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved. Pass-through entity monitoring of the subrecipient must include:

(1) Reviewing financial and performance reports required by the pass-through entity.
(2) Following-up and ensuring that the subrecipient takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to the subrecipient from the pass-through entity detected through audits, on-site reviews, and other means.
(3) Issuing a management decision for audit findings pertaining to the Federal award provided to the subrecipient from the pass-through entity as required by §200.521 Management decision.

(e) Depending upon the pass-through entity's assessment of risk posed by the subrecipient (as described in paragraph (b) of this section), the following monitoring tools may be useful for the pass-through entity to ensure proper accountability and compliance with program requirements and achievement of performance goals:

(1) Providing subrecipients with training and technical assistance on program-related matters; and
(2) Performing on-site reviews of the subrecipient's program operations;
(3) Arranging for agreed-upon-procedures engagements as described in §200.425 Audit services.

2 CFR 200.414 - Indirect (F&A) costs states in part:

(g) Any non-Federal entity that has never received a negotiated indirect cost rate, except for those non-Federal entities described in Appendix VII to Part 200 - States and Local Government and Indian Tribe Indirect Cost Proposals, paragraph D.1.b, may elect to charge a de minimis rate of 10% of modified total direct costs (MTDC) which may be used indefinitely. As described in § 200.403 Factors affecting allowability of costs, costs must be consistently charged as either indirect or direct costs, but may not be double charged or inconsistently charged as both. If chosen, this methodology once elected must be used consistently for all Federal awards until such time as a non-Federal entity chooses to negotiate for a rate, which the non-Federal entity may apply to do at any time.

Section 200.516 Audit findings, states in part:

(a) *Audit findings reported*. The auditor must report the following as audit findings in a schedule of findings and questioned costs:

(1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.

(2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.

(6) Known or likely fraud affecting a Federal program award, unless such fraud is otherwise reported as an audit finding in the schedule of findings and questioned costs for Federal awards. This paragraph does not require the auditor to report publicly information which could compromise investigative or legal proceedings or to make an additional reporting when the auditor confirms that the fraud was reported outside the auditor's report under the direct reporting requirements of GAGAS.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in internal controls over compliance in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, as follows:

.11 For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows: …

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not

allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

2019-011 The Department of Commerce did not have adequate internal controls over and did not comply with federal requirements to ensure subrecipients of the Crime Victim Assistance program or the Low-Income Home Energy Assistance program received required audits and findings were followed up on timely.

Federal Awarding Agency:	Department of Justice and Health and Human Services
Pass-Through Entity:	None
CFDA Numbers and Titles:	16.575 Crime Victim Assistance
	93.568 Low-Income Home Energy Assistance
Federal Award Numbers:	2017-VA-GX-0061
	2016-VA-GX-0044
	2015-VA-GX-0031
	G-1901 WALIEA
	G-18B1 WALIEA
	G-1801 WALIE4
	G-17B1 WALIEA
	G-1701WALIE4
Applicable Compliance Component:	Subrecipient Monitoring
Known Questioned Cost Amount:	None

Background

The Department of Commerce (Department) administers the Crime Victim Assistance and Low-Income Home Energy Assistance programs. Both programs subawards federal funds to subrecipients that provide assistance in Washington. During state fiscal year 2019, the Department spent $50.6 million in federal funds for the Crime Victim Assistance program and $55.8 million in federal funds for the Low-Income Home Energy Assistance program. Of these amounts, the Department passed through $47.7 million to subrecipients of the Crime Victims Assistance Program and $53.4 million to subrecipients of the Low-Income Home Energy Assistance Program.

Federal regulations require the Department to monitor the activities of its subrecipients. This includes ensuring that its subrecipients that spend $750,000 or more in federal funds during a fiscal year obtain a single audit.

The audits must be completed and submitted to the Federal Audit Clearinghouse no later than nine months after the end of the subrecipient's fiscal year. The Department must also follow up on any audit findings a subrecipient receives that might affect the federal program and must issue a management decision within six months of the audit report's acceptance by the Federal Audit Clearinghouse. These requirements help ensure grant money is used for authorized purposes and within the provisions of contracts or grant agreements.

Description of Condition

The Department did not have adequate internal controls over and did not comply with federal requirements to ensure subrecipients of the Crime Victim Assistance program or the Low-Income

Home Energy Assistance program received required audits, findings were followed up on and management decisions were issued timely.

During the subaward process, subrecipients are notified of the requirement to submit all single audit reports on time once completed. However, management did not adequately track when audits were due, nor confirm that they were either performed or not required.

We randomly selected and examined records for 20 out of the program's 186 subrecipients. We found seven instances (35 percent) when the Department did not monitor subrecipients to ensure their compliance with requirements for obtaining single audits. Of these seven, one subrecipient received an audit finding related to the programs. The Department was required to issue a management decision to the subrecipient for this finding and ensure the issue was corrected. Because it was not aware of this finding, the Department did not perform the required follow-up.

We consider these internal control deficiencies to be a material weakness.

This condition was not reported in the prior audit.

Cause of Condition

The Department has written policies that describe the process it uses to verify whether each subrecipient required a single audit, monitor audit results, or ensure it issued timely management decisions when required. However, the Department did not follow these policies.

Effect of Condition

Without reviewing subrecipient audits in a timely manner, the Department cannot ensure it complies with federal law and issues management decisions timely. Not reviewing audit reports and issuing management decisions in a timely manner also affects the subrecipients, which might be relying on that management decision to determine how they will address the issues identified in their finding.

Recommendations

We recommend the Department:

- Adhere to established policies related to subrecipient audit monitoring
- Follow up on the subrecipient audit finding identified during the audit and issue a management decision, as required by federal regulation

Department's Response

The Department concurs with this finding. The Department has established policies and procedures in place related to subrecipient audit monitoring. Per current policy and procedure, reports are generated using our Contract Management System (CMS) to ensure required audits were received. These reports are to be ran quarterly. Our current process is to run a report for contractors who did not submit audits or verification forms if an audit is not required after the

required nine (9) months in an effort to collect the required information. The Department will change its policy and procedure to run the report prior to the nine (9) month requirement as a reminder and to ensure we collect the required documents within the required timeframe.

The Department has an established guideline in place related to following up on subrecipient audit findings. When inputting audits into CMS, the audit finding field is checked "yes" or "no" based on the information in the single audits received. Per the guideline, quarterly, a Findings Report is ran based on the audit finding field checked "yes" and worked to ensure audit findings identified are followed-up and captured into CMS. The Department will work with staff inputting audits into CMS to ensure audits are properly read and CMS fields are correctly checked to ensure the CMS reports are accurate and we can follow-up on subrecipient audit findings as required by federal regulation.

Auditor's Concluding Remarks

We thank the Department for its cooperation and assistance throughout the audit. We will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

(a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

(b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.

(d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.331 Requirements for pass-through entities, states in part:

All pass-through entities must:

(d) Monitor the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations,

and the terms and conditions of the subaward; and that subaward performance goals are achieved. Pass-through entity monitoring of the subrecipient must include:

(1) Reviewing financial and performance reports required by the pass-through entity.

(2) Following-up and ensuring that the subrecipient takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to the subrecipient from the pass-through entity detected through audits, on-site reviews, and other means.

(3) Issuing a management decision for audit findings pertaining to the Federal award provided to the subrecipient from the pass-through entity as required by §200.521 Management decision.

(f) Verify that every subrecipient is audited as required by Subpart F—Audit Requirements of this part when it is expected that the subrecipient's Federal awards expended during the respective fiscal year equaled or exceeded the threshold set forth in §200.501 Audit requirements.

Section 200.516 Audit findings, states in part:

(a) *Audit findings reported*. The auditor must report the following as audit findings in a schedule of findings and questioned costs:

(1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.

(2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.

Section 200.521 Management Decisions, states in part:

(c) Pass-through entity. As provided in § 200.331 Requirements for pass-through entities, paragraph (d), the pass-through entity must be responsible for issuing a management decision for audit findings that relate to Federal awards it makes to subrecipients.

(d) Time requirements. The Federal awarding agency or pass-through entity responsible for issuing a management decision must do so within six months of acceptance of the audit report by the FAC. The auditee must initiate and proceed with corrective action as rapidly as possible and corrective action should begin no later than upon receipt of the audit report.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in internal controls over compliance in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, as follows:

> .11 For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows: …
>
> **Deficiency in internal control over compliance.** A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.
>
> **Material weakness in internal control over compliance.** A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:
>
> > **Reasonably possible**. The chance of the future event or events occurring is more than remote but less than likely.
> >
> > **Probable**. The future event or events are likely to occur.
>
> **Significant deficiency in internal control over compliance.** A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.
>
> **Material noncompliance**. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

Department of Commerce, PRO 08-02-00

Ensuring Receipt of Federally Required Audits

Monitoring Grantee Audit Requirements

2019-012 **The Employment Security Department did not have adequate internal controls over fiscal monitoring requirements to ensure Workforce Innovation and Opportunity Act program funds were being used for allowable purposes.**

Federal Awarding Agency:	U.S. Department of Labor	
Pass-Through Entity:	None	
CFDA Number and Title:	17.258 17.259 17.278	Workforce Innovation and Opportunity Act
Federal Award Number:	AA-28350-16-55-A-53,AA-30772-17-55-A-53, AA-32219-18-55-A-53,AA-33263-19-55-A-53	
Applicable Compliance Component:	Subrecipient Monitoring	
Known Questioned Cost Amount:	None	

Background

The Employment Security Department (Department) receives federal funding for the Workforce Innovation Opportunity Act (WIOA) programs from the Department of Labor (DOL). The WIOA authorizes formula grant programs to the state to help job seekers access employment, education, training, and support services to succeed in the labor market. The WIOA programs provide employment and training for adults, dislocated workers, youth, and Wagner-Peyser Act employment services administered by DOL. The state subawards a large portion of the federal funds it receives to 12 Workforce Development Councils (WDCs) that provide employment assistance to individuals. The Department spent $63.3 million in federal funds for the WIOA cluster in state fiscal year 2019. Of that amount, it paid about $60.5 million to the WDCs.

When WDC's request funds from the Department they submit high-level supporting documentation, such as reports from an accounting system. To ensure federal funds are used only for allowable purposes and meet cost principles, the Department performs onsite monitoring of each WDC every year. The onsite monitoring includes the review of a selection of reimbursement requests submitted by the WDC since the last onsite monitoring visit. In the time between monitoring visits, each WDC spends federal funds from multiple subawards. The Department performs risk assessments of the subrecipient before and during its on-site visits.

Description of Condition

The Employment Security Department did not have adequate internal controls over fiscal monitoring requirements to ensure program funds were being used for allowable purposes.

When determining what expenditures to review during an onsite monitoring visit, the Department does not consider all expenditures disbursed between the prior and current onsite monitoring visits. Instead, the Department limits its review to expenditures for the most current, active program year. We used a non-statistical sampling method and randomly selected five of the total population of 12 WDC onsite monitoring visits for review. We analyzed the total expenditures reimbursed by the Department between the prior and current monitoring visits and found the five selected WDCs spent $32.7 million, while the Department considered only $12.3 million (38 percent) in its testing

population. The Department therefore excluded 62 percent of expenditures from its review population.

We also analyzed the percentage of expenditures tested by the monitoring team in comparison with the total expenditures reimbursed. We found the Department reviewed only 8 percent of total expenditures disbursed between the prior and current on-site visits.

We consider this internal control deficiency to be a material weakness.

This condition was not reported in the prior audit.

Cause of Condition

The Department believed that its monitoring practices, contract close-out process and subrecipient audits were sufficient to detect unallowable or unsupported costs by the WDCs. However, the subrecipient monitoring process was not designed to compensate for the lack of supporting documentation submitted with reimbursement requests by the WDC's when requesting payment.

Effect of Condition

Without establishing adequate internal controls, the Department cannot ensure federal funds are being used for allowable purposes. In our judgment, excluding almost two-thirds of payments to subrecipients from its review, and examining supporting documentation for only 8 percent of expenditures, does not provide the Department with reasonable assurance that grant funds were spent in accordance with grant requirements and federal regulations.

Recommendation

We recommend the Department:

- Strengthen its monitoring of subrecipients to ensure federal funds are used only for allowable purposes
- Ensure that all funds paid to subrecipients are subject to its fiscal oversight and not just those paid during the current and active program year

Department's Response

We respectfully disagree with the finding. We believe the Department has complied fully with federal requirements regarding oversight of funds provided to WDCs as part of WIOA implementation in Washington State. (See 2 cfr § 200.331)

The Department believes that the auditor is not applying correct standards in its review of subrecipient monitoring of WIOA funds. Federal law, regulations and guidance require sub-recipient monitoring to occur on an annual basis to ensure proper internal controls exist across pass through entities, subrecipients and contractors expending federal funds.

As part of the mandatory annual onsite review of WDCs and consistent with federal requirements, ESD has developed a risk-based assessment process to ensure that funds are expended for

allowable purposes. This risk structure/framework begins prior to the onsite review and continues throughout the review and includes the following elements:

- *ESD funds management staff review documentation submitted when WDCs submit a request for cash to ESD. This review is conducted on an ongoing basis by ESD fiscal staff and informs the initial risk analysis developed for each WDC prior to the onsite review.*
- *Subrecipient monitoring staff carefully assess each WDC's capacity to handle its funds and deliver services based on a careful review of each WDC's spending documentation. This occurs prior to each on site visit and shapes the scope of each review.*
- *Subrecipient monitoring staff perform an onsite review of recent draw requests by WDCs. They review the expenditures that make up that draw request for allowability, allocability and reasonableness by reviewing supporting documentation, including down to the receipt level. If any issues are identified during this phase of the review, the number of cash draws sampled is expanded.*
- *Subrecipient monitoring staff perform an onsite review of internal controls policies, processes and procedures to ensure proper checks and balances exist at the WDC level. If any gap or weakness is identified, WDCs are required to develop a corrective action plan to remedy any identified deficiency. Subrecipient monitoring staff engage the WDCs to provide continuous oversight ensuring the corrective action plan is fully implemented.*
- *Subrecipient monitoring staff perform an onsite review of supportive services provided to participants by WDCs or their subrecipient/service providers. If any issues are identified during this phase of the review, the number of supportive services sampled are expanded including into contracts from a previous period. In addition, corrective action plans to ensure proper oversight of supportive services may also be required. Subrecipient monitoring staff engage the WDCs to provide continuous oversight ensuring the corrective action plan is fully implemented.*
- *Subrecipient monitoring staff perform an onsite review of participant files to ensure that individuals receiving services are eligible and are being reported correctly to DOL. If any recurrent issues are identified during this phase of the review, the number of participant files reviewed is expanded. These reviews may include expenditures into previous-year contracts when participants receive services over multiple contract years. In addition, corrective action plans to ensure proper oversight of eligibility determination may also be required. Subrecipient monitoring staff engage the WDCs to provide continuous oversight ensuring the corrective action plan is fully implemented.*
- *Every WDC receives an audit each year. These audits include expenses from a previous time period. The audits are conducted by independent third-party auditors, often SAO itself. In most cases, the audit of the WDC will include an audit of WIOA programs. Any finding or issue identified during these audits are followed up on by Subrecipient monitoring staff when they are onsite.*
- *Subrecipient monitoring staff reviews WDC monitoring of their subrecipients. ESD subrecipient monitoring staff review the tools, working papers and documentation of each WDC's monitoring of their subrecipients to ensure proper use and expenditures of funds. This review is conducted by subrecipient monitoring staff while on site.*

If during its onsite review, ESD identifies questioned costs across any program and believes it shows a lack of internal controls on the part of a WDC, ESD will review additional expenditures, including previous periods and closed contracts.

Neither the review of supportive services nor eligibility was included in the SAO's review when they determined that 8% of the funds under contract were reviewed. When ESD asked SAO for what an acceptable percentage of funds ESD should review, SAO did not have an answer.

Further, when ESD asked the auditor for what the compliance requirement was that ESD was not meeting by using this risk-based approach to subrecipient monitoring, the auditor said there was no written standard or requirement, it was just their opinion.

ESD appreciates the thoroughness of the review by the SAO, but believes that it is complying with all federal requirements regarding monitoring of subrecipients to ensure funds expended in Washington State are spent for eligible participants on allowable services.

Auditor's Remarks

Federal requirements for financial management require the Department to ensure that federal funds they provide to subrecipients are used only for allowable purposes and in compliance with Federal statutes, regulations, and the terms and conditions of the sub award. The Department does not require subrecipients to demonstrate this in the documentation they submit when asking for reimbursement, so the review performed by ESD funds management staff cannot meet these requirements. The Department must therefore rely on its subrecipient monitoring activities to do so.

During the audit, we communicated to management that the programmatic and eligibility monitoring they perform of their subrecipients met federal requirements, which is why this finding only relates to fiscal monitoring. However, the 62 percent of expenditures that were excluded from review were funds that would not be considered for review during a future subrecipient monitoring visit. In our opinion, excluding this significant percentage of federal funds from ever being reviewed by the Department is not adequate to ensure the federal funds they paid to subrecipients were spent only for allowable purposes and complied with federal regulations.

We reaffirm our finding and will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

> Section 200.302 Financial management, states in part:
>
> > (a) Each state must expend and account for the Federal award in accordance with state laws and procedures for expending and accounting for the state's own funds. In addition, the state's and the other non-Federal entity's financial management systems, including records documenting compliance with Federal statutes, regulations, and the terms and conditions of the Federal award, must be sufficient to permit the preparation of reports required by general and program-specific terms and conditions; and the tracing of funds to a level of expenditures adequate to establish that such funds have been used according to the Federal statutes,

regulations, and the terms and conditions of the Federal award. See also § 200.450 Lobbying.

(b) The financial management system of each non-Federal entity must provide for the following (see also §§ 200.333 Retention requirements for records, 200.334 Requests for transfer of records, 200.335 Methods for collection, transmission and storage of information, 200.336 Access to records, and 200.337 Restrictions on public access to records):

(3) Records that identify adequately the source and application of funds for federally-funded activities. These records must contain information pertaining to Federal awards, authorizations, obligations, unobligated balances, assets, expenditures, income and interest and be supported by source documentation.

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

(a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States or the “Internal Control Integrated Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

(b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.

(d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.331 Requirements for pass-through entities, states in part:

All pass-through entities must:

(d) Monitor the activities of the subrecipient as necessary to ensure that the sub award is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the sub award; and that sub award performance goals are achieved.

Section 200.516 Audit findings, states in part:

(a) *Audit findings reported*. The auditor must report the following as audit findings in a schedule of findings and questioned costs:

(1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor’s determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in internal controls over compliance in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, as follows:

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> **Deficiency in internal control over compliance.** A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.
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> **Material weakness in internal control over compliance.** A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:
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> > **Reasonably possible**. The chance of the future event or events occurring is more than remote but less than likely.
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> > **Probable**. The future event or events are likely to occur.
>
> **Significant deficiency in internal control over compliance.** A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

2019-013 The Department did not have adequate internal controls to ensure management decisions related to Workforce Innovation and Opportunity Act findings were issued in a timely manner.

Federal Awarding Agency:	U.S. Department of Labor
Pass-Through Entity:	None
CFDA Number and Title:	17.258 Workforce Innovation and Opportunity 17.259 Act Cluster 17.278
Federal Award Number:	AA-28350-16-55-A-53,AA-30772-17-55-A-53, AA-32219-18-55-A-53, AA-33263-19-55-A-53
Applicable Compliance Component:	Subrecipient Monitoring
Known Questioned Cost Amount:	None

Background

The Employment Security Department (Department) receives federal funding for the Workforce Innovation and Opportunity Act (WIOA) programs from the Department of Labor (DOL). The WIOA authorizes formula grant programs to states to help job seekers access employment, education, training and support services to succeed in the labor market. The WIOA programs provide employment and training programs for adults, dislocated workers, and youth, and Wagner-Peyser Act employment services administered by the DOL. The State subawards a large portion of the federal funds it receives to 12 Workforce Development Councils (WDCs) that provide employment assistance to people throughout Washington. The Department spent $63.3 million in federal funds for the WIOA cluster in state fiscal year 2019. Of that amount, it paid about $60.5 million to the WDCs.

Federal regulations (2 CFR 200.331) require the Department to monitor the activities of its subrecipients. This includes verifying that its subrecipients that spend $750,000 or more in federal awards during a fiscal year obtain a single audit.

Typically, pass-through entities must follow up and ensure its subrecipients take timely action on all deficiencies detected through audits, and must issue a management decision for audit findings within six months of the audit report being issued. For DOL sponsored programs, pass-through entities must issue management decisions within 12 months. These requirements help ensure grant money is used for authorized purposes and within the provisions of contracts or grant agreements.

Description of Condition

The Department did not have adequate internal controls to ensure management decisions related to findings were issued in a timely manner.

The Department established a program policy (5255) in March 2016 that states management decisions related to audit findings be issued within six months. The policy does not agree with the federal requirement that decisions be made within twelve months.

The Department has a team of employees that monitors its WIOA subrecipients. The team completed onsite monitoring at all WDCs during the fiscal year, which included a review of each WDC's most recently submitted uniform guidance audit. However, the team was not aware of either the Department's policy or the federal requirements.

We consider this internal control deficiency to be a material weakness.

This condition was not reported in the prior audit.

We determined all 12 WDCs received an audit and found that the Department reviewed all subrecipient audit reports within 12 months of the reports being issued. Therefore, we determined the Department was materially compliant with the federal requirement.

Cause of Condition

Although the Department had a written process to monitor and verify if subrecipients received audits, it did not include instructions related to when management decisions needed to be issued.

Effect of Condition

Without reviewing subrecipient audits in a timely manner, the Department cannot ensure it complies with federal law and issues management decisions timely. Not reviewing audit reports and issuing management decisions in a timely manner also affects the subrecipients, which might be relying on that management decision to determine how they will address the issues identified in their finding.

Recommendations

We recommend the Department:

- Update its policies related to subrecipient monitoring to ensure it aligns with federal regulations
- Inform sub-monitoring staff of the specific federal requirement that management decisions be made every 12 months.

Department's Response

The Department appreciates the auditor's review and agrees with the recommendations. The Department will revise its policy to be consistent with federal requirements. Subrecipient monitoring staff have been informed that management decisions must be made every 12 months. In addition to the auditor's recommendations, the Department will update our internal process regarding how to document and communicate our management decisions.

Auditor's Remarks

We thank the Department for its cooperation and assistance throughout the audit. We will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.303 Internal controls, states in part:
The non-Federal entity must:

(a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
(b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.
(d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.516 Audit findings, states in part:

(a) *Audit findings reported*. The auditor must report the following as audit findings in a schedule of findings and questioned costs:

(1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.
(2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.

Section 200.331 Requirements for pass-through entities, states in part:

All pass-through entities must:

(d) Monitor the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and

the terms and conditions of the subaward; and that subaward performance goals are achieved. Pass-through entity monitoring of the subrecipient must include:

(1) Reviewing financial and performance reports required by the pass-through entity.

(2) Following-up and ensuring that the subrecipient takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to the subrecipient from the pass-through entity detected through audits, on-site reviews, and other means.

(3) Issuing a management decision for audit findings pertaining to the Federal award provided to the subrecipient from the pass-through entity as required by §200.521 Management decision.

(f) Verify that every subrecipient is audited as required by Subpart F—Audit Requirements of this part when it is expected that the subrecipient's Federal awards expended during the respective fiscal year equaled or exceeded the threshold set forth in §200.501 Audit requirements.

Section 200.521 Management Decisions, states in part:

(c) Pass-through entity. As provided in § 200.331 Requirements for pass-through entities, paragraph (d), the pass-through entity must be responsible for issuing a management decision for audit findings that relate to Federal awards it makes to subrecipients.

(d) Time requirements. The Federal awarding agency or pass-through entity responsible for issuing a management decision must do so within six months of acceptance of the audit report by the FAC. The auditee must initiate and proceed with corrective action as rapidly as possible and corrective action should begin no later than upon receipt of the audit report.

Section 200.2900.21 Management decision, states:

In the DOL, ordinarily, a management decision is issued within six months of receipt of an audit from the audit liaison of the Office of the Inspector General and is extended an additional six months when the audit contains a finding involving a subrecipient of the pass-through entity being audited. The pass-through entity responsible for issuing a management decision must do so within twelve months of acceptance of the audit report by the FAC. The auditee must initiate and proceed with corrective action as rapidly as possible and should begin corrective action no later than upon receipt of the audit report. (See 2 CFR 200.521(d)).

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in internal controls over compliance in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, as follows:

.11 For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows: …

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

Employment Security Department Workforce Innovation and Opportunity Act Policy Number 5255, states in part:

b. Audit Resolution

Management decisions to resolve audit findings must:

i. Be issued within six months of acceptance of the audit report by the Federal Audit Clearinghouse (FAC)
ii. Clearly state whether or not the audit finding is sustained, the reasons for the decision, and the auditee's expected actions.

If the auditee has not completed the corrective action at the time the decision is made, a timetable for follow-up must be giving. Management decisions must describe any appeal process available to the auditee.

2019-014 The Washington State Department of Transportation did not have adequate internal controls over and did not comply with suspension and debarment requirements.

Federal Awarding Agency:	U.S. Department of Transportation	
Pass-Through Entity:	None	
CFDA Number and Title:		Highway Planning and Construction Cluster
	20.205	Highway Planning and Construction
	20.219	Recreational Trails Program
	20.224	Federal Lands Access Program
Federal Award Number:	Too numerous to list. All approved subaward projects under the Federal Highway Administration Stewardship and Oversight Agreement.	
Applicable Compliance Component:	Suspension and Debarment	
Known Questioned Cost Amount:	None	

Background

The Washington State Department of Transportation (Department), Local Programs Office administers federal funding under the Highway Planning and Construction Cluster to local agencies throughout the state for various highway construction projects. The Department spent about $673 million on highway projects during fiscal year 2019. Of that amount, about $236 million was passed through to local agencies as subawards.

Federal regulations prohibit grantees from making subawards under covered transactions to lower-tier parties that are suspended or debarred from doing business with the federal government. The U.S. Department of Transportation (USDOT) specifically requires its grantees to verify all subrecipients of federal funds are not suspended or debarred or otherwise excluded from participating in federal programs by adding a clause or condition to their agreements.

In the prior audit, we reported the Department did not have adequate internal controls over and did not comply with Suspension and Debarment requirements. The prior finding number was 2018-011.

Description of Condition

We found the Department did not have adequate internal controls in place to verify that subrecipients were not suspended or debarred. Until March 2019, the Department did not have a clause or condition in its written agreements with local agencies, as required by USDOT.

We consider this internal control deficiency to be a material weakness.

We performed statistical sampling procedures to select 55 out of 414 subawards issued by the Department during the audit period to determine if the Department verified the subrecipients were not suspended or debarred. We found 11 subawards (20 percent) for which the Department could

not provide records showing that it confirmed the suspension or debarment status of the subrecipients.

We subsequently verified the subrecipients were not suspended or debarred, therefore we are not questioning the costs.

Cause of Condition

The Department had previously included a reference to federal requirements in its local agency boilerplate agreement. However, the language was not sufficient to meet federal requirements. The Department's Corrective Action Plan developed in response to the prior audit finding included updating its local agency agreement template to include a suspension and debarment clause for subrecipients to certify. However, this change was not scheduled to become effective until after the audit period ended.

The Department also said that the Local Programs Division conducted System of Award Management (SAM) database searches of all subrecipients with active subawards before the audit period. However, during our testing, the Department did not have records to show all subrecipients received a SAM database check.

Effect of Condition

Without a clause or condition in its agreements, the Department risks not identifying a suspended or debarred subrecipient before issuing it an award. If payments were made to subrecipients who were suspended or debarred, the payments would be unallowable and the Department may be required to repay the grantor.

Recommendation

We recommend the Department establish and implement adequate internal controls to ensure a suspension and debarment clause or condition is included in all local agency agreements.

Department's Response

We appreciate the State Auditor's Office (SAO) audit of the Federal Highway Program. The Washington State Department of Transportation (WSDOT) is committed to ensuring our programs comply with federal regulations. We understand SAO's point of view that the Department did not have adequate contract language in place to verify that subrecipients were not suspended or debarred. After receipt of the FY 2018 Suspension and Debarment Single Audit finding in March of 2019, the Local Programs Division updated the Local Agency Guidelines (LAG). The LAG update released in May 2019 included an update to the contract provisions for federal-aid construction contracts requiring subrecipient certification regarding debarment and suspension, as part of the award process. However, because the FY 2018 finding and subsequent corrective actions took place so late in FY 2019, full suspension and debarment compliance was not achieved during FY 2019. The FY 2020 Single Audit should find that all new awards contain the required suspension and debarment contract language.

Auditor's Remarks

We thank the Department for its cooperation and assistance throughout the audit. We will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

(a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

(b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.

(d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.516 Audit findings, states in part:

(a) *Audit findings reported*. The auditor must report the following as audit findings in a schedule of findings and questioned costs:

(1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.

(2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in internal controls over compliance in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, as follows:

> .11 For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows: …
>
> **Deficiency in internal control over compliance.** A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.
>
> **Material weakness in internal control over compliance.** A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:
>
> > **Reasonably possible**. The chance of the future event or events occurring is more than remote but less than likely.
> >
> > **Probable**. The future event or events are likely to occur.
>
> **Significant deficiency in internal control over compliance.** A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.
>
> **Material noncompliance**. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

Title 2, U.S. Code of Federal Regulation, part 1200.332, Department of Transportation - Nonprocurement Suspension and Debarment: states in part:

> What methods must I use to pass requirements down to participants at lower tiers with whom I intend to do business?
>
> You as a participant must include a term or condition in lower-tier transactions requiring lower tier participants to comply with subpart C of the OMB guidance in 2 CFR part 180, as supplemented by this subpart.

Title 2, U.S. Code of Federal Regulation, part 180, states in part:

Subpart B – Covered Transactions

A covered transactions is a nonprocurement or procurement transactions that is subject to the prohibitions of this part. It may be a transaction at –

(a) The primary tier, between a Federal agency and a person (see appendix to this part); or

(b) A lower tier, between a participant in a covered transaction and another person.

Subpart C – Responsibilities of Participants Regarding Transactions Doing Business With Other Persons

§180.300 What must I do before I enter into a covered transaction with another person at the next lower tier?

When you enter into a covered transaction with another person at the next lower tier, you must verify that the person with whom you intend to do business is not excluded or disqualified. You do this by:

(a) Checking SAM Exclusions; or
(b) Collecting a certification from that person; or
(c) Adding a clause or condition to the covered transaction with that person

2019-015 **The Department of Transportation did not have adequate internal controls over and did not comply with federal requirements to conduct program and fiscal monitoring of subrecipients for the Highway Planning and Construction Cluster.**

Federal Awarding Agency:	U.S. Department of Transportation	
Pass-Through Entity:	None	
CFDA Number and Title:	20.205	Highway Planning and Construction
	20.219	Recreational Trails Program
	20.224	Federal Lands Access Program
Federal Award Number:	Too numerous to list. All approved subaward projects under the Federal Highway Administration Stewardship and Oversight Agreement.	
Applicable Compliance Component:	Subrecipient Monitoring	
Known Questioned Cost Amount:	None	

Background

The Washington State Department of Transportation (Department), Local Programs Division administers federal funding under the Highway Planning and Construction Cluster to local agencies throughout the state for various highway construction projects. The Department spent about $673 million on highway projects during fiscal year 2019. Of that amount, it passed through about $236 million to local agencies as subawards.

Federal regulations require the Department to monitor the activities of its subrecipients to ensure subawards are used for authorized purposes and that activities comply with terms and conditions of the subaward and achieve performance goals. Specifically, monitoring efforts must include reviewing financial and programmatic reports required by the pass-through entity.

The Division maintains its own requirements for subawards of federal funds, published in the 2019 Local Agency Guidelines (LAG) Manual. This Manual outlines additional requirements imposed on all subrecipients by the Department, including the requirement to undergo project audits, documentation reviews during the project period of performance, as well as receive project management reviews (PMR) upon closure of each federally funded construction project. While the Manual does not provide timeframes for when these reviews should occur, the U.S. Department of Transportation, Federal Highway Administration (FHWA) stipulates in its Stewardship and Oversight Agreement (Agreement) with the State DOT that every PMR occur at least every three years for each subrecipient.

Description of Condition

The Department did not have adequate internal controls over and did not comply with federal requirements to conduct program and fiscal monitoring of subrecipients of the Highway Planning and Construction cluster.

The Division did not ensure it performed PMRs of subrecipients every three years, as required by the Agreement. We randomly selected and reviewed five of the 11 PMRs performed by the

Division during the audit period and found three (60 percent) were not performed within three years of the previous review, as required.

We consider these internal control deficiencies to constitute a material weakness.

This condition was not reported in the prior audit.

Cause of Condition

The Department believed that conducting onsite reviews during the closeout phase of each project was sufficient to provide reasonable assurance of the subrecipient's use of the federal subaward. The Department asserted that other monitoring activities, such as documentation reviews by its Region Local Programs Engineers, occurred during the audit period, but the results of reviews were not consistently documented or communicated to management.

The Department maintains that FHWA's approval of the LAG Manual supports its current subrecipient monitoring practices, and that based on this approval, no additional subrecipient monitoring procedures are required.

Effect of Condition

Without establishing adequate internal controls, the Department cannot reasonably ensure federal funds are being used for allowable purposes. Without monitoring each subrecipient's use of federal grant funds during the period of performance of the subaward, the Department does not have reasonable assurance that the subrecipient is using federal funds for activities that comply with the terms and conditions of the subaward.

In addition, failure to monitor each subrecipient's use of federal grant funds violates the Agreement and could result in the termination or suspension of the federal grant award.

Recommendations

We recommend the Department:

- Update its policies and procedures for subrecipient monitoring to comply with all FHWA regulations
- Improve internal controls to ensure project management reviews are completed for every active subrecipient at least every three years, as required under the Agreement
- Consider implementing additional monitoring tools to give the Department reasonable assurance that the subrecipient is using federal funds in accordance with subaward terms and conditions

Department's Response

The Washington State Department of Transportation (WSDOT) appreciates the State Auditor's Office audit of the Federal Highway Program. WSDOT is committed to ensuring our programs comply with federal regulations.

Our Local Programs Division schedules Project Management Reviews (PMR) every three years as directed in the Federal Highway Administration (FHWA) Stewardship and Oversight Agreement and Local Agency Guidelines (LAG) Manual; however, standard practice is to not complete those reviews until such time as the project is substantially complete or complete. Additionally, on occasion the PMR can be delayed as WSDOT works with the local agency to gain additional information or gather further documentation. In light of these standard practices, Local Programs believed they were in compliance with the requirements, but will now work with FHWA to seek modification of the Stewardship and Oversight Agreement and LAG Manual to ensure compliance. Once modified, Local Programs will communicate changes to the appropriate staff and stakeholders. Until changes take effect in the Stewardship and Oversight Agreement, our Local Programs Division will attempt to complete the applicable portions of PMR' s within the currently required three year cycle.

Auditor's Remarks

We thank the Department for its cooperation and assistance throughout the audit. We will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

(a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

(b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.

(d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.331 Requirements for pass-through entities, states in part:

All pass-through entities must:

(d) Monitor the activities of the subrecipient as necessary to ensure that the sub award is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the sub award; and that sub award

performance goals are achieved. Pass-through entity monitoring of the subrecipient must include:

(1) Reviewing financial and performance reports required by the pass-through entity.
(2) Following-up and ensuring that the subrecipient takes timely and appropriate action of all deficiencies pertaining to the Federal award provided to the subrecipient from the pass-through entity detected through audits, on-site reviews, and other means.

(g) Consider whether the results of the subrecipient's audits, on-site reviews, or other monitoring indicate conditions that necessitate adjustments to the pass-through entity's own records.

Section 200.516 Audit findings, states in part:
(a) *Audit findings reported*. The auditor must report the following as audit findings in a schedule of findings and questioned costs:

(1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.
(2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in internal controls over compliance in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, as follows:

.11 For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows: …

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person

performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

> **Reasonably possible**. The chance of the future event or events occurring is more than remote but less than likely.
>
> **Probable**. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Title 23 U.S. Code of Federal Regulations, *Chapter 1 – Federal-Aid Highways, Section 106: Project approval and oversight*, states in part:

(g) Oversight Program. –

(4) Responsibility of the States. –

(A) In general. The States shall be responsible for determining that subrecipients of Federal funds under this title have

(i) adequate project delivery systems for projects approved under this section; and

(ii) sufficient accounting controls to properly manage such Federal funds.

Title 23 U.S. Code of Federal Regulations Part 635, *Construction and Maintenance – Contract Procedures* states in part:

635.102 – Definitions.

As used in this subpart:

Local public agency means any city, county, township, municipality, or other political subdivision that may be empowered to cooperate with the State transportation department in highway matters.

State transportation department (STD) means that department, commission, board, or official of any State charged by its laws with the responsibility for highway construction. The term "State" should be considered equivalent to "State transportation department" if the context so implies.

635.105 – Supervising agency.

(a) The STD has responsibility for the construction of all Federal-aid projects, and is not relieved of such responsibility by authorizing performance of the work by a local public agency or other Federal agency. The STD shall be responsible for insuring that such

projects receive adequate supervision and inspection to insure that projects are completed in conformance with approved plans and specifications.

The U.S. Department of Transportation *Stewardship and Oversight Agreement On Project Assumption and Program Oversight By and Between the Federal Highway Administration (Washington Division) and the Washington State Department of Transportation*, states in part:

Section XI. State and Local Public Agency Oversight Requirements and Reporting Requirements

B. State DOT Oversight of Locally Administered Projects

WSDOT provides oversight through their Local Programs Division. This dedicated staff manages the program by providing guidance, training, and technical assistance to the Local Agencies.

By agreeing to accept federal aid funds, the local agency understands its roles and responsibilities with respect to carrying out the federal aid program. WSDOT is permitted to delegate certain activities, under its supervision, to local agencies (cities, counties, private organizations, or other state agencies) under federal regulation 23 CFR 1.11 and 635.105; however, WSDOT accepts responsibility for delegated activities.

The Local Agency Guidelines (LAG) manual describes the processes, documents, and approvals necessary to administer federal-aid projects by transportation agencies. The manual also outlines WSDOT's oversight and review activities. The Division reviews and approves twice a year the LAG Manual to ensure it complies with FHWA Order 50220.2 (Stewardship and Oversight of Federal-Aid Projects Administered by Local Public Agencies, August 14, 2014).

WSDOT is also required to conduct verification activities to assure that local agency federal aid projects are implemented in conformance with federal aid requirements.

WSDOT conducts Project Management Reviews (PMR) to assess whether the certified agency administered the project in accordance with federal aid requirements. The PMR review is conducted at a minimum every three years on the local agency's project with the most risk associated with it and the local agency's certification acceptance is reevaluated. In addition WSDOT conducts documentation and a final inspection on every local agency federal aid project.

The Washington State Department of Transportation *Local Agency Guidelines Manual (M 36-63.37 – May 2019),* Chapter 53 – Project Closure, states in part:

53.3 Project Reviews

In order to be reasonably certain that local agencies are administering FHWA funds in accordance with the Local Agency Guidelines, WSDOT will perform procedural reviews on selected local agency ad-and-award projects.

These reviews will be:

- Project Management Reviews (PMR) performed by Local Programs
- Documentation Reviews performed by the Region Local Programs Engineer.

2019-016 The Department of Transportation did not have adequate internal controls over and did not comply with requirements to perform risk assessments for subrecipients of the Highway Planning and Construction Cluster.

Federal Awarding Agency:	U.S. Department of Transportation	
Pass-Through Entity:	None	
CFDA Number and Title:	20.205	Highway Planning and Construction
	20.219	Recreational Trails Program
	20.224	Federal Lands Access Program
Federal Award Number:	Too numerous to list. All approved subaward projects under the Federal Highway Administration Stewardship and Oversight Agreement.	
Applicable Compliance Component:	Subrecipient Monitoring	
Known Questioned Cost Amount:	None	

Background

The Washington State Department of Transportation (Department), Local Programs Office administers federal funding under the Highway Planning and Construction Cluster to local agencies throughout the state for highway construction projects. The Department spent about $673 million on highway projects during fiscal year 2019. Of that amount, it passed through about $236 million to local agencies as subawards.

To determine the appropriate level of monitoring, federal regulations require the Department to evaluate each subrecipient's risk of noncompliance with federal statutes and regulations, and the terms and conditions of the subaward. During fiscal year 2019, the Department awarded about $229 million in new subawards to 158 separate local agencies for more than 400 highway construction projects across the state.

Staff in the Local Programs Office at Department headquarters perform onsite monitoring of every local agency with an open and active project, and staff in the six regional offices perform documentation reviews of each local agency in their respective regions.

In the prior audit, we reported the Department did not have adequate internal controls over and did not comply with requirements to perform risk assessments for subrecipients of the Highway Planning and Construction Cluster. The prior finding number was 2018-012.

Description of Condition

The Department did not have adequate internal controls over and did not comply with requirements to perform risk assessments for subrecipients of the Highway Planning and Construction Cluster.

Until June 2019, the Department did not have policies or procedures in place to address how risk assessments of subrecipients should be performed and documented. When the Department

prepares to monitor or review an agency, it selects an open and active project and evaluates the agency based on its performance under that project. The Department had written procedures for performing subrecipient monitoring at both the regional and headquarters levels that directed staff to consider various factors such as the complexity of the projects and past performance of the agency when determining which project to select. However, the Department did not require staff to perform a risk assessment of the agency to determine the appropriate level of monitoring as required by federal regulations.

We examined 55 of the 414 projects awarded funding during the audit period to determine if the Department performed a risk assessment of each project to determine the appropriate level of monitoring required for the subrecipient. We found 52 of the projects (95 percent) did not undergo a risk assessment.

We consider this internal control deficiency to be a material weakness.

Cause of Condition

Management did not ensure the Department met the federal requirement to perform risk assessments of subrecipients. Management at headquarters believed the Department was already meeting the requirement through its onsite monitoring process carried out by the regional offices. Local Programs Engineers in the six regions who were responsible for performing onsite monitoring could not conduct risk assessments for each awarded project, because the Department's newly implemented policies and procedures did not take effect until June 2019.

Effect of Condition

Not performing risk assessments of subrecipients makes the Department less likely to detect noncompliance with grant terms and conditions, and federal regulations, by subrecipients. Without verifying risk assessments are completed for each awarded project, the Department cannot ensure risk assessments are performed consistently and using the proper criteria to determine the appropriate amount of monitoring required for each subrecipient project.

Recommendations

We recommend the Department:

- Keep records to show the required risk assessments were performed, which would allow management to monitor the results and demonstrate compliance with federal requirements
- Monitor region local programs engineering staff sufficiently to ensure risk assessments are completed for each awarded project

Department's Response

We appreciate the State Auditor's Office (SAO) audit of the Federal Highway Program. WSDOT is committed to ensuring our programs comply with federal regulations and understand it is SAO's point of view that documentation must be maintained in order to verify WSDOT' s compliance with the requirement to assess risk to inform our monitoring of local agencies. After receipt of the FY 2018 finding in March 2019, Local Programs developed a risk assessment program that was implemented in June 2019. However, because the FY 2018 finding and subsequent corrective

actions took place so late in FY 2019, full risk assessment compliance could not be achieved during the FY 2019 Single Audit. The FY 2020 Single Audit should find the risk assessment program meeting requirements to perform risk assessments and inform required monitoring activities.

Auditor's Remarks

We thank the Department for its cooperation and assistance throughout the audit. We will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

(a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

(b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.

(d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.516 Audit findings, states in part:

(a) *Audit findings reported*. The auditor must report the following as audit findings in a schedule of findings and questioned costs:

(1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.

(2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.

Section 200.331 Requirements for pass-through entities, states in part:

All pass-through entities must:

(b) Evaluate each subrecipient's risk of noncompliance with Federal statutes, regulations, and the terms and conditions of the subaward for purposes of determining whether the appropriate subrecipient monitoring described in paragraphs (d) and (e) of this section, which may include consideration of such factors as:

(1) The subrecipient's prior experience with the same or similar subawards;

(2) The results of previous audits including whether or not the subrecipient receives a Single Audit in accordance with Subpart F – Audit Requirements of this part, and the extent to which the same or similar subaward has been audited as a major program;

(3) Whether the subrecipient has new personnel or new or substantially changed systems; and

(4) The extent and results of Federal awarding agency monitoring (e.g., if the subrecipient also receives Federal awards directly from a Federal awarding agency.)

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in internal controls over compliance in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, as follows:

.11 For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows: …

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.
Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

Office of Management and Budget's Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards: 2 CFR 200 – Frequently Asked Questions

.331-10 Requirements for Pass-Through Entities. Timing of Subrecipient Risk Assessments, states in part:

Section §200.331(b) indicates that pass-through entities must "evaluate each subrecipient's risk of noncompliance with Federal statutes, regulations, and the terms and conditions of the subaward for purposes of determining the appropriate subrecipient monitoring…" Are pass-through entities required to assess the risk of non-compliance for each applicant prior to issuing a subaward?

No. While section §200.331(b) requires risk assessments of subrecipients, there is no requirement for pass-through entities to perform these assessments before making subawards. Under the Uniform Guidance, the purpose of these risk assessments is for pass-through entities to determine appropriate subrecipient monitoring. Pass-through entities may use judgment regarding the most appropriate timing for the assessments. Regardless of the timing chosen, the pass-through entity should document its procedures for assessing risk. Section §200.331(b) (1) – (4) includes factors that a pass-through entity may consider when assessing subrecipient risk.

2019-017 **The Department of Transportation did not have adequate internal controls over and did not comply with requirements to ensure subrecipients received required single audits, findings related to federal program awards were followed up on, and management decisions were issued.**

Federal Awarding Agency:	U.S. Department of Transportation	
Pass-Through Entity:	None	
CFDA Number and Title:	20.205	Highway Planning and Construction
	20.219	Recreational Trails Program
	20.224	Federal Lands Access Program
Federal Award Number:	Too numerous to list. All approved subaward projects under the Federal Highway Administration Stewardship and Oversight Agreement.	
Applicable Compliance Component:	Subrecipient Monitoring	
Known Questioned Cost Amount:	None	

Background

The Washington State Department of Transportation (Department), Local Programs Office administers federal funding under the Highway Planning and Construction Cluster to local agencies throughout the state for various highway construction projects. The Department spent about $673 million on highway projects during fiscal year 2019. Of that amount, it passed through about $236 million to local agencies as subawards.

Federal regulations require the Department to monitor the activities of its subrecipients. This includes verifying that its subrecipients that spend $750,000 or more in federal award during a fiscal year obtain a single audit. The audit must be completed and submitted to the Federal Audit Clearinghouse within the earlier of 30 calendar days after receipt of the auditor’s report(s), or nine months after the end of the subrecipients audit period.

In addition, for the awards it passes on to its subrecipients, the Department must follow up and ensure its subrecipients take timely and appropriate action on all deficiencies detected through audits, onsite reviews and other means, and must issue a management decision for audit findings pertaining to the federal award provided to the subrecipient by the Department within six months of the audit report’s acceptance by the Federal Audit Clearinghouse. These requirements help ensure federal award funds are used for authorized purposes and within the provisions of contracts or grant agreements.

The Local Programs Office communicates annually with all active subrecipients, informing them of the requirement to receive a single or program-specific audit in accordance with 2 CFR Part 200.501, and ensure that a copy of the audit report is transmitted promptly to the Department. It also uses a tracking system to identify amounts it passed through to subrecipients, as well as to document audit activity for the subrecipients, including the date(s) on which audit reports were due and ultimately received by the Department. The Department must follow up with each subrecipient to get the necessary information to obtain assurance as to whether or not a single audit

is required. If a subrecipient audit contains any findings related to the program, the Department must follow up to ensure corrective actions are taken.

Description of Condition

The Department of Transportation did not have adequate internal controls and did not comply with requirements to ensure subrecipients received required single audits, findings related to federal program awards were followed up on, and management decisions were issued.

We identified 190 subrecipients that received pass-through funding from the Department for their fiscal year 2017 (January 1 – December 31, 2017). Any required audits for these local governments would be due by September 30, 2018, which falls within our audit period.

Subrecipients not monitored by the Department:

The Department did not ensure its subrecipients that received less than $750,000 in pass-through funds from the Department received an audit or did not require one. This did not comply with federal regulations and resulted in 126 subrecipients not being monitored to ensure required single audits were performed.

Subrecipients expending at least $750,000 in pass-through funds from the Department:

We examined 12 of the remaining 64 subrecipients with active subawards during the audit period that received at least $750,000 from the Department to determine if the Department ensured the subrecipient received the required audit and followed up on any findings issued for the program. This included issuing a written management decision and verifying corrective actions were documented by the subrecipient.

We found one out of 12 instances (8 percent) where the Department identified a finding was issued, but did not document that a management decision was issued. We then expanded testing and identified a total of six subrecipients that received a single audit finding for the Highway Planning and Construction Cluster during the period under review. We requested the management decisions the Department needed to issue for each. The Department could not provide three of the management decisions or any correspondences with the subrecipients to demonstrate they were issued. Two of these subrecipients received more than $750,000 in pass-through funds from the Department.

We consider these internal control deficiencies to constitute a material weakness.

This condition was not reported in the prior audit.

Cause of Condition

The Department interpreted the audit requirements outlined in federal rule to only apply to subrecipients that received $750,000 or more in federal awards from the Department itself. When the Department did not reimburse $750,000 or more to a subrecipient, the Department relied on the subrecipient to inform the Department as to whether a single audit was required for their

fiscal year. The Department did not monitor subrecipients of this category to ensure required audits would be completed.

The Department also did not provide adequate instruction to staff responsible for monitoring subrecipient single audits to ensure that all program findings were identified and management decisions were issued to address each finding. Management also did not monitor sufficiently to ensure management decisions were issued, when required.

Effect of Condition

Without establishing adequate internal controls, the Department cannot identify whether its subrecipients met the threshold for an audit required under federal law and ultimately obtained the required audit(s). This increases the risk of undetected noncompliance with federal program requirements, as well as with grant award terms and conditions.

Additionally, not issuing a management decision when required makes the Department unable to accurately determine the effect of the reported noncompliance on the federal program.

We reviewed the Federal Audit Clearinghouse for fiscal year 2017 single audit reports to determine the number of subrecipients that ultimately received an audit. We found 95 of the Department's subrecipients with subawards funded by the Highway Planning and Construction Cluster received a single audit. Of these audits, 33 (35 percent) were not detected or reviewed by the Department.

Recommendations

We recommend the Department:

- Update written policies and procedures for following up with subrecipients to determine if audits are required to include all subrecipients of federal awards, regardless of the pass-through amount
- Monitor all subrecipients to ensure they provide responses regarding their single audit status every year
- Improve its internal controls to ensure all subrecipient audit reports are received and reviewed to determine if there are findings related to the program(s) funded through subaward
- Follow up on all subrecipient audit deficiencies and issue a management decision for each finding related to the program funded through the subaward
- Ensure subrecipients with findings related to Department programs develop and perform acceptable corrective actions to adequately address all audit recommendations

Department's Response

The Washington State Department of Transportation (WSDOT) appreciates the State Auditor's Office audit of the Federal Highway Program. WSDOT is committed to ensuring our programs comply with federal regulations.

WSDOT Local Programs currently ensures all subrecipients that received federal funding in excess of $750,000 from WSDOT obtained a single audit and monitors those audits for any deficiencies detected and takes appropriate actions. In 2015, Local Programs updated its Local Agency Guidelines (LAG) and subaward agreements increasing the single audit threshold amount and language that requires local agencies to comply with the single audit or program-specific audit requirements. Local Programs provides training throughout each year that includes reminding local agencies of the single audit requirements. In addition, when this issue arose as an informal recommendation in a previous Single Audit, WSDOT consulted the Federal Highway Administration's (FHWA) Washington Division Office, to determine the responsibilities of state agencies in this matter. FHWA agrees that our agency's guidance in the LAG Manual appears to meet the intent of the requirements in 2 CFR 200.331 and 2 CFR 200.501, with respect to subrecipient audit requirements, and obtaining written verification from each subrecipient below the audit threshold is not the only means to achieve compliance.

WSDOT will continue to work with FHWA, the State Auditors, and other stakeholders and take any actions required to ensure it remains compliant with all federal requirements and communicate those actions to appropriate staff and stakeholders.

Auditor's Remarks

We thank the Department for its cooperation and assistance throughout the audit. We will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

(a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
(b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.
(d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.516 Audit findings, states in part:

(a) *Audit findings reported*. The auditor must report the following as audit findings in a schedule of findings and questioned costs:

(1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.

(2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in internal controls over compliance in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, as follows:

.11 For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows: …

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than

a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.
Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

Section 200.331 Requirements for Pass-Through Entities, states in part:

All pass-through entities must:

(f) Verify that every subrecipient is audited as required by Subpart F – Audit Requirements of this part when it is expected that the subrecipient's Federal awards expended during the respective fiscal year equaled or exceeded the threshold set forth in §200.501 Audit requirements.

(h) Consider taking enforcement action against noncompliant subrecipients as described in §200.338 Remedies for noncompliance of this part and in program regulations.

Section 200.501 Audit Requirements, states in part:

(a) A non-Federal entity that expends $750,000 or more during the non-Federal entity's fiscal year in Federal awards must have a single or program-specific audit conducted for that year in accordance with the provisions of this part.

Section 200.521 Management Decision, states in part:

(a) General. The management decision must clearly state whether or not the audit finding is sustained the reasons for the decision, and the expected auditee action to repay disallowed costs, make financial adjustments, or take other action. If the auditee has not completed corrective action, a timetable for follow-up should be given. Prior to issuing the management decision, the Federal agency or pass-through entity may request additional information or documentation from the auditee, including a request for auditor assurance related to the documentation, as a way of mitigating disallowed costs. The management decision should describe any appeal process available to the auditee.
(c) Pass-through entity. As provided in §200.331 Requirements for pass-through entities, paragraph (d), the pass-through entity must be responsible for issuing a management decision for audit findings that relate to Federal awards it makes to subrecipients.
(d) Time requirements. The Federal awarding agency or pass-through entity responsible for issuing a management decision must do so within six months of acceptance of the audit report by the FAC.

The Washington State Department of Transportation, *Local Agency Guidelines Manual (M36-63)* Chapter 53 – "Project Closure", states in part:

53.4 Financial and Compliance Audit

.41 Single Audit – The local agency is responsible for ensuring that a federal single audit is performed in accordance with 2 CFR Part 200.501 – Audit Requirements.

The Washington State Department of Transportation, *Local Agency Agreement* (DOT Form 140-039), states in part:

Provisions

VIII. Single Audit Act

The Agency, as a subrecipient of federal funds, shall adhere to the federal regulations outlined in 2 CFR Part 200.501 as well as all applicable federal and state statutes and regulations. A subrecipient who expends $750,000 or more in federal awards from all sources during a given fiscal year shall have a single or program-specific audit performed for that year in accordance with the provisions of 2 CFR Part 200.501. Upon conclusion of the audit, the Agency shall be responsible for ensuring that a copy of the report is transmitted promptly to the State.

2019-018 **The Washington State Department of Transportation did not have adequate internal controls over and did not comply with requirements to collect certified payrolls from contractors on projects funded by the Highway Planning and Construction Cluster.**

Federal Awarding Agency:	U.S. Department of Transportation	
Pass-Through Entity:	None	
CFDA Number and Title:	20.205	Highway Planning and Construction
	20.219	Recreational Trails Program
	20.224	Federal Lands Access Program
Federal Award Number:	Too numerous to list. All approved subaward projects under the Stewardship and Oversight Agreement	
Applicable Compliance Component:	Special Tests and Provisions: Wage Rate Requirements	
Known Questioned Cost Amount:	None	

Background

The Washington State Department of Transportation (Department) receives federal funding under the Highway Planning and Construction Cluster for highway construction projects throughout the state. Some of these projects are awarded to contractors who perform the work on behalf of the Department. The Department spent about $673 million in federal Highway Planning and Construction Cluster funds during fiscal year 2019.

All laborers and mechanics employed by contractors or subcontractors to work on construction contracts exceeding $2,000 financed by federal assistance funds must be paid wages not less than those established for the locality of the project (prevailing wage rates) by the Department of Labor. All contractors and subcontractors are required to submit a copy of their payroll and a statement of compliance (certified payrolls) on a weekly basis, for each week in which any applicable contract work is performed.

There are two types of construction contracts: Design-build and design-bid-build. Under a design-build contract, the contractor will engineer the project and build it. In a design-bid-build contract, the Department engineers the project and the contractor builds it based on the Department's plans and specifications. Both types of contracts involve a prime contractor and subcontractors. The design-build contractor is considered the prime contractor on design-build projects.

The Department requires field inspectors to be onsite during construction work to ensure projects are completed in accordance with contract specifications. For every day of the week when contract work is performed, the inspector completes an Inspector Daily Report (IDR) and documents if there was any labor or mechanical work performed on that day. The IDRs are submitted to the Project Engineer, Project Manager, or Chief Inspector overseeing construction, who then reviews them to determine if any contractors must submit certified payrolls for that work week.

The Department publishes the *Standard Specifications for Road, Bridge, and Municipal Construction*, which applies to its construction contracts. These specifications require contractors

to submit certified payrolls to the Department within 10 calendar days of the end of each weekly payroll period. If their certifications are not submitted in a timely manner, the specifications allow the Department to withhold payment from contractors and enact other sanctions as necessary.

In the prior audit, we reported the Department did not have adequate internal controls over, and did not comply with requirements to collect certified payrolls from contractors. The prior finding number was 2018-013.

Description of Condition

The Department did not have adequate internal controls over and did not comply with requirements to collect certified payrolls from contractors on projects funded by the Highway Planning and Construction Cluster.

We used a statistical sampling method and randomly sampled 86 weeks in which work was performed on a specific construction contract. We identified 74 weeks that required certified payrolls to be submitted. The Department provided documentation for 72 weeks, requiring 325 certified payrolls, but did not collect the certified payrolls from the contractor for the other two weeks.

Collecting certified payrolls

The Department did not collect all certified payrolls, as required. Based on the IDRs completed by Department field inspectors, we determined some certified payrolls were missing for 21 of the 72 weeks we examined. These weeks were missing 35 out of 153 required certified payrolls.

Of the 290 certified payrolls we examined, 141 were not submitted within 10 calendar days, as required. On average, these payrolls were 51 days late, and 32 were more than 60 days late.

For an additional 78 certified payrolls, we could not determine if they were collected in a timely manner because the Department did not document when it received them from the contractor.

Internal controls and review of certified payrolls

For 15 of the 74 weeks requiring certified payrolls, we found the IDRs for the week were not reviewed by the Project Engineer, Project Manager or Chief Inspector.

For 42 of the 74 weeks examined, we found inconsistencies between what was reported on the IDRs, what was recorded in the documentation used to track certified payroll, and the certified payroll forms. Examples include:

- For six weeks, a contractor was reported on the IDR but was not on the documentation used to track certified payroll.
- For five weeks, a contractor submitted certified payrolls when the Department had no documentation showing the contractor performed work for the corresponding week.
- For three weeks, the certified payroll documents submitted by three contractors were not signed by the preparer.

We consider these internal control deficiencies to be a material weakness.

Cause of Condition

Management did not adequately monitor to ensure compliance with federal requirements. There were no written policies and procedures describing how staff should collect and account for all required certified payroll. According to Department headquarters, the project offices should be using a tracking mechanism, such as a spreadsheet, to ensure they collect all required certified payrolls from the contractor. However, Department headquarters staff also said they do not provide a specific form for project offices to use nor procedure to follow, and allow each project office to determine its own tracking method. Project offices are allowed discretion in how to operate their offices. Offices vary in size and workload.

On June 26, 2019, the Construction Administration Division issued a written management bulletin to all project offices providing detailed instruction and standard processes for collecting and tracking certified payroll. However, this communication was not effective to prevent noncompliance with certified payroll timeliness requirements during the audit period.

Effect of Condition

When the Department does not collect all certified payrolls, it cannot ensure that laborers under federally funded construction contracts are paid the applicable prevailing wages, as required by law.

In addition, by not collecting certified payrolls weekly, the Department is not complying with federal requirements, and may be subject to actions by the federal grantor.

Recommendations

We recommend the Department:

- Establish written policies and procedures for staff to follow to ensure all required certified payrolls are collected from the prime contractor in a timely manner
- Monitor project offices to ensure they collect certified payrolls weekly, for each week of the contract, as required under federal law
- Collect certified payrolls from all prime contractors and subcontractors for each week in which labor and/or mechanical work was performed within 10 days of that week ending, as required under the Standard Specifications
- Consider assessing sanctions on noncompliant contractors in accordance with the Standard Specifications, such as withholding any or all payments, as necessary when contractors do not submit certified payrolls within 10 days, as required by the Department

Department's Response

We appreciate the State Auditor's Office (SAO) audit of the Federal Highway Program. WSDOT is committed to ensuring our programs comply with federal regulations.

After receiving the FY 2018 Single Audit Finding regarding the collection of certified payrolls, the WSDOT's Construction Office took many actions to improve agency-wide efforts to collect certified payrolls timely. These actions included highlighting the requirements for collecting

certified payrolls at all statewide construction meetings, releasing a Construction Bulletin regarding monitoring contractors for timely certified payroll submittals, and working with the Department of Labor & Industries (L&l) to adopt their new on-line system to collect these contractor payrolls. The L&I system went live in January 2020 and the other corrective actions began during FY 2019, so their full effectiveness could not be determined by the end of FY 2019.

We will continue to strive for improvements in this area. However, as indicated last year, the draft audit finding does not take, into account the nature of the contractual relationship between the contractor and WSDOT as the owner. The owner's compliance with the Davis-Bacon Act and regulations cited in the finding is determined by collective actions specified by regulations (e.g. withholding funds) and not merely by how many payrolls are collected from the contractor within a 10 day window. WSDOT, in close consultation with the Federal Highway Administration (FHWA), has established contract administration processes with contingencies built in to address and correct for contractor noncompliance. WSDOT and the contractor share the responsibility to apply and enforce the prevailing wage rate requirements in Federal-aid contracts. FHWA guidance recommends actions to take if a contractor is habitually late in submitting payrolls, but leaves it up to WSDOT to determine when sanctions should be imposed. WSDOT's Standard Specifications (1-07 .9(5)) on certified payrolls aligns with FHWA guidance. Sanctions are imposed as appropriate during the life of a contract. This contractual relationship also extends to the relationship between the Department and grantor the FHWA, as evident in the FHWA's letter of April 25, 2019 in response to SAO's finding for FY18 which states "WSDOT's process and policy concerning certified payrolls has been approved by FHWA through the approval of WSDOT's Construction Manual and Standard Specifications. As part of FHWA's approval FHWA agreed that these processes are reasonable and satisfy the intent of the Department of Labor's certified payroll requirements (emphasis added), as FHWA understands them. FHWA believes that the procedures contain the necessary controls to ensure compliance with 29 CFR 5.5 and FHWA Davis-Bacon and Related Acts ... "Further, WSDOT will not close a project until they have addressed all certified payrolls.

Through additional research, the WSDOT Construction Office has confirmed that our project offices have collected all but six of the 290 certified payrolls in question, and has taken action, such as withholding of funds, against contractors who submitted payrolls habitually late.

We will continue to look for opportunities to improve our process as well as our documentation to demonstrate compliance with the Davis-Bacon Act requirements. We will continue consulting with FHWA for any further actions needed to resolve this finding.

Auditor's Remarks

The Department states it confirmed that all but 6 certified payrolls were received, which is not consistent with our audit results. After performing our testing we provided the results to management and gave the Department the opportunity to provide additional documentation for our review. No further documentation was provided by the Department prior to the audit fieldwork being complete.

The Department states it has processes in place to ensure compliance is achieved before a construction project closes. The purpose of collecting certifications timely, however, is so the Department can ensure workers on federal projects they oversee are being paid promptly, and at

the proper wages. Collecting them significantly late does not allow for non-compliance to be detected and addressed in a timely manner.

The Department also states it has many other processes in place to ensure compliance with Davis Bacon requirements. However, the high rate of noncompliance identified indicates that these processes are not effective in ensuring certified payrolls are collected weekly, as is required by federal law.

We reaffirm our finding and will review the status of the Department's corrective actions during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

(a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

(b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.

(d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.516 Audit findings, states in part:

(a) *Audit findings reported*. The auditor must report the following as audit findings in a schedule of findings and questioned costs:

(1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.

(2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of

compliance requirement for a major program identified in the compliance supplement.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in internal controls over compliance in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, as follows:

.11 For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows: …

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

Title 29, Code of Federal Regulations contains, in part:

5.5 Contract provisions and related matters.

(a) The Agency head shall cause or require the contracting officer to insert in full in any contract in excess of $2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a public building or public work, or building or work financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standards provisions of any of the acts listed in §5.1, the following clauses (or any modifications thereof to meet the particular needs of the agency, *Provided,* That such modifications are first approved by the Department of Labor):

(1) *Minimum wages.* (i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in §5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided,* that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii) (A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the (write in name of appropriate

federal agency) if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant, sponsor, or owner, as the case may be, for transmission to the (write in name of agency). The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (*e.g.*, the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at http://www.dol.gov/esa/whd/forms/wh347instr.htm or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the (write in name of appropriate federal agency) if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit them to the applicant, sponsor, or owner, as the case may be, for transmission to the (write in name of agency), the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sponsoring government agency (or the applicant, sponsor, or owner).

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(*1*) That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(*2*) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3; (*3*) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(6) *Subcontracts.* The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the (write in the name of the Federal agency) may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) *Contract termination: debarment.* A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) *Compliance with Davis-Bacon and Related Act requirements.* All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

Standard Specifications for Road, Bridge, and Municipal Construction 2018 states, in part:

1-07.9(5) Required Documents

Certified payrolls are required to be submitted by the Contractor to the Engineer, for the Contractor and all Subcontractors or lower tier subcontractors, on all Federal-aid projects and, when requested in writing by the Engineer, on projects funded with only Contracting Agency funds. If these payrolls are not supplied within 10 calendar days of the end of the preceding weekly payroll period for Federal-aid projects or within 10 calendar days from the date of the written request on projects with only Contracting Agency funds, any or all payments may be withheld until compliance is achieved. Also, failure to provide these payrolls could result in other sanctions as provided by State laws (RCW 39.12.050) and/or Federal regulations (29 CFR 5.12). All certified payrolls shall be complete and explicit. Employee labor descriptions used on certified payrolls shall coincide exactly with the labor descriptions listed on the minimum wage schedule in the Contract unless the Engineer approves an alternate method to identify the labor used by the Contractor to compare with the labor listed in the Contract Provisions. When an apprentice is shown on the certified payroll at a rate less than the minimum prevailing journey wage rate, the apprenticeship registration number for that employee from the State Apprenticeship and Training Council shall be shown along with the correct employee classification code.

2019-019 The Department of Transportation did not have adequate internal controls over and did not comply with quality assurance program requirements to ensure materials conform to approved plans and specifications for projects funded by the Highway Planning and Construction Cluster.

Federal Awarding Agency:	Department of Transportation
Pass-Through Entity:	None
CFDA Number and Title:	20.205 Highway Planning and Construction Cluster 20.219 20.224
Federal Award Number:	Too numerous to list. All approved subaward projects under the Stewardship and Oversight Agreement
Applicable Compliance Component:	Special Tests and Provisions - Quality Assurance Program
Known Questioned Cost Amount:	None

Background

The Washington State Department of Transportation (Department) administers federal funding under the Highway Planning and Construction Cluster to local agencies throughout the state for their highway construction projects. The Department spent more than $673 million on highway projects during fiscal year 2019.

Federal regulations require that the Department have a quality assurance (QA) program, approved by the Federal Highway Administration (FHWA), for construction projects on the National Highway System to ensure that materials and workmanship conform to approved plans and specifications. Verification sampling must be performed by qualified testing personnel employed by the Department or by its designated agent, excluding the contractor.

The Department's QA program requirements are outlined in the Construction Manual, which is approved by FHWA. This manual documents the manner in which materials are tested for acceptance before being incorporated into construction projects. Materials can be accepted in various ways, such as testing of samples, visual inspection, or a certification of compliance from the manufacturer.

Project Engineers are responsible for accepting materials in accordance with the Department's QA program. The Department requires that all projects have a Record of Materials (ROM) created to identify the type and quantity of materials that require quality assurance testing. The ROM is then shared with the responsible project office to identify the materials that should be used and tested during the project. Any updates to materials used in the project are reflected in the Materials Tracking Program. The Department performs centralized monitoring of the materials testing, but for this to be effective, the Materials Tracking Program must be updated promptly.

In addition, the Department maintains Inspector Daily Reports and Field Note Records to indicate what materials are actually used in the construction project. If a materials test is required, the Department must ensure that the testing is performed by qualified individuals, including independent testers, consultants or certified Department employees.

Description of Condition

The Department did not have adequate internal controls over and did not comply with QA program requirements to ensure materials conform to approved plans and specifications for projects funded by the Highway Planning and Construction Cluster.

We used a statistically valid sampling method to randomly select 59 of 253 highway construction projects for testing. For some tests, we examined the ROM as a whole, while for others we randomly selected one of the materials from the ROM to test.

ROMs were not created for all construction projects

According to the Department's Construction Manual, a ROM must be created for each project before the construction project is started. We found three projects did not have a ROM created (5 percent). Two of these projects were for emergency repairs, and one was related to facilities construction.

We also found the QA Construction Manual, approved by the FHWA, did not address all construction projects that were funded by the Highway Planning and Construction Cluster.

Materials used were not documented

According to the Construction Manual, each ROM must be maintained in the Materials Tracking Program and be accurately and actively maintained throughout the course of the project. We found three ROMs (5 percent) for which the material we selected was not documented as having been tested and used. We also found one instance when the department did not update the Field Note Records to correctly reflect what was tested and approved (2 percent).

Materials tests were not always documented

According to the Construction Manual, each material permanently incorporated into a contract must be field verified by the inspector. Field verification must occur before or during placement of the material. By signing/initialing a Field Note Record for payment, the field inspector affirms that items requiring field verification have been checked and have been found to be acceptable. The Inspector Daily Report is intended to document communication, progress of work, contractor workforce/equipment and materials sampling/acceptance.

We found that the project offices did not have an Inspector Daily Report or Field Note Record documentation for four (7 percent) material bid items.

Tester qualifications could not be verified

For the 59 materials selected for testing, we determined whether the Department kept records showing the qualifications of its certified testers. We found one instance when the Department did not keep certification documents for a third-party tester (2 percent).

We consider these internal control deficiencies to be a material weakness.

This condition was not reported in the prior audit.

Cause of Condition

We found that the QA section of the Construction Manual was not complete and did not address all construction projects funded by FHWA. Specifically, the Department did not have policies and procedures for materials testing, verification and acceptance for facilities construction, and emergency repairs. Therefore, management did not track materials used on facilities and emergency contracts through the ROM because it thought the QA provisions did not apply to these projects.

The Department had written procedures to ensure that the ROM's are actively maintained. However, these procedures were not followed.

Management could not monitor the status of all materials used in construction projects because project offices did not always update the Materials Tracking Programs, as required by the Construction Manual. We also found the Department did not have policies and procedures in place to assign responsibility for reviewing Inspector Daily Reports or Field Note Records to ensure materials acceptance criteria were met.

The Department did not document verification of third-party tester qualifications because it thought that information on the consultant's website was sufficient, and because the Department considered this consultant to be low risk.

Effect of Condition

The Department did not comply with the QA program requirements, and the required materials testing or acceptance did not occur in accordance with Department policies. Though the Department was able to provide documentation showing some of the materials previously referenced were properly tested, four of the materials appear to have been insufficiently tested before being used.

By not verifying qualifications of testers, the Department risks using materials that are improperly tested.

Recommendations

We recommend the Department:

- Update its Construction Manual for emergency contracts and facilities contracts
- Update its policies and procedures to include management review of materials records to ensure all proper tests have occurred

- Monitor project offices to ensure compliance with policies and procedures
- Ensure all testers are qualified before they conduct material tests

Department's Response

The Washington State Department of Transportation (WSDOT) appreciates the State Auditor's Office (SAO) audit of the Federal Highway Program and the federally required Quality Assurance (QA) program. WSDOT is committed to ensuring our programs comply with federal regulations.

In 2019, WSDOT tested thousands of materials to ensure the materials used on WSDOT projects meet various industry standards. The SAO audit notes 12 exceptions that have brought to light where we need to improve our documentation practices used on state highway projects. The finding also identified that the WSDOT Construction Manual did not properly capture current practices regarding materials for our emergency and facility contracts.

The Construction Division is updating the WSDOT Construction Manual to address the concerns identified in the audit. The Construction Division will communicate these updates to the appropriate WSDOT staff and stakeholders to help ensure adherence to federal regulations and Department policies and procedures.

Auditor's Remarks

Our Office randomly selected 59 construction projects that were open and active during the audit period and examined one material from each sampled project. The 12 exceptions we identified only pertain to the 59 materials we examined.

We reaffirm our finding and will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

(a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

(b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.

(d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.516 Audit findings, states in part:

(a) *Audit findings reported*. The auditor must report the following as audit findings in a schedule of findings and questioned costs:

(1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.

(2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in internal controls over compliance in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, as follows:

.11 For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows: …

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

Title 23 U.S. Code of Federal Regulations Part 637, Construction Inspection and Approval establishes the following applicable requirements:

Section 637.201 Purpose

To prescribe policies, procedures, and guidelines to assure the quality of materials and construction in all Federal-aid highway projects on the National Highway System.

Section 637.205 Policy

(a) **Quality assurance program.** Each STD shall develop a quality assurance program which will assure that the materials and workmanship incorporated into each Federal-aid highway construction project on the NHS are in conformity with the requirements of the approved plans and specifications, including approved changes. The program must meet the criteria in (Section 637.207) and be approved by the FHWA.

(b) **STD capabilities.** The STD shall maintain an adequate, qualified staff to administer its quality assurance program. The State shall also maintain a central laboratory. The State's central laboratory shall meet requirements in (Section 637.209 (a)(2)).

(c) **Verification sampling and testing.** The verification sampling and testing are to be performed by qualified testing personnel employed by the STD or its designated agent, excluding the contractor and vendor.

(d) **Random samples.** All samples used for quality control and verification sampling and testing shall be random samples.

Section 637.207 Quality assurance program

(a) Each STD's quality assurance program shall provide for an acceptance program and an independent assurance (IA) program consisting of the following:

(1) Acceptance program.

(i) Each STD's acceptance program shall consist of the following:

(A) Frequency guide schedules for verification sampling and testing which will give general guidance to personnel responsible for the program and allow adaptation to specific project conditions and needs.

(B) Identification of the specific location in the construction or production operation at which verification sampling and testing is to be accomplished.

(C) Identification of the specific attributes to be inspected which reflect the quality of the finished product.

(ii) Quality control sampling and testing results may be used as part of the acceptance decision provided that:

(A) The sampling and testing has been performed by qualified laboratories and qualified sampling and testing personnel.

(B) The quality of the material has been validated by the verification sampling and testing. The verification testing shall be performed on samples that are taken independently of the quality control samples.

(C) The quality control sampling and testing is evaluated by an IA program.

The Department of Transportation Construction Manual (M41-01), Chapter 9: Materials, states in part:

9-1 General

The quality of materials used on the project will be evaluated and accepted in various ways, whether by testing of samples, visual inspection, or certification of compliance. This chapter details the manner in which these materials can be accepted. Requirements for materials are described in *Standard Specifications for Road, Bridge, and Municipal Construction* M 41-10 Section 1-06 and Division 9.

It is the Project Engineer's responsibility to accept materials in accordance with this chapter. For materials that do not meet specification requirements, the Project Engineer shall contact the State Construction Office which will coordinate with the State Materials Laboratory to determine the appropriate action.

9-1.2C Record of Materials (ROM)

A Record of Materials (ROM) listing of all major construction items provided by the State Materials Laboratory for each project. For these major construction items, the ROM identifies the kinds and quantities for all materials deemed to require quality assurance testing. It further identifies the minimum number of acceptance and verification samples that would be required for acceptance of those materials. The minimum number of acceptance tests is based on the planned quantities for the project and should be adjusted on the project ROM for the actual quantities uses. Also listed are those materials requiring other actions, such as Fabrication Inspection, Manufacturer's Certificate of Compliance, Miscellaneous Certificates of Compliance, Shop Drawings, Catalog Cuts and Field Acceptance.

The accuracy of the ROM and Certification of Materials is largely the responsibility of the Project Engineer.

In order to ensure clarity upon completion of the work and to allow for easy certification of the project by both the Project Engineer and the Region, it is important that the project ROM (maintained in the Materials Tracking Program) be accurately and actively maintained throughout the course of the project.

9-1.2D Materials Tracking Program, MTP

The Project Engineer office shall use the Materials Tracking Program (MTP) to maintain the materials documentation information for each State Contract that is administered by that office.

Materials documentation such as approval, acceptance, field verification, CMO and other documentation for each item is required to be maintained for each permanently incorporated material. The Project Engineer office is expected to keep up to date entries for accurate tracking of materials placed on the jobsite and update the MTP to reflect the actual materials and quantities placed.

2019-020 The Department of Transportation made unsupported payments to subrecipients of the Federal Transit Cluster program.

Federal Awarding Agency: U.S. Department of Transportation
Pass-Through Entity: None
CFDA Number and Title: 20.526 Bus and Bus Facilities Formula & Discretionary Programs
Federal Award Number: WA-34-0004-00; WA-2017-052-00; WA-2017-053-00; WA-2017-054-00
Applicable Compliance Component: Activities Allowed or Unallowed
Allowable Costs/Cost Principles
Known Questioned Cost Amount: $1,093,061

Background

The Department of Transportation (Department), Public Transportation Division (Division), receives federal funding under the Federal Transit Cluster to fund projects for replacement, rehabilitation, and purchases of buses and related equipment, as well as construction of bus-related facilities, through formula-based and competitive selection procedures. Most of the projects funded under the Bus and Bus Facilities Formula and Discretionary Programs (CFDA 20.526) are administered by local transit agencies, or transit departments at a city or county government level or non-profit organizations approved for funding by the Department, as well as the U.S. Department of Transportation's Federal Transit Administration (FTA).

Federal regulations require award funds to be used for the purpose of funding capital projects including buses and vehicles (rolling stock), bus facilities, and bus-related equipment purchases. The Department's 2017-2019 biennial Guide to Managing Your Public Transportation Grant Guidebook issued to its subrecipients further states capital project funds may not be used for administrative costs incurred to conduct the procurement(s), maintenance costs for vehicles to be put in-service, or vehicle title and licensing fees. The Guidebook also requires specific supporting documents to accompany capital invoices (reimbursement requests) submitted to the Public Transportation Division in order to receive reimbursement for allowable purchases. The subrecipient must provide, with each capital invoice:

- Visual Inspection, and Road Test Forms for vehicles acquired with program funds
- Post-Delivery Buy America Compliance Certificates
- Post-Delivery Federal Motor Vehicle Safety Standards (FMVSS) Compliance Certificates
- Certificate of Insurance Coverage for the acquired vehicle(s)
- Vehicle Registration Certificate and Title showing the Department as the legal owner
- Letter of Vehicle Acceptance signed by the subrecipient
- Invoice from the vehicle manufacturer outlining the cost of vehicle production and delivery
- Itemized receipts for travel costs incurred by the subrecipient as a result of vehicle inspection and delivery (if applicable)

The Department spent about $68 million in federal grant funds during fiscal year 2019, and the Division passed through about $4.7 million to local transit agencies as subrecipients of grant funds for capital projects.

Description of Condition

The Department of Transportation made unsupported payments to subrecipients of the Federal Transit Cluster program.

We examined all 13 reimbursements, totaling $4,709,162, made by the Department during the audit period. We identified four reimbursements (31 percent) were missing supporting documentation required by the Department's Guide to Managing Your Public Transportation Grant for $1,093,061 of the requested reimbursement.

Three reimbursements were made after receiving incomplete Vehicle Inspection Reports, and Road Test Forms for purchased vehicles. One additional reimbursement was made to a subrecipient who did not submit a Certificate of Insurance Coverage required for the newly acquired vehicle.

This condition was not reported in the prior audit.

Cause of Condition

The Division did not follow the requirements outlined in the Grant Guide when reviewing subrecipient invoices and supporting records before authorizing reimbursement. Additionally, management did not adequately monitor reimbursements made to subrecipients to ensure they were fully supported by required records.

Effect of Condition and Questioned Costs

Because the reimbursements to subrecipients did not contain required supporting records, we determined the Department improperly reimbursed $1,093,061 in capital project costs, which represents the unallowable portion of the federal expenditures. The Department charged this entire amount to the federal grant.

We question costs when we find an agency has not complied with grant regulations or when it does not have adequate documentation to support its expenditures.

Recommendations

We recommend the Department:

- Ensure staff responsible for reviewing subrecipient reimbursement requests follow Department policies and procedures when approving the requests
- Ensure all supporting records provided by the subrecipient are complete before reimbursing capital project expenses
- Consult with the grantor to discuss whether the questioned costs identified in the audit should be repaid

Department's Response

The Washington State Department of Transportation (WSDOT) appreciates the State Auditor's Office (SAO) audit of the Bus and Bus Facilities Formula and Discretionary Programs. WSDOT is committed to ensuring our programs comply with federal regulations and concurs with the finding and recommendation.

The SAO found the reimbursement to the transit authority was an allowable activity, but classified its expenditure as a questioned cost since internal Public Transportation Division (PTD) processes for the reimbursement were incomplete or not properly documented. The reimbursement was for the purchase of a bus, which meets the eligibility requirements for this federal grant program. The PTD has since obtained all required documentation to fully support these payments and will provide it to the Federal Transit Administration, should they request it. In line with the finding's recommendations, PTD staff will ensure all required documentation from subrecipients is received and complete prior to reimbursing for capital project expenses.

Auditor's Remarks

We thank the Department for its cooperation and assistance throughout the audit. We will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.53 Improper Payments states:

(a) *Improper payment* means any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; and
(b) *Improper payment* includes any payment to an ineligible party, any payment for an ineligible good or service, any duplicate payment, any payment for a good or service not received (except for such payments where authorized by law), any payment that does not account for credit for applicable discounts, and any payment where insufficient or lack of documentation prevents a reviewer from discerning whether a payment was proper.

Section 200.403 Factors affecting Allowability of costs.

Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under Federal awards.

(a) Be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles.
(b) Conform to any limitations or exclusions set forth in these principles or in the Federal award as to types or amount of cost items.

(c) Be consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the non-Federal entity.
(d) Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the sample purpose in like circumstances has been allocated to the Federal award as an indirect cost.
(e) Be determined in accordance with generally accepted accounting principles (GAAP), except, for state and local governments and Indian tribes only, as otherwise provided for in this part.
(f) Not be included as a cost or used to meet cost sharing or matching requirements of any other federally-financed program in either the current or a prior period. See also §200.306 Cost sharing or matching paragraph (b).
(g) Be adequately documented. See also §§200.300 Statutory and national policy requirements through 200.309 Period of performance of this part.

Section 200.410 Collection of unallowable costs.

Payments made for costs determined to be unallowable by either the Federal awarding agency, cognizant agency for indirect costs, or pass-through entity, either as direct or indirect costs, must be refunded (including interest) to the Federal Government in accordance with instructions from the Federal agency that determined the costs are unallowable unless Federal statute or regulation directs otherwise. See also Subpart D—Post Federal Award Requirements of this part, §§200.300 Statutory and national policy requirements through 200.309 Period of performance.

Section 200.516 Audit findings, states in part:

(a) *Audit findings reported*. The auditor must report the following as audit findings in a schedule of findings and questioned costs:
    (3) Known questioned costs that are greater than $25,000 for a type of compliance requirement for a major program. Known questioned costs are those specifically identified by the auditor. In evaluating the effect of questioned costs on the opinion on compliance, the auditor considers the best estimate of total costs questioned (likely questioned costs), not just the questioned costs specifically identified (known questioned costs). The auditor must also report known questioned costs when likely questioned costs are greater than $25,000 for a type of compliance requirement for a major program. In reporting questioned costs, the auditor must include information to provide proper perspective for judging the prevalence and consequences of the questioned costs.

The Washington State Department of Transportation *Guide to Managing Your Public Transportation Grant (For 2017-19 State and Federal Grants Awarded by the Washington State Department of Transportation)*, Chapter 3 – Guidelines for Capital (Vehicle and Equipment) Projects, page 75, states in part:

Ineligible Capital Costs

To receive reimbursement, grantees must email a pdf of the completed reimbursement request signed by the agency's financial manager or another authorized representative along with copies of the vendor invoices and all other required attachments.

A completed reimbursement request for the vehicle purchase must include the following information or attachments:

Federally-funded procurements:

- Completed visual-inspection and road-test forms for vehicle purchases.
- Copy of the insurance certificate covering the vehicle.

2019-021 The Department of Transportation did not have adequate internal controls over and did not comply with federal requirements to monitor the activities of subrecipients with subawards funded by the Federal Transit Cluster.

Federal Awarding Agency:	U.S. Department of Transportation
Pass-Through Entity:	None
CFDA Number and Title:	20.526 Bus and Bus Facilities Formula and Discretionary Programs
Federal Award Number:	WA-34-0004; WA-2017-052; WA-2017-053; WA-2017-054
Applicable Compliance Component:	Subrecipient Monitoring
Known Questioned Cost Amount:	None

Background

The Department of Transportation (Department), Public Transportation Division (Division), receives federal funding under the Federal Transit Cluster to fund projects for replacement, rehabilitation, and purchase of buses and related equipment, as well as construction of bus-related facilities, through formula-based and competitive selection procedures. Projects funded under the Bus and Bus Facilities Formula and Discretionary Programs (Section 5339 Program) are administered by local transit agencies at the city or county government level or non-profit organizations approved for funding by the Department, as well as the U.S. Department of Transportation's Federal Transit Administration (FTA).

Federal regulations require the Department to monitor the activities of subrecipients to ensure subawards are used for authorized purposes and that activities comply with terms and conditions of the subaward and achieve performance goals. Specifically, monitoring efforts must include reviewing financial and programmatic (performance and special) reports required by the pass-through entity.

The Division maintains its own requirements for subawards of federal funds, published in the 2017-2019 biennial Guide to Managing Your Public Transportation Grant (Guide). This Guide outlines additional requirements imposed on all subrecipients by the Department, including:

- Required site visits every two years for managing federally funded vehicles and equipment;
- Reviewing capital costs charged to the subaward(s) for allowability and appropriateness; and
- Reviewing the subrecipient's compliance with federal and state procurement requirements.

The Department spent about $68 million in federal grant funds during fiscal year 2019, and the Division passed through about $4.7 million to local transit agencies as subrecipients of grant funds.

Description of Condition

The Department did not have adequate internal controls over and did not comply with federal requirements to conduct program monitoring of its subrecipients of federal funds awarded under the Federal Transit Cluster.

The Division did not ensure it performed site visits of subrecipients every two years, as required by the Guide. In addition, internal controls were not effective to ensure the Division received quarterly progress reports, required under the terms and conditions of the subaward, from subrecipients.

We reviewed seven of 19 subrecipients with active subawards funded by the Section 5339 Program during the audit period to determine if the Division performed site visits at each subrecipient and reviewed quarterly progress reports submitted by the subrecipients, as required. We found four subrecipients (57 percent) with active subawards did not receive a site visit within two years of the previous site visit, as required by the Guide. We determined that the subsequent site visits did occur during the audit period. For one additional subrecipient (14 percent), the Division could not produce evidence of a completed site visit.

We also found one subrecipient (14 percent) did not submit quarterly progress reports to the Division during the audit period. The Division failed to monitor the status of required reports and did not communicate with the subrecipient to ensure the reports were ultimately received.

We consider these internal control deficiencies to constitute a material weakness.

This condition was not reported in the prior audit.

Cause of Condition

The Division maintains a schedule of completed and anticipated site visits for each subrecipient to monitor compliance. However, the Division's monitoring of the schedule was not effective to ensure compliance with the Department's requirement to complete site visits for each subrecipient at least every two years.

The Division did not keep supporting records for one site visit that, according to the Department, occurred during the audit period. According to Department staff, the employee who conducted the evaluation left the Department in 2018, and the Division could not locate the site visit checklist for the subrecipient.

Division management did not monitor sufficiently and was not aware that a subrecipient failed to produce any quarterly progress reports for a capital project during the audit period.

Effect of Condition

Without establishing adequate internal controls, and by not reviewing progress reports for capital projects, the Department cannot ensure that all subrecipient activities are allowable under the terms and conditions of the subaward, and that performance goals are being achieved. Without

monitoring each subrecipient's use of federal grant funds, the risk of undetected noncompliance is increased.

In addition, failure to monitor the use of federal award funds by subrecipients could result in the termination or suspension of the federal grant award.

Recommendations

We recommend the Department:

- Establish written policies and procedures for monitoring the status of required quarterly progress reports due from subrecipients
- Improve internal controls to ensure site visits are completed for every active subrecipient as required by the Guide
- Keep supporting records for all future site visits and other reviews of subrecipient activities involving federal program funds

Department's Response

The Washington State Department of Transportation (WSDOT) appreciates the State Auditor's Office audit of the Bus and Bus Facilities Formula and Discretionary Programs. WSDOT is committed to ensuring our programs comply with federal regulations. WSDOT concurs that improvement to our Public Transportations Division's (PTD) subrecipient monitoring activities would help ensure subrecipients comply with the terms and conditions of their subaward and achieve performance goals. In line with the finding's recommendations, PTD is updating existing and establishing new internal controls to help ensure we monitor progress reporting and conduct monitoring activities at the frequency prescribed in the Consolidated Grant Guidebook.

Auditor's Remarks

We thank the Department for its cooperation and assistance throughout the audit. We will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

(a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated

Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

(b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.

(d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.516 Audit findings, states in part:

(a) *Audit findings reported*. The auditor must report the following as audit findings in a schedule of findings and questioned costs:

(1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.

(2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in internal controls over compliance in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, as follows:

.11 For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows: …

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a

reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.
Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

Section 200.331 Requirements for Pass-Through Entities, states in part:

All pass-through entities must:

(b) Evaluate each subrecipient's risk of noncompliance with federal statutes, regulations, and the terms and conditions of the subaward for purposes of determining the appropriate subrecipient monitoring described in paragraphs (d) and (e) of this section, which may include consideration of such factors as:

(1) The subrecipient's prior experience with the same or similar subawards;
(2) The results of previous audits including whether or not the subrecipient receives a Single Audit in accordance with Subpart F – Audit Requirements of this part, and the extent to which the same or similar subaward has been audited as a major program;
(3) Whether the subrecipient has new personnel or new or substantially changed systems; and
(4) The extent and results of Federal awarding agency monitoring (e.g., if the subrecipient also receives Federal awards directly from a Federal awarding agency).

(d) Monitor activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved. Pass-through entity monitoring of the subrecipient must include:

(1) Reviewing financial and performance reports required by the pass-through entity.
(2) Following-up and ensuring that the subrecipient takes timely and appropriate action of all deficiencies pertaining to the Federal award

provided to the subrecipient from the pass-through entity detected through audits, on-site reviews, and other means.

(e) Depending upon the pass-through entity's assessment of risk posed by the subrecipient (as described in paragraph (b) of this section), the following monitoring tools may be useful for the pass-through entity to ensure proper accountability and compliance with program requirements and achievement of performance goals:

(1) Providing subrecipients with training and technical assistance on program-related matters; and
(2) Performing on-site reviews of the subrecipient's program operations;
(3) Arranging for agreed-upon procedures engagements as described in §200.425 Audit services.

(g) Consider whether the results of the subrecipient's audits, on-site reviews, or other monitoring indicate conditions that necessitate adjustments to the pass-through entity's own records.

(h) Consider taking enforcement action against noncompliant subrecipients as described in §200.338 Remedies for noncompliance of this part and in program regulations.

The Washington State Department of Transportation *Guide to Managing Your Public Transportation Grant (For 2017-19 State and Federal Grants Awarded by the Washington State Department of Transportation)*, Chapter 1 – Requirements and Guidelines for All Projects, states in part:

Program Compliance and Project Reporting

As a steward of public funds, WSDOT is responsible for ensuring that grant funds are used properly and that organizations comply with the requirements associated with receiving state and/or federal grant funds… To help ensure compliance with state and federal laws as well as program requirements, WSDOT uses:

- Progress and Statistical Reporting
- Site Visits

Progress and Statistical Reporting

In addition to submitting reimbursement requests, all grantees are required to submit quarterly progress reports to PTD. Progress reports and financial and statistical reports are due no later than 30 days after the end of each calendar quarter. Quarterly reporting is required on operating projects even if all of the grantee's awarded funds are exhausted. Quarterly reporting is required on capital projects every quarter up until the vehicle or equipment is received and reimbursed.

If a report is not received by the due date, is incomplete or includes inaccurate information, any reimbursement requests submitted by the grantee will not be processed for payment until an acceptable report is received.

A grantee that fails to submit required reports in full and in the timeframe identified by WSDOT may lose its *in good standing* status, which may jeopardize the funding for the current project(s) as well as risk the ability to secure future WSDOT grant funds.

Site Visits

WSDOT conducts reviews of all agencies that receive grant funding. Site visits may take place to ensure compliance with both state and federally funded grant programs. The frequency of site visits depends on the type of project, the funding source and the grantee's existing risk-assessment status. First-time and medium to high-risk grantees can expect at least an annual visit. Low-risk grantees can expect a full site visit once every two years, with a desk review conducted during the off year.

Below is general information regarding site visit frequency:

> **Capital Vehicle and Equipment Projects** – Minimum of one visit every two years for the useful life of the vehicle or equipment (administrative and capital).

2019-022 The Department of Transportation did not have adequate internal controls to ensure subrecipients received single audits required by federal rule, findings related to federal program awards were followed up on and management decisions were issued.

Federal Awarding Agency:	U.S. Department of Transportation
Pass-Through Entity:	None
CFDA Number and Title:	20.526 Bus and Bus Facilities Formula & Discretionary Programs
Federal Award Number:	WA-34-0004; WA-2017-052; WA-2017-053; WA-2017-054
Applicable Compliance Component:	Subrecipient Monitoring
Known Questioned Cost Amount:	None

Background

The Department of Transportation (Department), Public Transportation Division, receives federal funding under the Federal Transit Cluster to fund projects for replacement, rehabilitation, and purchases of buses and related equipment, as well as construction of bus-related facilities, through formula-based and competitive selection procedures. Projects funded under the Bus and Bus Facilities Formula and Discretionary Programs (Section 5339 Program) are administered by local transit agencies, or transit departments at a city or county government level or non-profit organizations approved for funding by the Department, as well as the U.S. Department of Transportation's Federal Transit Administration (FTA).

Federal regulations require the Department to monitor the activities of subrecipients. This includes ensuring its subrecipients that spend $750,000 or more in federal award funds during a fiscal year receive a single audit. The audit must be completed and submitted to the Federal Audit Clearinghouse within the earlier of 30 calendar days after receipt of the auditor's report(s), or nine months after the end of the subrecipients audit period. In addition, the Department must follow up on any audit findings a subrecipient receives that might affect the federal program, and must issue a management decision within six months of the audit report's acceptance by the Federal Audit Clearinghouse. These requirements help ensure federal award funds are used for authorized purposes and within the provisions of contracts or grant agreements.

The Department maintains a spreadsheet of active subrecipient awards that documents the fiscal year end for each subrecipient. At the end of each subrecipient's fiscal year, the Department sends a written request for an attestation regarding whether the subrecipient needed an audit and updates the spreadsheet with the information. If the subrecipient does not respond, the Department follows up with the subrecipient to get the necessary information. If a subrecipient audit contains any findings related to the program, the Department follows up to ensure corrective actions are taken.

The Department spent about $68 million in federal grant funds during fiscal year 2019, and the Division passed through about $4.7 million to local transit agencies as subrecipients of grant funds.

Description of Condition

The Department of Transportation did not have adequate internal controls to ensure subrecipients received single audits required under federal rule, findings related to federal program awards were followed up on, and management decisions were issued.

The spreadsheet the Department used to track subrecipient audit activity included the date(s) on which audit reports were due and ultimately received by the Department. However, the spreadsheet did not include any information on subrecipients that did not respond to the Department's inquiry as to whether an audit was required for a given fiscal year. The Department also did not document the management decision due date for each subrecipient audit. In our judgment, this internal control was not effective to monitor the receipt and resolution of subrecipient single audits.

We reviewed seven of 19 subrecipients with active subawards during the audit period and found three (43 percent) did not respond to the Department's requests for signed attestations regarding their single audit status for the calendar year 2017. Because of the identified weaknesses, we expanded our testing and determined that seven of the 19 subrecipients received federal awards from other entities and required a single audit. However, the Department did not identify these subrecipients as needing an audit and, therefore, did not review their audits.

In addition, the Department failed to issue a management decision for one subrecipient that received an audit finding for a project funded by the Federal Transit Cluster program.

We believe this internal control deficiency constitutes a material weakness.

This condition was not reported in the prior audit.

Cause of Condition

The Department did not have written policies and procedures in place for monitoring subrecipients that may require a single audit. The Department also did not provide adequate instruction to staff responsible for monitoring single audit requirements.

To determine whether a subrecipient required a single audit for their fiscal year, the Department reviewed the total funds it reimbursed (passed through) to the subrecipient to determine if the subrecipient met the $750,000 minimum threshold. In cases where the Department itself did not reimburse $750,000 or more to the subrecipient, the Department relied on the subrecipient to inform it as to whether a single audit was required.

The Department said guidance documents were written based on the impression that transit authorities had a minimal likelihood of receiving federal funds from sources other than the Department or FTA. This understanding was not accurate and staff did not verify whether the subrecipients received any other federal funds.

The Department did not issue a management decision for one subrecipient because the subrecipient had received a triennial review from FTA before receiving a single audit. The single audit finding communicated the same noncompliance that FTA had previously identified as part of its triennial

review of the subrecipient. FTA documented its concurrence with the subrecipient's corrective action plan upon reviewing the single audit report. Because of this, the Department thought that no additional written management decisions were required on its part.

Effect of Condition

Without establishing adequate internal controls, the Department cannot identify whether its subrecipients met the threshold for an audit required under federal law and ultimately received the required audit(s). This increases the risk of undetected noncompliance with federal program requirements, as well as with grant award terms and conditions.

Additionally, not issuing a management decision when required makes the Department unable to accurately determine the effect of the reported noncompliance on the federal program.

Recommendations

We recommend the Department:

- Establish written policies and procedures for following up with subrecipients to determine if audits are required
- Monitor all subrecipients to ensure they provide responses regarding their single audit status
- Receive and review all required audit reports to determine if there are findings related to federal programs
- Follow up on all subrecipient audit findings and issue a management decision for any findings related to the Federal Transit Cluster
- Ensure subrecipients develop and perform acceptable corrective actions to adequately address all audit recommendations

Department's Response

The Washington State Department of Transportation (WSDOT) appreciates the State Auditor's Office audit of the Bus and Bus Facilities Formula and Discretionary Programs. WSDOT is committed to ensuring our programs comply with federal regulations. WSDOT concurs that improvements to the Public Transportation Division's (PTD) current subrecipient monitoring activities would help to ensure that our subrecipients receive single audits, if required. Current monitoring activities rely on subrecipient responses to a PTD notification; however, moving forward PTD will require a 100% response as to whether a single audit is or is not required. PTD will also ensure that management decision letters are issued if those audits result in findings for subrecipients. In line with the finding's recommendations, WSDOT is updating existing and establishing new internal controls to monitor our subrecipients as required by federal regulations.

Auditor's Remarks

We thank the Department for its cooperation and assistance throughout the audit. We will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

(a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
(b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.
(d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.516 Audit findings, states in part:
(a) *Audit findings reported*. The auditor must report the following as audit findings in a schedule of findings and questioned costs:

(1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.
(2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in internal controls over compliance in its Codification of Statements on Auditing Standards, section 935, Compliance Audits, as follows:

.11 For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows: …

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

Section 200.331 Requirements for Pass-Through Entities, states in part:

All pass-through entities must:

(f) Verify that every subrecipient is audited as required by Subpart F – Audit Requirements of this part when it is expected that the subrecipient's Federal awards expended during the respective fiscal year equaled or exceeded the threshold set forth in §200.501 Audit requirements.

(h) Consider taking enforcement action against noncompliant subrecipients as described in §200.338 Remedies for noncompliance of this part and in program regulations.

Section 200.501 Audit Requirements, states in part:

(a) A non-Federal entity that expends $750,000 or more during the non-Federal entity's fiscal year in Federal awards must have a single or program-specific audit conducted for that year in accordance with the provisions of this part.

Section 200.521 Management Decision, states in part:

(a) General. The management decision must clearly state whether or not the audit finding is sustained the reasons for the decision, and the expected auditee action to repay disallowed costs, make financial adjustments, or take other action. If the auditee has not completed corrective action, a timetable for follow-up should be given. Prior to issuing the management decision, the Federal agency or pass-through entity may request additional information or documentation from the auditee, including a request for auditor assurance related to the documentation, as a way of mitigating disallowed costs. The management decision should describe any appeal process available to the auditee.

(c) Pass-through entity. As provided in §200.331 Requirements for pass-through entities, paragraph (d), the pass-through entity must be responsible for issuing a management decision for audit findings that relate to Federal awards it makes to subrecipients.

(d) Time requirements. The Federal awarding agency or pass-through entity responsible for issuing a management decision must do so within six months of acceptance of the audit report by the FAC.

The Washington State Department of Transportation *Guide to Managing Your Public Transportation Grant (For 2017-19 State and Federal Grants Awarded by the Washington State Department of Transportation)*, Chapter 1 – Requirements and Guidelines for All Projects, states in part:

Required Single Audits

Grantees that spend federal funds totaling $750,000 or more in a single fiscal year (regardless of the federal funding source) are required to perform a single audit that meets the requirements of OMB Circular A-133. The audit must be completed and submitted to WSDOT within nine months of the end of your agency's fiscal year.

2019-023 The Department of Social and Health Services did not have adequate internal controls over and was not compliant with federal requirements to ensure payments paid on behalf of clients for Vocational Rehabilitation were allowable.

Federal Awarding Agency:	U.S. Department of Education
Pass-Through Entity:	None
CFDA Number and Title:	84.126 Rehabilitation Services – Vocational Rehabilitation Grants to States
Federal Award Number:	H126A170071, H126A180071, H126A190071
Applicable Compliance Component:	Activities Allowed or Unallowed Allowable Costs / Cost Principles
Known Questioned Cost Amount:	$19,898

Background

The Department of Social and Health Services' (Department) Division of Vocational Rehabilitation provides employment services and counseling to individuals with disabilities who want to work but experience barriers to work because of a physical, sensory, and/or mental disability. A Department counselor works with each person to develop a customized plan of services designed to help them reach their employment goal. These services are primarily funded by the Vocational Rehabilitation Grant.

The Department operates and administers the program in accordance with federal regulations, as well as with a State Plan that is approved every four years. The Department spends federal grant money for employment services that are included in a client's individual plan for employment (IPE). The IPE helps a person with a disability prepare for, secure, retain or regain an employment outcome. To ensure that the client is informed and involved in their employment outcome, both the client and a counselor must sign and date the completed IPE after reviewing it. Once an IPE is signed, most services are not allowable unless they are included in the approved IPE.

The Department may also spend federal grant money for pre-employment services that allow the Department to determine eligibility or ability to work and do not need to be in the IPE. While these expenses are not contained in an IPE, they still must be approved and have proper support.

The Department requires all purchases of goods and services on behalf of a client to be pre-approved, using an Authorization for Purchase (AFP). In some cases, a purchase is initiated with a verbal or written commitment to a vendor before an AFP is issued. In this case, a signed AFP must be mailed or given to the vendor within five working days of the commitment being made.

The Department also makes payments to contractors who provide pre-employment transition services for students who are no older than 21 and are eligible, or potentially eligible, for

Vocational Rehabilitation services. These contractors submit supporting documentation for these services that includes information about the students they have served.

The Department spent $47 million in federal program funds in fiscal year 2019, with about $17 million paid for client services.

In prior audits, we reported that the Department did not have adequate internal controls over and was not compliant with requirements to ensure payments paid on behalf of clients were allowable. The prior finding numbers were 2018-023, 2017-014 and 2016-013.

Description of Condition

The Department did not have adequate internal controls over and was not compliant with federal requirements to ensure payments paid on behalf of clients for Vocational Rehabilitation were allowable.

We used a statistical sampling method to randomly select and examine 59 of a total population of 24,083 payments made for client services during fiscal year 2019. We reviewed each payment to determine if it was for an allowable employment service, was either included in a client's IPE or was a pre-employment service, and the AFP was issued after the IPE was signed and before the service was provided.

In 12 cases (20 percent), we found payments were improper. These payments included $18,061 in federally funded unallowable costs. Specifically, we found:

- Three cases when the Department did not have a valid IPE with the client
- Three cases when the service provided was not in the IPE
- One case when the Department could not provide an AFP or an invoice for the services purchased
- Five cases when the Department did not issue an AFP before the Department ordered the services

We also used a statistical sampling method to randomly select and examine 57 of a total population of 905 payments made to contractors for pre-employment transition services. We found one payment for $13,173 included $1,837 in federally funded unallowable costs, because one of the clients served was over 21 years of age.

We consider these internal control deficiencies to be a material weakness.

Cause of Condition

Department staff did not follow established policies and procedures to ensure that payments for client services were contained in the client's approved IPE. Also, services were initiated without proper approval. Managerial oversight was not sufficient to detect or prevent these issues.

The Department said the practice for approving certain payments, primarily for post-secondary education and interpreter services, was not in accordance with written procedures for issuing authorizations for payment program-wide.

Effect of Condition and Questioned Costs

By not having adequate internal controls in place, the Department increases its risk of making improper payments for client services.

A statistical sampling method was used to randomly select the payments examined in the audit. Based on the results of our testing, we estimate the total amount of likely improper payments using federal funds to be $1,722,477.

Our sampling methodology meets statistical sampling criteria under generally accepted auditing standards in AU-C 530.05. It is important to note that the sampling technique we used is intended to support our audit conclusions by determining if expenditures complied with program requirements in all material respects. Accordingly, we used an acceptance sampling formula designed to provide a high level of assurance, with a 95 percent confidence of whether exceptions exceeded our materiality threshold. Our audit report and finding reflects this conclusion. However, the likely improper payment projections are a point estimate and only represent our "best estimate of total questioned costs" as required by 2 CFR 200.516(3). To ensure a representative sample, we stratified the population by dollar amount.

We question costs when we find an agency has not complied with grant regulations or when it does not have adequate documentation to support its expenditures.

Recommendation

We recommend the Department:

- Pay for client employment services only when those services are contained in an approved IPE and are adequately supported
- Ensure services are not initiated before being properly approved
- Ensure managers adequately monitor staff to ensure staff follow policies and procedures and federal requirements are met
- Consult with the grantor to discuss whether the questioned costs identified in the audit should be repaid.

Department's Response

The Department concurs with the finding.

While this area has been in past audit findings, we believe that several observations were not noted in those past findings. These new observations provide the Department with an opportunity for additional improvements.

To address the issues in the audit, the Department will:

- *Issue communication to field staff clarifying and reinforcing:*

  - *Client signatures and date requirements.*
  - *Necessary documents in case records.*
- *Review our current policies and procedures in these areas to determine if any changes should be implemented.*
- *Consult with the federal grantor to discuss questioned costs.*

Auditor's Concluding Remarks

We thank the Department for its cooperation and assistance throughout the audit. We will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.53 Improper Payments states:

(a) *Improper payment* means any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; and

(b) *Improper payment* includes any payment to an ineligible party, any payment for an ineligible good or service, any duplicate payment, any payment for a good or service not received (except for such payments where authorized by law), any payment that does not account for credit for applicable discounts, and any payment where insufficient or lack of documentation prevents a reviewer from discerning whether a payment was proper.

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

(a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

(b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.

(d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.403 Factors affecting Allowability of costs.

Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under Federal awards.

(a) Be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles.
(b) Conform to any limitations or exclusions set forth in these principles or in the Federal award as to types or amount of cost items.
(c) Be consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the non-Federal entity.
(d) Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the sample purpose in like circumstances has been allocated to the Federal award as an indirect cost.
(e) Be determined in accordance with generally accepted accounting principles (GAAP), except, for state and local governments and Indian tribes only, as otherwise provided for in this part.
(f) Not be included as a cost or used to meet cost sharing or matching requirements of any other federally-financed program in either the current or a prior period. See also §200.306 Cost sharing or matching paragraph (b).
(g) Be adequately documented. See also §§200.300 Statutory and national policy requirements through 200.309 Period of performance of this part.

Section 200.410 Collection of unallowable costs.

Payments made for costs determined to be unallowable by either the Federal awarding agency, cognizant agency for indirect costs, or pass-through entity, either as direct or indirect costs, must be refunded (including interest) to the Federal Government in accordance with instructions from the Federal agency that determined the costs are unallowable unless Federal statute or regulation directs otherwise. See also Subpart D—Post Federal Award Requirements of this part, §§200.300 Statutory and national policy requirements through 200.309 Period of performance.

Section 200.516 Audit findings, states in part:

(a) *Audit findings reported*. The auditor must report the following as audit findings in a schedule of findings and questioned costs:
   (1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.
   (2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.
   (3) Known questioned costs that are greater than $25,000 for a type of compliance requirement for a major program. Known questioned costs are those specifically identified by the auditor. In evaluating the effect of questioned costs on the opinion on compliance, the auditor considers the best estimate of total

costs questioned (likely questioned costs), not just the questioned costs specifically identified (known questioned costs). The auditor must also report known questioned costs when likely questioned costs are greater than $25,000 for a type of compliance requirement for a major program. In reporting questioned costs, the auditor must include information to provide proper perspective for judging the prevalence and consequences of the questioned costs.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in internal controls over compliance in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, as follows:

.11 For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows: …

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

29 U. S. Code. section 722. Eligibility and individual plan for employment, states in part:

(a) Eligibility

(2) Presumption of benefit

(A) Applicants

For purposes of this section, an individual shall be presumed to be an individual that can benefit in terms of an employment outcome from vocational rehabilitation services under section 705(20)(A) of this title.

(B) Responsibilities

Prior to determining under this subsection that an applicant described in subparagraph (A) is unable to benefit due to the severity of the individual's disability or that the individual is ineligible for vocational rehabilitation services, the designated State unit shall explore the individual's abilities, capabilities, and capacity to perform in work situations, through the use of trial work experiences, as described in section 705(2)(D) of this title, with appropriate supports provided through the designated State unit. Such experiences shall be of sufficient variety and over a sufficient period of time to determine the eligibility of the individual. In providing the trial experiences, the designated State unit shall provide the individual with the opportunity to try different employment experiences, including supported employment, and the opportunity to become employed in competitive integrated employment.

(b) Development of an individual plan for employment

(3) Mandatory procedures

(A) Written document

An individualized plan for employment shall be a written document prepared on forms provided by the designated State unit.

(C) Signatories

An individualized plan for employment shall be—

(i) agreed to, and signed by, such eligible individual or, as appropriate, the individual's representative; and

(ii) approved and signed by a qualified vocational rehabilitation counselor employed by the designated State unit.

The Division of Vocational Rehabilitation Customer Services Manual states, in part:

Authorization for Purchase (AFP)

All purchases of goods and services on behalf of a DVR customer must be pre-approved using an AFP. An AFP is a legally binding document. When signed by a VR staff, an AFP is a contract between DVR and a registered vendor or DVR customer. The vendor must be registered in STARS before any authorization or verbal commitment is made.

Because the AFP is legally binding:

1. The AFP must include specific information in the AFP description that describes the goods/services authorized for purchase, as well as the dates of service, amounts authorized, and any other conditions related to the service(s) and/or payment. The AFP description should include the item being purchased and any other key identifying information, such as type/make/model, when

appropriate. For example, Maxim Keyboard for PC, or Dragon NaturallySpeaking, Preferred Edition; or 2 pairs of pants, 3 shirts, 1 pair of shoes.

2. The Terms and Conditions must be provided to the vendor or customer along with the AFP.

If a verbal or written commitment is made to a vendor, an AFP is issued, signed by the authorized field staff and mailed or given to the vendor within 5 working days of making any verbal or written commitment to a vendor.

Standard Operating Procedure: Purchasing Pre-Employment Transition Services from Vendors for DVR Customers, states in part:

> Students with disabilities may participate in these services from as young as 14 until they turn 22 years of age, and must be currently enrolled in a secondary or post-secondary education program.

2019-024 The Department of Social and Health Services improperly charged $279,844 to the Vocational Rehabilitation grant.

Federal Awarding Agency:	U.S. Department of Education
Pass-Through Entity:	None
CFDA Number and Title:	84.126 Rehabilitation Services – Vocational Rehabilitation Grants to States
Federal Award Numbers:	H126A170071, H126A180071, H126A190071
Applicable Compliance Component:	Period of Performance
Known Questioned Cost Amount:	$279,844

Background

The Department of Social and Health Services' (Department) Division of Vocational Rehabilitation provides employment services and counseling to individuals with disabilities who want to work but experience barriers to work because of a physical, sensory, and/or mental disability. A Department counselor works with each person to develop a customized plan of services designed to help them reach their employment goal. These services are primarily funded by the Vocational Rehabilitation Grant.

The Department is responsible for ensuring grant money is used for costs that are allowable and related to each grant's purpose. Each federal grant specifies a performance period during which program costs may be obligated or liquidated. These periods typically align with the federal fiscal year of October 1 through September 30. Payments for costs charged before a grant's beginning date are not allowed without the grantor's prior approval.

The Department spent $47 million in federal program funds in fiscal year 2019, with about $17 million paid for client services.

Description of Condition

The Department had adequate internal controls to ensure it materially complied with period of performance requirements. However, we found it charged $279,844 in expenditures to the Vocational Rehabilitation grant for activities that occurred before the grant was authorized to be expended.

The Department did not have prior authorization from the grantor to charge the grant for these expenditures.

This condition was not reported in the prior audit.

Cause of Condition

The Department charges centralized costs to programs throughout the Department. There is not sufficient monitoring over this process to ensure only allowable costs are charged to the grant, and

the program accounting staff were not aware that some expenditures were being improperly charged in this manner.

Effect of Condition and Questioned Costs

We are questioning $279,844 in improperly charged expenditures made to the Vocational Rehabilitation grant.

We question costs when we find an agency has not complied with grant regulations or when it does not have adequate documentation to support its expenditures.

Recommendations

We recommend the Department:

- Charge expenditures to federal grants only if the expenditures are obligated during the period of performance
- Consult with the grantor to discuss whether the questioned costs identified in the audit should be repaid

Department's Response

The Department concurs with the finding.

The Department will ensure funds are corrected by moving the expenditures to the proper grant year and will develop process and procedures to ensure federal grant expenditures are obligated during the period of performance.

Auditor's Remarks

We thank the Department for its cooperation and assistance throughout the audit. We will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

> Section 200.53 Improper Payments states:
>
> (a) *Improper payment* means any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; and
>
> (b) *Improper payment* includes any payment to an ineligible party, any payment for an ineligible good or service, any duplicate payment, any payment for a good or service not received (except for such payments where authorized by law), any payment that does not account for credit for applicable discounts, and any payment where insufficient or lack of documentation prevents a reviewer from discerning whether a payment was proper.

Section 200.403 Factors affecting Allowability of costs.

Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under Federal awards.

(a) Be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles.
(b) Conform to any limitations or exclusions set forth in these principles or in the Federal award as to types or amount of cost items.
(c) Be consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the non-Federal entity.
(d) Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the sample purpose in like circumstances has been allocated to the Federal award as an indirect cost.
(e) Be determined in accordance with generally accepted accounting principles (GAAP), except, for state and local governments and Indian tribes only, as otherwise provided for in this part.
(f) Not be included as a cost or used to meet cost sharing or matching requirements of any other federally-financed program in either the current or a prior period. See also §200.306 Cost sharing or matching paragraph (b).
(g) Be adequately documented. See also §§200.300 Statutory and national policy requirements through 200.309 Period of performance of this part.

Section 200.410 Collection of unallowable costs.

Payments made for costs determined to be unallowable by either the Federal awarding agency, cognizant agency for indirect costs, or pass-through entity, either as direct or indirect costs, must be refunded (including interest) to the Federal Government in accordance with instructions from the Federal agency that determined the costs are unallowable unless Federal statute or regulation directs otherwise. See also Subpart D—Post Federal Award Requirements of this part, §§200.300 Statutory and national policy requirements through 200.309 Period of performance.

Section 200.516 Audit findings, states in part:

(a) *Audit findings reported*. The auditor must report the following as audit findings in a schedule of findings and questioned costs:
    (3) Known questioned costs that are greater than $25,000 for a type of compliance requirement for a major program. Known questioned costs are those specifically identified by the auditor. In evaluating the effect of questioned costs on the opinion on compliance, the auditor considers the best estimate of total costs questioned (likely questioned costs), not just the questioned costs specifically identified (known questioned costs). The auditor must also report known questioned costs when likely questioned costs are greater than $25,000 for a type of compliance requirement for a major program. In reporting questioned costs, the auditor must include information to provide proper perspective for judging the prevalence and consequences of the questioned costs.

2019-025 The Department of Social and Health Services did not have adequate internal controls to ensure its federal program cost report for the Vocational Rehabilitation grant was accurately prepared.

Federal Awarding Agency:	U.S. Department of Education
Pass-Through Entity:	None
CFDA Number and Title:	84.126 Rehabilitation Services – Vocational Rehabilitation Grants to States
Federal Award Number:	H126A170071, H126A180071, H126A190071
Applicable Compliance Component:	Reporting
Known Questioned Cost Amount:	None

Background

The Department of Social and Health Services' (Department) Division of Vocational Rehabilitation provides employment services and counseling to individuals with disabilities who want to work but experience barriers to work because of a physical, sensory and/or mental disability. A Department counselor works with each person to develop a customized plan of services designed to help them reach their employment goal. These services are primarily funded by the Vocational Rehabilitation grant.

The Department must submit a program cost report (RSA-2), which is used to report expenditures for particular services, numbers of clients served, numbers of staff, and amounts transferred in and out of the program. The grantor uses this information to evaluate and monitor the financial performance and achievements of a state's vocational rehabilitation agency. The report must be completed annually, is due by December 31 after the close of the federal fiscal year and must include information about all open grant awards.

In the prior audit, we reported that the Department did not have adequate internal controls to ensure its federal financial reports for the Vocational Rehabilitation grant were accurately prepared. The prior finding number was 2018-024.

Description of Condition

The Department of Social and Health Services did not have adequate internal controls to ensure its federal program cost report for the Vocational Rehabilitation grant was accurately prepared.

Processes, such as a secondary review, were not in place that would detect errors in the RSA-2 report before the Department submitted it to the federal grantor.

We consider this internal control deficiency to be a material weakness.

Cause of Condition

In the prior audit, we confirmed that the person who previously performed the review left the Department, and management did not ensure a secondary review process continued. In the current audit, we determined the Department assigned a staff member to prepare the report and a different staff member to perform a secondary review. However, at the time the RSA-2 needed to be submitted, the newly assigned staff member had not yet performed a review.

Effect of Condition

By not establishing adequate internal controls, the Department increases the risk that it could misreport information to the grantor.

Recommendation

We recommend the Department ensure it performs a secondary review for the next RSA-2 report it must submit.

Department's Response

The Department concurs with the finding.

The Department has established written procedures to re-implement secondary reviews for the RSA-2 report. A secondary review was completed for the most recent RSA-2 report which was submitted in December 2019.

Auditor's Concluding Remarks

We thank the Department for its cooperation and assistance throughout the audit. We will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

> Section 200.303 Internal controls, states in part:
>
> The non-Federal entity must:
>
> (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

Section 200.516 Audit findings, states in part:

(a) *Audit findings reported*. The auditor must report the following as audit findings in a schedule of findings and questioned costs:

(1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in internal controls over compliance in its <u>*Codification of Statements on Auditing Standards*</u>, section 935, Compliance Audits, as follows:

.11 For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows: …

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

2019-026 **The Department of Services for the Blind did not have adequate internal controls over and was not compliant with requirements to ensure cash draws were accurate and made timely for the Vocational Rehabilitation program.**

Federal Awarding Agency:	U.S Department of Education
Pass-Through Entity:	None
CFDA Number and Title:	84.126 Rehabilitation Services - Vocational Rehabilitation Grants to States
Federal Award Number:	H126A170072, H126A180072, H126A190072
Applicable Compliance Component:	Cash Management
Known Questioned Cost Amount:	None

Background

The Department of Services for the Blind's (Department) Vocational Rehabilitation program provides services to individuals who are blind, are going blind or have low vision so that such individuals may prepare for and engage in gainful employment. These services are primarily funded by the Vocational Rehabilitation Grant.

The Department operates the program in accordance with federal laws and regulations, as well as with a Cash Management Improvement Act (CMIA) agreement between the State and the U.S. Department of the Treasury. The CMIA agreement requires the Department to draw funds from the federal grantor twice a month on a reimbursement basis. At times, multiple grants are open so more than one draw may be made on the same date.

The primary purpose of the CMIA agreement is to ensure states request federal funds exactly when they are needed and that no interest is gained or lost by either the federal or state governments. The agreement specifies the funding technique the Department is to use when requesting federal funds. For the Vocational Rehabilitation program, grant drawdowns are to be made semi-monthly according to the state payroll schedule for all direct administrative costs and/or payroll costs, and/or payments made to providers and to support providers.

In prior audits, we reported the Department did not have adequate internal controls to ensure cash draws were accurate for the Vocational Rehabilitation program. The prior finding numbers were 2018-020 and 2017-008.

Description of Condition

The Department of Services for the Blind did not have adequate internal controls over and was not compliant with requirements to ensure cash draws were accurate and made timely for the Vocational Rehabilitation program.

We found the Department did not monitor its federal drawdown frequency to ensure it complied with the CMIA. We determined 24 semi-monthly draws should have occurred during the audit period. The Department made only nine draws.

The Department established a procedure that requires a secondary review before funds are drawn to ensure the process occurs properly. However, during the audit period, there were no secondary reviews performed before the funds were drawn to ensure the amounts drawn were correct based on actual payments.

We consider these internal control deficiencies to be a material weakness.

Cause of Condition

The Department experienced significant turnover prior to the audit period and believed it did not have the resources necessary to ensure draws were made in accordance with the CMIA and secondary reviews were performed.

Effect of Condition

Violations of the CMIA can result in the grantor denying the state payment or credit for the resulting federal interest liability or other sanctions. Delaying federal drawdown requests also results in state funds being advanced longer than necessary and lost interest revenue for the state.

By not establishing adequate internal controls, the Department cannot ensure that draw amounts they requested were accurate and timely.

Recommendations

We recommend the Department:

- Improve internal controls to ensure cash draws are performed accurately and in accordance with the state's CMIA agreement
- Provide adequate training to staff to ensure federal draws are performed in a timely manner
- Ensure secondary reviews are performed by staff who understand federal grant requirements

Department's Response

The Department experienced staff turnover in the fiscal unit that affected the level of oversight over the federal draw process. In response to prior audit findings, the Department implemented corrective actions to address the audit recommendations. However, the Department continued to experience staff turnover in the positions that performed federal draws.

The Department has taken steps to improve internal controls over cash management by hiring a consultant to recommend an organizational structure for the fiscal unit that would improve internal controls. The Department is implementing the consultant's recommendations to hire a Senior Financial Officer (SFO) so that the agency will have a secondary review by someone with an understanding of grant requirements. The SFO will begin working for the agency in February 2020 and training will occur during this time as well. The Senior Financial Officer and the Deputy Financial Officer will be the primary individuals to carry out the federal draw process.

The Department also hired a consultant to assist with drafting agency policies and procedures related to cash management. The draft policy and procedures were completed and provided to the agency for review in February 2020. The Department anticipates the final policy, procedures and training will be in place by June 2020.

Auditor's Remarks

We thank the Department for its cooperation and assistance throughout the audit. We will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

(a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

(b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.

(d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.516 Audit findings, states in part:

(a) *Audit findings reported*. The auditor must report the following as audit findings in a schedule of findings and questioned costs:

(1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.

(2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of

compliance requirement for a major program identified in the compliance supplement.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in internal controls over compliance in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, as follows:

> .11 For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows: …
>
> **Deficiency in internal control over compliance.** A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.
>
> **Material weakness in internal control over compliance.** A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:
>
> > **Reasonably possible**. The chance of the future event or events occurring is more than remote but less than likely.
> >
> > **Probable**. The future event or events are likely to occur.
>
> **Significant deficiency in internal control over compliance.** A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.
>
> **Material noncompliance**. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

Cash Management Improvement Act Agreement between The State of Washington and The Secretary of the Treasury, United States Department of the Treasury, states, in part:

> 84.126 Rehabilitation Services -Vocational Rehabilitation Grants to States
> Recipient: 315-Department of Services for the Blind- DSB
> % of Funds Agency Receives: 16.11

Component: Payments made to clients and to support clients, payroll, and administrative costs
Technique: Modified Direct Program Costs -Admin, Payroll, Payments to Providers (ACH Drawdown on Payroll Cycle) Average Day of Clearance: 0 Days

The State shall request funds for all direct administrative costs and/or payroll costs, and/or payments made to providers and to support providers. The request shall be made in accordance with the appropriate Federal agency cut-off time specified in Exhibit I. The amount of the funds requested shall be based on the amount of expenditures recorded for direct administrative costs and/or payroll costs and/or payments made to providers or to support providers since the last request for funds. The State payroll cycle is payday twice a month. Draws made day before payday are for deposit on payday. The draw request will be made in accordance with cut-off time in Exhibit 1. The amount of the funds requested shall be based on the amount of expenditures recorded for direct administrative costs and/or payroll costs and/or payments made to providers or to support providers since the last request for funds. This funding technique is interest neutral.

2019-027 The Department of Services for the Blind did not have adequate internal controls over reporting requirements for the Vocational Rehabilitation Grant.

Federal Awarding Agency:	U.S. Department of Education
Pass-Through Entity:	None
CFDA Number and Title:	84.126 Rehabilitation Services – Vocational Rehabilitation Grants to States
Federal Award Number:	H126A170072; H126A180072; H126A190072
Applicable Compliance Component:	Reporting
Known Questioned Cost Amount:	None

Background

The Department of Services for the Blind's (Department) Vocational Rehabilitation program provides services for people who are blind, are going blind or have low vision so that they can prepare for and engage in gainful employment. These services are primarily funded by the Vocational Rehabilitation (VR) Grant.

The Department must submit an Annual Vocational Rehabilitation Program/Cost Report (RSA-2), which is used to report expenditures for particular services, numbers of clients served, numbers of staff and amounts transferred in and out of the program. The grantor uses this information to evaluate and monitor the financial performance and achievements of a state's vocational rehabilitation agency. The report must be completed annually and is due by December 31 after the close of the federal fiscal year, and must include information about all open grant awards.

The Department also must submit a Federal Financial Report (SF-425), which is used to report expenditures for federal grants semiannually. The report requires disclosure of cash receipts, disbursements, and cash on hand for the grant during the reporting period. The report also includes disclosure of the indirect costs, program costs, and signature of a certifying individual.

In the previous two audits, we reported the Department did not establish adequate internal controls over and did not comply with federal reporting requirements for the Annual Vocational Rehabilitation Program/Cost Report (RSA-2). The prior finding numbers were 2018-019 and 2017-010.

Description of Condition

The Department of Services for the Blind did not have adequate internal controls over reporting requirements for the Vocational Rehabilitation Grant.

The Department established a procedure that requires a secondary review of federal financial reports before the reports are submitted to the grantor to ensure the accuracy of the reports. However, the Department did not perform the secondary review during the audit period.

We consider this internal control deficiency to be a material weakness.

Cause of Condition

The staff who performed the reviews left the Department, and management did not ensure a secondary review of financial reports was performed.

Effect of Condition

By not implementing an independent secondary review of financial reports, the Department faces a higher risk of not detecting errors and misreporting information to the grantor.

Recommendations

We recommend the Department strengthen internal controls by performing a secondary review of the RSA-2 and SF-425 reports before submitting them to the grantor.

Department's Response

The Department experienced staff turnover in the fiscal unit that affected the level of oversight over the federal reporting process for the RSA-2 and the RSA-425 reports. In response to prior audit findings, the Department implemented corrective actions to address the audit recommendations. However, the Department continued to experience staff turnover in the positions that completed provided a secondary review of federal reports.

The Department has taken steps to improve internal controls over financial reports by hiring a consultant to recommend an organizational structure for the fiscal unit that would improve internal controls. The Department is implementing the consultant's recommendations to hire a Senior Financial Officer (SFO) so that the agency will have a secondary review by someone with an understanding of federal reporting requirements. The SFO will begin working for the agency in February 2020 and training will occur during this time as well. The Senior Financial Officer and the Deputy Financial Officer will be the primary individuals to complete, review, approve and submit federal reports.

The Department also hired a consultant to assist with drafting agency policies and procedures related to the RSA-2 and the RSA-425 reports. The draft policy and procedures were completed and provided to the agency for review in February 2020. The Department anticipates the final policy, procedures and training will be in place by June 2020.

Auditor's Concluding Remarks

We thank the Department for its cooperation and assistance throughout the audit. We will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

(a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States or the “Internal Control Integrated Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

Section 200.516 Audit findings, states in part:

(a) *Audit findings reported*. The auditor must report the following as audit findings in a schedule of findings and questioned costs:

(1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor’s determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in internal controls over compliance in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, as follows:

.11 For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows: …

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.
Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

2019-028 **The Health Care Authority did not have adequate internal controls over and did not comply with federal requirements to ensure subrecipients of the Substance Abuse and Mental Health Services Projects of Regional and National Significance and Block Grants for Prevention and Treatment of Substance Abuse programs received required audits.**

Federal Awarding Agency:	U.S. Department of Health and Human Services
Pass-Through Entity:	None
CFDA Number and Title:	93.243 Substance Abuse and Mental Health Services Projects of Regional and National Significance
	93.959 Block Grants for Prevention and Treatment of Substance Abuse
Federal Award Number:	2B08TI010056-17; 2B08T10056-17S1; 3B08TI010056-18S2; 3B08TI010056-19S1; 6B08TI010056-18M002; 2B08TI010056-19; 7H79TI026797; 7H79TI026798; 7H79TI026799; 7H79SP023015; 5H79SP023015; 7U79SP023011; 1H79SP080980; 3H79SM061705; 7H79SM082187
Applicable Compliance Component:	Subrecipient Monitoring
Known Questioned Cost Amount:	None

Background

The Health Care Authority (Authority), Division of Behavioral Health and Recovery (DBHR), administers the Block Grants for Prevention and Treatment of Substance Abuse. The Authority subawards federal funds to counties, tribes and nonprofit organizations to develop prevention programs and provide treatment and support services. The Authority spent more than $43.2 million in grant funds during fiscal year 2019. Of this amount, the Authority passed about $13.6 million to 78 subrecipients.

The Authority also administers the Substance Abuse and Mental Health Services Projects of Regional and National Significance program. The program addresses priority substance abuse treatment, prevention and mental health needs of regional and national significance. The Authority spent more than $5.8 million in grant funds during fiscal year 2019 and passed about $1.3 million of this amount to 47 subrecipients, including counties, school districts and nonprofit organizations.

Federal regulations require the Authority to monitor the activities of its subrecipients. This includes verifying that its subrecipients that spend $750,000 or more in federal awards during a fiscal year obtain a single audit. Further, for the awards it passes on to its subrecipients, the Authority must follow up and ensure its subrecipients take timely action on all deficiencies identified through audits and must issue a management decision for audit findings within six months of the audit report's acceptance by the Federal Audit Clearinghouse. These

requirements help ensure grant money is used for authorized purposes and within the provisions of contracts or grant agreements.

As of July 1, 2018, the operations management of DBHR was transferred from the Department of Social and Health Services (DSHS) to the Authority. The Authority assumed the responsibilities over the Block Grants for Prevention and Treatment of Substance Abuse and Substance Abuse and Mental Health Services Projects of Regional and National Significance.

In prior audits, we reported DSHS did not have internal controls over and did not comply with requirements to ensure subrecipients received required audits. The prior finding numbers were 2018-025, 2017-016, 2016-014, 2015-016 and 2014-019.

Description of Condition

The Authority did not have adequate internal controls over and did not comply with federal requirements to ensure subrecipients of the Substance Abuse and Mental Health Services Projects of Regional and National Significance and Block Grants for Prevention and Treatment of Substance Abuse programs received required audits.

We found the Authority did not have adequate internal controls in place to verify whether:

- Subrecipients received required audits, if necessary
- Findings were followed up on and management decisions were issued when due

We randomly sampled 14 subrecipients for the Block Grants for Prevention and Treatment of Substance Abuse and 10 subrecipients for the Substance Abuse and Mental Health Services Projects of Regional and National Significance programs. We found three subrecipients for the Block Grants for Prevention and Treatment of Substance Abuse and seven subrecipients for the Substance Abuse and Mental Health Services Projects of Regional and National Significance were not monitored to ensure their compliance with requirements for single audits of subrecipients.

We consider these internal control deficiencies to be a material weakness.

Cause of Condition

The Authority did not establish adequate procedures to verify if subrecipients obtained required audits. When DBHR transitioned to the Authority, the Authority did not assign a staff member or unit to perform single audit tracking duties.

In October 2019, the Authority established a subrecipient monitoring workgroup and began the process to determine whether audit monitoring would be handled on a program level, or by a centralized group. However, this activity did not occur during the audit period.

Effect of Condition

Without establishing adequate internal controls, the Authority cannot ensure all subrecipients that met the threshold for a single audit complied with federal grant requirements.

Recommendations

We recommend the Authority:

- Establish policies and procedures related to subrecipient audit monitoring
- Continue to support its subrecipient monitoring workgroup

Authority's Response

The Division of Behavioral Health and Recovery transitioned from the Department of Social and Health Services (DSHS) to the Health Care Authority (Authority) in July 2018. The Authority assumed the responsibilities over the Block Grants for Prevention and Treatment of Substance Abuse and Substance Abuse and Mental Health Services Projects of Regional and National Significance.

As mentioned by the State Auditors, the Authority has already taken steps to address the audit recommendations including establishing a subrecipient monitoring workgroup to define roles and responsibilities for:

- *Assessing and updating policies and procedures related to subrecipient monitoring*
- *Strengthening internal controls to ensure:*
    - *Subrecipients submit required audits*
    - *Subrecipients take timely actions on all deficiencies identified from audits or onsite reviews.*
    - *All audit findings and correction action plans are tracked and management decisions are issued promptly.*

The Authority will ensure the subrecipient monitoring workgroup continues and the audit recommendations are addressed.

Auditor's Remarks

We thank the Authority for its cooperation and assistance throughout the audit. We will review the status of the Authority's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance) establishes the following applicable requirements:

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

(a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

(b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.

(d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.516 Audit findings, states in part:

(a) *Audit findings reported*. The auditor must report the following as audit findings in a schedule of findings and questioned costs:

(1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.

(2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.

Section 200.331 Requirements for pass-through entities, states in part:

All pass-through entities must:

(d) Monitor the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved. Pass-through entity monitoring of the subrecipient must include:

(1) Reviewing financial and performance reports required by the pass-through entity.

(2) Following-up and ensuring that the subrecipient takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to the subrecipient from the pass-through entity detected through audits, on-site reviews, and other means.

(3) Issuing a management decision for audit findings pertaining to the Federal award provided to the subrecipient from the pass-through entity as required by §200.521 Management decision.

(f) Verify that every subrecipient is audited as required by Subpart F—Audit Requirements of this part when it is expected that the subrecipient's Federal awards expended during the respective fiscal year equaled or exceeded the threshold set forth in §200.501 Audit requirements.

Section 200.521 Management Decisions, states in part:

(c) Pass-through entity. As provided in § 200.331 Requirements for pass-through entities, paragraph (d), the pass-through entity must be responsible for issuing a management decision for audit findings that relate to Federal awards it makes to subrecipients.

(d) Time requirements. The Federal awarding agency or pass-through entity responsible for issuing a management decision must do so within six months of acceptance of the audit report by the FAC. The auditee must initiate and proceed with corrective action as rapidly as possible and corrective action should begin no later than upon receipt of the audit report.

Section 200.2900.21 Management decision, states:

In the DOL, ordinarily, a management decision is issued within six months of receipt of an audit from the audit liaison of the Office of the Inspector General and is extended an additional six months when the audit contains a finding involving a subrecipient of the pass-through entity being audited. The pass-through entity responsible for issuing a management decision must do so within twelve months of acceptance of the audit report by the FAC. The auditee must initiate and proceed with corrective action as rapidly as possible and should begin corrective action no later than upon receipt of the audit report. (See 2 CFR 200.521(d)).

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in internal controls over compliance in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, as follows:

.11 For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows: …

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person

performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

> **Reasonably possible**. The chance of the future event or events occurring is more than remote but less than likely.
>
> **Probable**. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

2019-029 The Department of Social and Health Services did not have adequate internal controls to ensure payments to child care providers paid with Temporary Assistance for Needy Families funds were allowable.

Federal Awarding Agency:	U.S. Department of Health and Human Services
Pass-Through Entity:	None
CFDA Number and Title:	93.558 Temporary Assistance for Needy Families
Federal Award Number:	1901WATANF;1901WATAN3; 1801WATANF; 1801WATAN3
Applicable Compliance Component:	Activities Allowed / Unallowed Allowable Costs / Cost Principles
Known Questioned Cost Amount:	$4,382

Background

The Department of Social and Health Services (DSHS), Community Services Office, administers the Temporary Assistance for Needy Families (TANF) grant that provides temporary cash assistance for families in need. To receive TANF benefits, participants must be engaged in activities listed in the Individual Responsibility Plan (IRP) through the WorkFirst program, unless the TANF benefits are received only on behalf of a child. TANF funds may be used to pay participants' child care costs to meet one of the program's primary purposes of helping clients obtain employment. If a client obtains employment and is no longer eligible for the program, TANF funds may still be used to pay child care costs to help the client maintain employment.

Working Connections Child Care program

Washington has established the Working Connections Child Care (WCCC) program to help eligible working families pay for child care. Both the Department of Children, Youth and Families (DCYF) and DSHS administer the program. DCYF is responsible for establishing policies and procedures for the program and for licensing child care providers. DSHS determines client eligibility and pays child care providers under an agreement with DCYF.

Federal grant funding

Some payments made to WCCC providers for childcare are paid for by both the Child Care and Development Fund (CCDF) grant and the TANF grant. Although the two federal programs are separate, the requirements and policies in Washington for child care payments are consolidated under the WCCC program.

In fiscal year 2019, DSHS made 564,195 monthly child care subsidy payments to child care providers that were paid at least partially with federal CCDF and/or TANF grant funds. Some payments also included state funding. These payments totaled almost $276.4 million in federal funds, about $89 million of which came from the TANF grant.

Child care providers

The WCCC program includes three provider types:

- Licensed centers
- Licensed family homes
- Family, friends and neighbors (FFN)

According to state rules, child care providers must maintain attendance records to support their billing. At a minimum, the records must include: the children's names; date(s) child care was provided; and authorized signatures, typically of a parent or guardian, documenting the times the child arrived and left care.

In the prior audit, we reported DSHS did not have adequate internal controls over and did not comply with federal requirements to ensure payments to child care providers, paid for by TANF funds, were allowable. The prior audit finding numbers were 2018-026, 2017-017 and 2016-019. We have also been reporting on the same condition for the CCDF program since 2005. The most recent audit finding numbers were 2018-034, 2017-024, 2016-021, 2015-023, 2014-023, 2013-016, 12-28, 11-23, 10-31, 9-12 and 8-13.

Description of Condition

We found that the internal control deficiencies identified during our audit of the CCDF program directly affect DSHS use of TANF funds, because the federal grants are commingled when paying WCCC providers.

We found DSHS did not have adequate internal controls to ensure payments to child care providers, paid for by TANF funds, were allowable. Although DCYF and DSHS perform some oversight activities, these were not sufficient to ensure payments were allowable.

We used a statistical sampling method and randomly sampled 133 out of a total population of 564,195 payments for child care to determine if they were allowable. We chose child care payments by totals from each of the three provider types: licensed centers, licensed family homes and FFN's. With assistance from DCYF, we requested attendance records from providers that supported the payments. We reviewed each provider's records to determine if the payments were allowed by federal and state regulations, as well as by DCYF's policies.

We found nine payments with TANF federal funding were partially or fully unallowable. In total, we questioned $4,382 paid by federal TANF funds.

We found these payments to be partially or fully unallowable because providers:

- Did not submit attendance records in response to our request, or submitted records that were inadequate to support payments
- Overbilled for services not performed or not supported by attendance records

- Billed for overtime when they did not have a written policy in place to also charge these same fees to private paying parents

We consider these internal control deficiencies to be a significant deficiency.

Cause of Condition

Although the authorizations establish a maximum for what providers may bill without further approval, that does not prevent providers from billing for unallowable days, hours or services. The claim and payment system is not linked to authorizations or attendance. Until the child care providers transition over to the new electronic attendance record system, they must maintain attendance records and submit this supporting documentation only when it is requested.

Effect of Condition and Questioned Costs

By not having adequate internal controls in place, DSHS increases its risk of making improper payments for child care services.

A statistical sampling method was used to randomly select the payments examined in the audit. Based on the results of our testing, we estimate the total amount of likely improper payments made with federal TANF funds to be $14,974,543.

Our sampling methodology meets statistical sampling criteria under generally accepted auditing standards in AU-C 530.05. It is important to note that the sampling technique we used is intended to support our audit conclusions by determining if expenditures complied with program requirements in all material respects. Accordingly, we used an acceptance sampling formula designed to provide a very high level of assurance, with a 99 percent confidence of whether exceptions exceeded our materiality threshold. Our audit report and finding reflects this conclusion. However, the likely improper payment projections are a point estimate and only represent our “best estimate of total questioned costs” as required by 2 CFR 200.516(3). To ensure a representative sample, we stratified the population by dollar amount.

We question costs when we find an agency has not complied with grant regulations or when it does not have adequate documentation to support its expenditures.

Recommendations

We recommend the Department:

- Implement preventive internal controls over payments to providers to reduce the rate of unallowable payments
- Consult with the grantor to discuss whether the questioned costs identified in the audit should be repaid

Department's Response

The Department partially concurs with the audit finding.

In response to prior audit findings, the Department collaborated with the Department of Children, Youth and Families (DCYF) to procure an electronic attendance record system. The electronic attendance record system enables accurate, real-time recording of child care attendance, tracks daily attendance, and captures data on child care usage.

Effective December 1, 2018 (about halfway through the 2019 audit period), licensed providers who accept subsidy are required to use DCYFs electronic attendance record system or an approved third party system to track attendance. Effective November 30, 2019 (about halfway through the 2020 audit period), FFN providers are also required to use DCYFs system or an approved third party system for tracking attendance. Based on the effective dates above, we likely will not see the full benefit of the electronic attendance record system until the state fiscal year 2021 audit which will span the period of July 1, 2020 to June 30, 2021.

Of the nine exceptions cited, the Department ***concurs*** *that six of these payments were partially or fully unallowable. We will work with the DCYF to establish overpayments where appropriate and refer it to the Office of Financial Recovery for collection.*

The Department ***does not*** *concur that three of these payments were unallowable. The auditor found these payments to be unallowable because the provider submitted records for the correct month, but not for the child sampled. The Department was not given the opportunity to follow-up with the providers for the missing attendance records as historically allowed in prior audits.*

Upon review of the preliminary exceptions, when the Department first learned of the missing records, we worked with DCYF to reach out to the providers for the missing attendance records. The Department obtained the attendance records for one of the three payments in question. We provided the attendance records to the auditor prior to publication of the audit report.

The Department will continue to follow-up with the providers to obtain the missing attendance records for the remaining two payments, and determine the appropriate next steps.

If the grantor contacts the Department regarding questioned costs that should be repaid, the Department will confirm these costs with Department of Health and Human Services and will take appropriate action.

Auditor's Remarks

The Department states it had no opportunity to follow up with the providers whom we received attendance records from, but that did not include records for the child that was being tested. Our request to the providers was specific and they were to provide records for all children for the month selected. Because we received records from these providers, we did not believe additional records were needed.

We received additional records from the Department after field work had ended and did not consider them in the audit. We recommend the Department maintain the records in case the federal grantor requests them during audit resolution.

We reaffirm our finding and will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.53 Improper Payments states:

(a) *Improper payment* means any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; and
(b) *Improper payment* includes any payment to an ineligible party, any payment for an ineligible good or service, any duplicate payment, any payment for a good or service not received (except for such payments where authorized by law), any payment that does not account for credit for applicable discounts, and any payment where insufficient or lack of documentation prevents a reviewer from discerning whether a payment was proper.

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

(a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
(b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.
(d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.403 Factors affecting Allowability of costs.

Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under Federal awards.

(a) Be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles.
(b) Conform to any limitations or exclusions set forth in these principles or in the Federal award as to types or amount of cost items.
(c) Be consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the non-Federal entity.

(d) Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the sample purpose in like circumstances has been allocated to the Federal award as an indirect cost.
(e) Be determined in accordance with generally accepted accounting principles (GAAP), except, for state and local governments and Indian tribes only, as otherwise provided for in this part.
(f) Not be included as a cost or used to meet cost sharing or matching requirements of any other federally-financed program in either the current or a prior period. See also §200.306 Cost sharing or matching paragraph (b).
(g) Be adequately documented. See also §§200.300 Statutory and national policy requirements through 200.309 Period of performance of this part.

Section 200.410 Collection of unallowable costs.

Payments made for costs determined to be unallowable by either the Federal awarding agency, cognizant agency for indirect costs, or pass-through entity, either as direct or indirect costs, must be refunded (including interest) to the Federal Government in accordance with instructions from the Federal agency that determined the costs are unallowable unless Federal statute or regulation directs otherwise. See also Subpart D—Post Federal Award Requirements of this part, §§200.300 Statutory and national policy requirements through 200.309 Period of performance.

Section 200.516 Audit findings, states in part:

(a) *Audit findings reported*. The auditor must report the following as audit findings in a schedule of findings and questioned costs:

(1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.
(3) Known questioned costs that are greater than $25,000 for a type of compliance requirement for a major program. Known questioned costs are those specifically identified by the auditor. In evaluating the effect of questioned costs on the opinion on compliance, the auditor considers the best estimate of total costs questioned (likely questioned costs), not just the questioned costs specifically identified (known questioned costs). The auditor must also report known questioned costs when likely questioned costs are greater than $25,000 for a type of compliance requirement for a major program. In reporting questioned costs, the auditor must include information to provide proper perspective for judging the prevalence and consequences of the questioned costs.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in internal controls over compliance in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, as follows:

> .11 For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows: …
>
> **Deficiency in internal control over compliance.** A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.
>
> **Material weakness in internal control over compliance.** A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:
>
> > **Reasonably possible**. The chance of the future event or events occurring is more than remote but less than likely.
> >
> > **Probable**. The future event or events are likely to occur.
>
> **Significant deficiency in internal control over compliance.** A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

45 CFR Subpart A, 260.20, What is the purpose of the TANF program? states:

> The TANF program has the following four purposes:
>
> (a) Provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives;
>
> (b) End the dependence of needy parents on government benefits by promoting job preparation, work, and marriage;
>
> (c) Prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing the incidence of these pregnancies; and
>
> (d) Encourage the formation and maintenance of two-parent families.

Washington Administrative Code 110-15-0034 Providers' responsibilities, states:

> Child care providers who accept child care subsidies must do the following:

(1) Licensed or certified child care providers who accept child care subsidies must comply with all child care licensing or certification requirements contained in this chapter, chapter 43.216 RCW and chapters 110-06, 110-300, 110-300A, 110-300B, and 110-305 WAC.
(2) In-home/relative child care providers must comply with the requirements contained in this chapter, chapter 43.216 RCW, and chapters 110-06 and 110-16 WAC.
(3) In-home/relative child care providers must not submit an invoice for more than six children for the same hours of care.
(4) All child care providers must use DCYF's electronic attendance recordkeeping system or a DCYF-approved electronic attendance recordkeeping system as required by WAC 110-15-0126. Providers must limit attendance system access to authorized individuals and for authorized purposes, and maintain physical and environmental security controls.
 (a) Providers using DCYF's electronic recordkeeping system must submit monthly attendance records prior to claiming payment. Providers using a DCYF-approved electronic recordkeeping system must finalize attendance records prior to claiming payment.
 (b) Providers must not edit attendance records after making a claim for payment.
(5) All child care providers must complete and maintain accurate daily attendance records. If requested by DCYF or DSHS, the provider must provide to the requesting agency the following records:
 (a) Attendance records must be provided to DCYF or DSHS within twenty-eight calendar days of the date of a written request from either department.
 (b) Pursuant to WAC 110-15-0268, the attendance records delivered to DCYF or DSHS may be used to determine whether a provider overpayment has been made and may result in the establishment of an overpayment and in an immediate suspension of the provider's subsidy payment.
(6) All child care providers must maintain and provide receipts for billed field trip/quality enhancement fees as follows. If requested by DCYF or DSHS, the provider must provide the following receipts for billed field trip/quality enhancement fees:
 (a) Receipts from the previous twelve months must be available immediately for review upon request by DCYF;
 (b) Receipts from one to five years old must be provided within twenty-eight days of the date of a written request from either department.
(7) All child care providers must collect copayments directly from the consumer or the consumer's third-party payor, and report to DCYF if the consumer has not paid a copayment to the provider within the previous sixty days.
(8) All child care providers must follow the billing procedures required by DCYF.
(9) Child care providers who accept child care subsidies must not:
 (a) Claim a payment in any month a child has not attended at least one day within the authorization period in that month; however, in the event a ten-day notice terminating a provider's authorization extends into the following month, the provider may claim a payment for any remaining days of the ten calendar day notice in that following month;
 (b) Claim an invoice for payment later than six months after the month of service, or the date of the invoice, whichever is later; or

(c) Charge consumers the difference between the provider's customary rate and the maximum allowed state rate.

(10) Licensed and certified providers must not charge consumers for:

(a) Registration fees in excess of what is paid by subsidy program rules;

(b) Days for which the child is scheduled and authorized for care but absent;

(c) Handling fees to process consumer copayments, child care services payments, or paperwork;

(d) Fees for materials, supplies, or equipment required to meet licensing rules and regulations; or

(e) Child care or fees related to subsidy billing invoices that are in dispute between the provider and the state.

(11) Providers who care for children in states bordering Washington state must verify they are in compliance with their state's licensing regulations and notify DCYF within ten days of any suspension, revocation, or changes to their license.

Washington Administrative Code 110-15-0190 WCCC benefit calculations, states:

(1) The amount of care a consumer may receive is determined by DSHS at application or reapplication. Once the care is authorized, the amount will not be reduced during the eligibility period unless:

(a) The consumer requests the reduction;

(b) The care is for a school-aged child as described in subsection (3) of this section; or

(c) Incorrect information was given at application or reapplication.

(2) To determine the amount of weekly hours of care needed, DSHS reviews:

(a) The consumer's participation in approved activities and the number of hours the child attends school, including home school, which will reduce the amount of care needed.

(b) In a two parent household, the days and times approved activities overlap, and only authorize care during those overlapping times. The consumer is eligible for full-time care if overlapping care totals one hundred ten hours in one month.

(c) DSHS will not consider the schedule of a parent in a two parent household who is not able to care for the child.

(3) Full-time care for a family using licensed providers is authorized when the consumer participates in approved activities at least one hundred ten hours per month:

(a) Twenty-three full-day units per month will be authorized when the child needs care five or more hours per day;

(b) Thirty half-day units per month will be authorized when the child needs care less than five hours per day;

(c) Forty-six half-day units per month will be authorized during the months of June, July, and August for a school-aged child who needs five or more hours of care;

(d) Supervisor approval is required for additional days of care that exceeds twenty-three full days or thirty half days per month; and

(e) Care cannot exceed sixteen hours per day, per child.

(4) Full-time care for a family using in-home/relative providers (family, friends and neighbors) is authorized when the consumer participates in approved activities at least one hundred ten hours per month:
- (a) Two hundred thirty hours of care will be authorized when the child needs care five or more hours per day;
- (b) One hundred fifteen hours of care will be authorized when the child needs care less than five hours per day;
- (c) One hundred fifteen hours of care will be authorized during the school year for a school-aged child who needs care less than five hours per day and the provider will be authorized for contingency hours each month, up to a maximum of two hundred thirty hours;
- (d) Two hundred thirty hours of care will be authorized during the school year for a school-aged child who needs care five or more hours in a day;
- (e) Supervisor approval is required for hours of care that exceed two hundred thirty hours per month; and
- (f) Care cannot exceed sixteen hours per day, per child.

(5) When determining part-time care for a family using licensed providers and the activity is less than one hundred ten hours per month:
- (a) A full-day unit will be authorized for each day of care that exceeds five hours;
- (b) A half-day unit will be authorized for each day of care that is less than five hours; and
- (c) A half-day unit will be authorized for each day of care for a school-aged child, not to exceed thirty half days.

(6) When determining part-time care for a family using in-home/relative providers:
- (a) Under the provisions of subsection (2) of this section, DSHS will authorize the number of hours of care needed per month when the activity is less than one hundred ten hours per month; and
- (b) The total number of authorized hours and contingency hours claimed cannot exceed two hundred thirty hours per month.

(7) DSHS determines the allocation of hours or units for families with multiple providers based upon the information received from the parent.

(8) DSHS may authorize more than the state rate and up to the provider's private pay rate if:
- (a) The parent is a WorkFirst participant; and
- (b) Appropriate child care, at the state rate, is not available within a reasonable distance from the approved activity site. "Appropriate" means licensed or certified child care under WAC 110-15-0125, or an approved in-home/relative provider under WAC 110-16-0010. "Reasonable distance" is determined by comparing distances other local families must travel to access appropriate child care.

(9) Other fees DSHS may authorize to a provider are:
- (a) Registration fees;
- (b) Field trip fees;
- (c) Nonstandard hours bonus;
- (d) Overtime care to a licensed provider who has a written policy to charge all families, when care is expected to exceed ten hours in a day; and

(e) Special needs rates for a child.

Washington Administrative Code 110-15-0249 Nonstandard hours bonus, states:

(1) A consumer's provider may receive a nonstandard hours bonus (NSHB) payment per child per month for care provided if:
   (a) The provider is licensed or certified;
   (b) The provider provides at least thirty hours of nonstandard hours care during one month; and
   (c) The total cost of the NSHB to the state does not exceed the amount appropriated for this purpose by the legislature for the current state fiscal year.

(2) Nonstandard hours are defined as:
   (a) Before 6 a.m. or after 6 p.m.;
   (b) Any hours on Saturdays and Sundays; and
   (c) Any hours on legal holidays, as defined in RCW 1.16.050.

(3) NSHB amounts are:
   (a) Seventy-six dollars and fifty cents for family homes; and
   (b) Seventy-five dollars for centers.

2019-030 The Department of Social and Health Services did not have adequate internal controls in place to ensure it submitted accurate quarterly reports for the Temporary Assistance for Needy Families grant.

Federal Awarding Agency:	U.S. Department of Health and Human Services
Pass-Through Entity:	None
CFDA Number and Title:	93.558 Temporary Assistance for Needy Families
Federal Award Number:	1801WATANF, 1801WATAN3, 1901WATANF, 1901WATAN3
Applicable Compliance Component:	Reporting
Known Questioned Cost Amount:	None

Background

The Department of Social and Health Services, Community Services Division (Department), administers the Temporary Assistance for Needy Families (TANF) grant that provides temporary cash assistance for families in need. To receive TANF benefits, participants must be engaged in entering the work force through the Work First program, with limited exceptions. State agencies must meet or exceed minimum annual work participation rates of 50 percent overall and 90 percent for two parents. The Department spent more than $324 million in federal grant funds during fiscal year 2019.

Federal regulations require the Department to file quarterly reports that include work participation data at summary and individual levels. The Department must file separate reports for its federal TANF program and state programs. The proper reporting of work participation data is critical because it serves as the basis for the federal government's determination of whether states have met the required work participation rates. A penalty might apply for failure to meet the required rates.

In prior audits, we reported the Department did not have adequate internal controls in place to ensure it submitted accurate quarterly reports. The prior finding numbers were 2018-028, 2017-020 and 2016-016.

Description of Condition

The Department did not have adequate internal controls in place to ensure it prepared accurate quarterly reports for the TANF grant.

Data is extracted from large databases and then transformed with customized code to produce the amounts cited in the reports. The Department performed informal, manual reviews in an attempt to ensure coding changes were applied properly. We found these reviews were not adequate to ensure the Department properly identified and reviewed all changes. Additionally, the reviews were not sufficiently documented. For these reasons, we could not evaluate if internal controls were in place and effective.

When existing code needed to be changed or new code was added, staff from the TANF program and other programs managed by the Department were involved in the decision process. This

collaboration happened during meetings and email communications. There was no formal documentation or tracking of requests. If there was review, it was not documented, so we could not verify whether the control was in place and operating effectively. Without an automated process to monitor these changes in code, the Department cannot ensure all changes were authorized.

We consider these internal control weaknesses to constitute a significant deficiency. We were able to examine other supporting data not used by the report preparers to verify the amounts reported by the Department were materially accurate.

Cause of Condition

Management believed its informal review and testing of new coding was sufficient to ensure accuracy and completeness of the data. Written policies or procedures regarding the process for making changes to code and reviewing those changes have not been implemented.

Effect of Condition

Because it did not perform adequate reviews, the Department cannot ensure data used for reporting purposes was accurate. The Department could become noncompliant with grant terms, which would allow the grantor to penalize the Department 4 percent of the grant for each quarter if the state fails to submit accurate, complete and timely reports, and up to 21 percent for not meeting minimum participation rates.

Recommendations

We recommend the Department establish adequate internal controls to ensure it:

- Tracks changes made to code and that records indicate who made the changes
- Performs and documents independent reviews of code changes
- Establishes written policies or procedures that describe the roles and responsibilities of staff who make coding changes and management who review the changes

Department's Response

The Department partially agrees with the audit finding.

We concur corrective actions were not fully implemented during fiscal year 2019. By September 2019 though, corrective actions were implemented.

In response to the 2018-028 TANF Reporting finding, the Department established written code change policies and procedures, and developed a process to track code changes. These controls were implemented in September 2019, a few months after the Fiscal Year 2019 audit period ended. The Department and the State Auditor's Office will not see the full benefit of these corrective actions until the state fiscal year 2020 audit. Specifically the Department implemented:

- *IT industry standard formal change control procedures and change control logs in the replacement TANF Federal Reporting System. The Change Control Procedure includes*

written descriptions of the roles and responsibilities of staff who make coding changes and management who review the changes.

- *Microsoft Team Foundation Server (TFS) for source code control, testing and QA activities for the replacement TANF Reporting System. We have also adopted the use of a technical assessment form to be completed when changes are requested to the TANF Federal Reporting process. Technical Assessment Forms are subject to independent review and approval by the TANF Reporting Manager before code changes are executed.*

In addition, the Department is currently recruiting for a position to perform and document independent reviews and testing of code changes developed by the TANF Federal Reporting Data Manager prior to deployment to the production environment of the replacement TANF Reporting System.

The Department continues to conduct quality assurance processes for each report, by having the Manager review identified potential fatal and warning edits. We also conduct ongoing quarterly internal control/quality assurance random sampling of the 199 and 209 reported cases. The sample cases are reviewed against source data system records for correctness. A summary of the QA results are reviewed by the manager and assigned for correction as needed. The Department provided documentation of this process to the State Auditor.

The Department will ensure:

- *The use of the formal change control procedures and change control logs in the replacement TANF Federal Reporting System.*
- *Implementation of independent review and documentation of all code changes.*
- *Use of MS Team Foundation Server for our code repository.*
- *Ongoing updates to documentation throughout the production of TANF Federal Reports using the current TANF Reporting System.*

Auditor's Remarks

We thank the Department for its cooperation and assistance throughout the audit. We will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

> Section 200.303 Internal controls, states in part:
>
> The non-Federal entity must:
>
> (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government"

issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

Section 200.516 Audit findings, states in part:

(a) *Audit findings reported*. The auditor must report the following as audit findings in a schedule of findings and questioned costs:

(1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in internal controls over compliance in its Codification of Statements on Auditing Standards, section 935, Compliance Audits, as follows:

.11 For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows: …

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Title 45, Code of Federal Regulations

Section 265.3 – What reports must the State file on a quarterly basis, states in part:

(a) Quarterly reports

(1) Each State must collect on a monthly basis, and file on a quarterly basis, the data specified in the TANF Data Report and the TANF Financial Report

(2) Each State that claims MOE expenditures for a separate State program(s) must collect on a monthly basis, and file on a quarterly basis, the data specified in the SSP-MOE Data Report.

(b) *TANF Data Report.* The TANF Data Report consists of four sections. Two sections contain disaggregated data elements and two sections contain aggregated data elements.

(1) *Disaggregated Data on Families Receiving TANF Assistance – Section one.* Each State must file disaggregated information on families receiving TANF assistance. This section specifies identifying and demographic data such as the individual's Social Security Number and information such as the amount of assistance received, educational level, employment status, work participation activities, citizenship status, and earned and unearned income. The data must be provided by both adults and children.

(2) *Disaggregated Data on Families No Longer Receiving TANF Assistance - Section two.* Each State must file disaggregated information on families no longer receiving TANF assistance. This section specifies the reasons for case closure and data similar to the data required in section one.

(3) *Aggregated Data - Section three.* Each State must file aggregated information on families receiving, applying for, and no longer receiving TANF assistance. This section of the TANF Data Report requires aggregate figures in such areas as: The number of applications received and their disposition; the number of recipient families, adult recipients, and child recipients; the number of births and out-of- wedlock births for families receiving TANF assistance; the number of noncustodial parents participating in work activities; and the number of closed cases.

(4) *Aggregated Caseload Data by Stratum-Section four.* Each State that opts to use a stratified sample to report the quarterly TANF disaggregated data must file the monthly caseload data by stratum for each month in the quarter.

(d) *SSP-MOE Data Report.* The SSP-MOE Data Report consists of four sections. Two sections contain disaggregated data elements and two sections contain aggregated data elements.

(1) *Disaggregated Data on Families Receiving SSP-MOE Assistance - Section one.*

Each State that claims MOE expenditures for a separate State program(s) must file disaggregated information on families receiving SSP-MOE assistance. This section specifies identifying and demographic data such as the individual's Social Security Number, the amount of assistance received, educational level, employment status, work participation activities,

citizenship status, and earned and unearned income. The data must be provided for both adults and children.

(2) *Disaggregated Data on Families No Longer Receiving SSP-MOE Assistance - Section two.* Each State that claims MOE expenditures for a separate State program(s) must file disaggregated information on families no longer receiving SSP- MOE assistance. This section specifies the reasons for case closure and data similar to the data required in section one.

(3) *Aggregated Data - Section three.* Each State that claims MOE expenditures for a separate State program(s) must file aggregated information on families receiving and no longer receiving SSP-MOE assistance. This section of the SSP-MOE Data Report requires aggregate figures in such areas as: The number of recipient families, adult recipients, and child recipients; the total amount of assistance for families receiving SSP-MOE assistance; the number of non-custodial parents participating in work activities; and the number of closed cases.

(4) *Aggregated Caseload Data by Stratum - Section four.* Each State that claims MOE expenditures for a separate State program(s) and that opts to use a stratified sample to report the SSP-MOE quarterly disaggregated data must file the monthly caseload by stratum for each month in the quarter.

(e) *Optional data elements.* A State has the option not to report on some data elements for some individuals in the TANF Data Report and the SSP-MOE Data Report, as specified in the instructions to these reports.

(f) *Non-custodial parents.* A State must report information on a non-custodial parent (as defined in § 260.30 of this chapter) if the non-custodial parent:

(1) Is receiving assistance as defined in § 260.31 of this chapter;
(2) Is participating in work activities as defined in section 407(d) of the Act; or
(3) Has been designated by the State as a member of a family receiving assistance.

Title 45, Code of Federal Regulations

Section 262.1 What penalties apply to States [states in part]?

(a) We will assess fiscal penalties against States under circumstances defined in parts 261 through 265 of this chapter. The penalties are:

(1) A penalty of the amount by which a State misused its TANF funds;
(2) An additional penalty of five percent of the adjusted SFAG if such misuse was intentional;
(3) A penalty of four percent of the adjusted SFAG for each quarter a State fails to submit an accurate, complete and timely required report;
(4) A penalty of up to 21 percent of the adjusted SFAG for failure to satisfy the minimum participation rates

2019-031 **The Department of Social and Health Services did not have adequate internal controls over and was not compliant with requirements to ensure quarterly and annual reports for the Temporary Assistance for Needy Families grant were submitted accurately.**

Federal Awarding Agency:	U.S. Department of Health and Human Services
Pass-Through Entity:	None
CFDA Number and Title:	93.558 Temporary Assistance for Needy Families
Federal Award Number:	1901WATANF;1901WATAN3; 1801WATANF; 1801WATAN3
Applicable Compliance Component:	Reporting
Known Questioned Cost Amount:	None

Background

The Department of Social and Health Services (Department), Community Services Division, administers the Temporary Assistance for Needy Families (TANF) grant that provides temporary cash assistance for families in need. To receive TANF benefits, participants must be engaged in entering the work force through the Work First program, with limited exceptions.

The Department spent about $324 million in federal grant funds during state fiscal year 2019. In addition, the Department reported the state spent about $620 million in state funds toward meeting a maintenance of effort (MOE) requirement for the federal fiscal year 2018 grant. This amount includes about $480 million in expenditures made by other state agencies. When reporting the expenditures of other participants, the Department must ensure the amounts reported are accurate and complete, or enter into a written agreement with the other agencies specifying that they will do so.

Quarterly financial reports

Federal regulations require the Department to file quarterly financial reports that include details on how both federal and state TANF funds are spent. The Department collects information on a monthly basis and files the federal reports on a quarterly basis. The Department must file a quarterly report for each federal grant that is open. At the end of each federal year, the report must include federal and state MOE expenditures.

Annual report

The Department must also file an annual report that contains detailed information on the state's MOE spending for that year. The total MOE expenditures reported on the quarterly financial report at federal fiscal year end must match the expenditures reported on the separate annual report. The Department must keep records that show all costs are allowable and, if from an entity that is not part of the state government, verifiable.

In our previous four audits, we reported in findings that the Department did not have adequate internal controls over submitting quarterly and annual reports for the TANF program. The prior year finding numbers are 2018-029, 2017-021, 2016-018 and 2015-021.

Description of Condition

The Department did not have adequate internal controls over and did not comply with requirements to ensure quarterly and annual reports for the TANF grant were submitted accurately.

The Department did not maintain adequate documentation to support its reported $480 million in MOE expenditures. Specifically, the Department accepted attestations from agencies regarding their MOE expenditures. Though the Department provided client data to these agencies for use in identifying potentially eligible expenditures, it did not obtain accounting records to confirm the amounts these agencies provided were accurate and adequately supported.

The Department also did not use accounting records to support one of four quarterly reports tested. Instead, it used prior report information to complete the report. Management approved the report for submittal even though it was not accurate and not supported by accounting records.

The Department also made a data entry error of $1 million on one of four quarterly reports tested.

We consider these internal control weaknesses to constitute a material weakness.

Cause of Condition

During the audit period, the Department updated its policies and procedures to address the previously identified internal control weaknesses. However, these changes were not implemented by the end of the audit period. Staff who prepared the reports during fiscal year 2019 again relied on communication protocol, data exchange processes and attestations from other state agencies, and believed this was sufficient to ensure the reported amounts were correct.

For the report that was prepared using data from a prior report, the Department was short staffed and management did not ensure the employee covering this task had the capacity or time to prepare the report. The process to prepare the report can take one to two weeks. If the Department did not submit the report, the grant funds would be at risk. The Department weighed the risks and made the decision to submit the report using data from a prior report knowing the quarterly reports are cumulative and would be corrected with submission of the next quarterly report.

Effect of Condition

Not ensuring the accuracy of the required quarterly and annual reports diminishes the federal government’s ability to monitor grant funds. Additionally, grant terms allow the grantor to penalize the Department for noncompliance, including suspending or terminating the award.

Recommendations

We recommend the Department:

- Verify expenditures reported by other state agencies to ensure they are allowable to count as MOE and adequately supported by accounting records

- Maintain adequate documentation to support reports filed with its federal grantor
- Only submit reports that are supported by complete and accurate information

Department's Response

The Department partially concurs with the overall findings of the SAO.

The Department concurs we did not use accounting records to support one of four quarterly reports tested. The Department was short staffed and the employee covering this task did not have the capacity or time to prepare the report. If the Department did not submit the report on time, the grant funds would be at risk. The Department weighed the risks and made the decision to submit the report using data from a prior report knowing the quarterly reports are cumulative. The Department corrected the error with submission of the next quarterly report.

As an immediate fix to ensure we only submit reports that are supported by complete and accurate information, the Administrator is assisting the employee responsible for preparing and submitting the quarterly reports as needed. However, this is not a sustainable coverage plan.

As a long term solution to address the staffing issue, the Department will request an additional full time accounting position that will be responsible for managing the Temporary Assistance for Needy Families (TANF) grant to include preparation and submission of the quarterly reports. In addition, this position will be responsible for creating a sustainable emergency backup plan to ensure coverage during absences, as well as strengthening and enhancing the internal controls.

The Department also concurs we made a data entry error of $1 million on one of four quarterly reports tested. The Department previously discovered the error and corrected in a subsequent quarterly report prior to this audit.

In addition, following the discovery of this error (almost a year ago and prior to this audit), the Department implemented a secondary review process to prevent data entry errors. The Department continues to only submit reports that are supported by complete and accurate information.

The Department does not concur with SAOs statement that we did not maintain adequate documentation to support our reported $480 million in Maintenance of Effort (MOE) expenditures of other state agencies.

In audit finding 2016-017, SAO stated the Department failed to review final expenditure data from outside agencies to determine whether the expenditures are allowable, supported and correct. The Department disagreed with this statement as we believe the use of attestations between the Department and other state agencies satisfies 45 CFR section 263.2(e) (1): "The expenditure is verifiable and meets all applicable requirements in 45 CFR 92.3 and 92.24."

During the National External Audit Review process (A-10-17-31715, recommendation code: 317908100), the Administration for Children & Families (ACF) reviewed audit finding 2016-017 including our agency response and supporting documentation which spoke to the use of attestations. ACFs decision regarding this finding as outlined in the NEAR Results letter states:

> *"While we sustain the finding and recommendations, we will not pursue a TANF penalty action. The DSHS has taken positive steps toward meeting the MOE compliance requirements. Additionally, the auditor had determined that the DSHS did not maintain required level of State expenditures for the period reviewed. The ACF Office of Grants management Region 10 has reviewed the updated procedures and feels the appropriate action has been taken to meet level of effort requirements."*

The following year SAO issued repeat finding 2017-019 stating again that the Department did not review final expenditure data from outside agencies to determine whether the expenditures were allowable and adequately supported. Although the Department disagreed with this statement, and ACFs decision on the prior audit finding stated the Department has taken the appropriate action to meet level of effort requirements, the Department added an additional control by updating the attestations to include written declarations at the beginning of each year to ensure the previous year's sources are viable for the current fiscal year.

The written declarations give the Department the opportunity to discuss current program operations, allowable activities and expenditures, and develop a projection of expenditures with the partnering source. The Department also reviews partners' methodologies and record management protocols, and offers training and assistance as needed.

In addition, the Department implemented a quarterly monitoring/reporting schedule for all MOE sources, to ensure reported expenditures are allowable and accurate in a timely manner. The Department uses the aforementioned processes in addition to attestations to review, to the best of our ability that all expenditures are accurate, verifiable, not used for any other federal matching purpose, and adequately supported. The Department maintains all supporting documentation locally and electronically to support reports filed with the federal grantor.

While the Department does not disagree with the SAO that we should verify expenditures to the best of our ability, when unable to do so due to data sensitivity issues, we believe our compensating controls satisfy the regulations as set forth in Title 45 Section 263.2(1)(e) to ensure expenditures are "verifiable".

ACF is still performing the National External Audit Review for the 2017 and 2018 Statewide Single Audit findings. We look forward to receiving their audit decision. In the meantime, the Department consulted with the Office of Financial Management and determined the department will continue with our current processes unless we receive updated guidance from OFM or ACF on establishing alternative internal controls.

Auditor's Remarks

The Department refers to communications with the grantor regarding prior audit finding 2016-017. This finding was issued for a different compliance requirement (level of effort) than this finding (reporting). While the issues identified in that finding were similar, the federal requirements are not. In addition, many of the actions that the Department specified would be taken in their corrective action plan for that finding were not completed in the manner or timelines specified. The most important of these was that the Department would develop an improved protocol to ensure the expenditures were allowable, supported and accurate. While this process would have likely resolved the reported issues, these improvements have not been implemented.

Additionally, both program and RDA staff confirmed that, other than an excel spreadsheet showing totals and a certification, no further supporting documentation was received by the Department to confirm the expenditures that were claimed, how calculations were performed or if the totals were reviewed prior to being sent to the Department.

The reference to U.S. Code of Federal Regulations 45 Section 263.(1)(e) as justification for only ensuring expenditures are verifiable does not apply to expenditures claimed from other state agencies, only other entities such as local governments. This has been conveyed to the Department verbally during the last three audits, as well as in writing in the Auditor's Response to finding 2018-029 last year. The Department continues to misinterpret this federal regulation. The federal grantor also made this distinction, in the letter referenced by the Department, in their decision for finding 2016-018, for which this is a repeat finding. In that response, the grantor references U.S. Code of Federal Regulations 45 CFR 75.302 (b) as follows:

> Regarding the reporting and documenting of MOE expenditures, the ACF reminds the DSHS of the following statutory requirements that address the requirement for adequate documentation of expenditure data reported:
>
> "(b) The financial management system…must provide for the following…(3) Records that identify adequately the source and application of funds for federally funded activities. **These records must…be supported by source documentation."** (text bolded by grantor)

We reaffirm our finding and will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

(a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

(b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.

(d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.516 Audit findings, states in part:

(a) *Audit findings reported*. The auditor must report the following as audit findings in a schedule of findings and questioned costs:

(1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.

(2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in internal controls over compliance in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, as follows:

.11 For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows: …

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than

a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

Title 45, Code of Federal Regulations

Section 265.3 – What reports must the State file on a quarterly basis, states in part: (a) Quarterly reports

(1) Each State must collect on a monthly basis, and file on a quarterly basis, the data specified in the TANF Data Report and the TANF Financial Report

Section 263.2 – What kinds of State expenditures count toward meeting a State's basic MOE expenditure requirement, states in part:

(e) Expenditures for benefits or services listed under paragraph (a) of this section may include allowable costs borne by others in the State (e.g., local government), including cash donations from non-Federal third parties (e.g., a non-profit organization) and the value of third party in-kind contributions if:

(1) The expenditure is verifiable and meets all applicable requirements in 45 CFR 75.2 and 75.306;

(2) There is an agreement between the State and the other party allowing the State to count the expenditure toward its MOE requirement; and,

(3) The State counts a cash donation only when it is actually spent.

Section 265.9 What information must the State file annually, states in part:

(a) Each State must file an annual report containing information on the TANF program and the State's MOE program(s) for that year. The report may be filed as:

(1) An addendum to the fourth quarter TANF Data Report; or

(2) A separate annual report.

(c) Each State must provide the following information on the State's program(s) for which the State claims MOE expenditures:

(1) The name of each program and a description of the major activities provided to eligible families under each such program;

(2) Each program's statement of purpose;

(3) If applicable, a description of the work activities in each separate State MOE program in which eligible families are participating;

(4) For each program, both the total annual State expenditures and the total annual State expenditures claimed as MOE;

(5) For each program, the average monthly total number or the total number of eligible families served for which the State claims MOE expenditures as of the end of the fiscal year;

(6) The eligibility criteria for the families served under each program/activity;

(7) A statement whether the program/activity had been previously authorized and allowable as of August 21, 1996, under section 403 of prior law;

(8) The FY 1995 State expenditures for each program/activity not authorized and allowable as of August 21, 1996, under section 403 of prior law (see § 263.5(b) of this chapter); and

(9) A certification that those families for which the State is claiming MOE expenditures met the State's criteria for "eligible families."

(d) If the State has submitted the information required in paragraphs (b) and (c) of this section in the State Plan, it may meet the annual reporting requirements by reference in lieu of re-submission. If the information in the annual report has not changed since the previous annual report, the State may reference this information in lieu of re-submission.

Section 265.10 When is the annual report due?

The annual report required by § 265.9 is due at the same time as the fourth quarter TANF Data Report.

Section 265.4 When are quarterly reports due?

(a) Each State must file the TANF Data Report and the TANF Financial Report (or, as applicable, the Territorial Financial Report) within 45 days following the end of the quarter or be subject to a penalty.

(b) Each State that claims MOE expenditures for a separate State program(s) must file the SSP-MOE Data Report within 45 days following the end of the quarter or be subject to a penalty.

(c) A State that fails to submit the reports within 45 days will be subject to a penalty unless the State files complete and accurate reports before the end of the fiscal quarter that immediately succeeds the quarter for which the reports were required to be submitted.

2019-032 The Department of Social and Health Services did not have adequate internal controls over and did not comply with client eligibility requirements for the Working Connections Child Care program.

Federal Awarding Agency:	U.S. Department of Health and Human Services	
Pass-Through Entity:	None	
CFDA Number and Title:	93.558	Temporary Assistance for Needy Families
	93.575	Child Care and Development Block Grant
	93.596	Child Care Mandatory and Matching Funds of the Child Care and Development Fund
Federal Award Number:	G1901WACCDF; G1801WACCDF; G1701WACCDF; 1901WATANF; 1901WATAN3; 1801WATANF; 1801WATAN3	
Applicable Compliance Component:	Eligibility	
Known Questioned Cost Amount:	Temporary Assistance for Needy Families - $3,265 Child Care and Development Fund - $59,223	

Background

The Department of Children, Youth, and Families (DCYF), formerly the Department of Early Learning, administers the federal Child Care and Development grant (CCDF) to help eligible working families pay for child care. The Department of Social and Health Services (DSHS) determines client eligibility and pays child care providers under an agreement with DCYF. The Temporary Assistance for Needy Families (TANF) grant funds may be used to pay clients' child care costs to meet one of the program's primary purposes of helping clients obtain employment. If a client obtains employment and is no longer eligible for the program, TANF funds may still be used to pay child care costs to help the client maintain employment.

In fiscal year 2019, the Departments paid child care providers about $276 million in CCDF and TANF federal grant funds.

Some payments made for child care are paid for by both the CCDF and TANF grants. While the two federal programs are separate, the requirements and policies in Washington for child care payments are consolidated under the Working Connections Child Care program.

For a family to be eligible for child care assistance, state and federal rules require that children:

- Be younger than 13 at application (with some exceptions);
- Reside with a family whose income does not exceed 200 percent of the federal poverty level at application or 220% at re-application;
- Reside with a family whose income does not increase to over 85 percent of state, territorial or tribal median income for a family of the same size; and
- Reside with a parent(s) or guardian who work or attend a job-training or education program, or need to be receiving protective services.

State rules describe the information that clients must provide to DSHS to verify their eligibility. DSHS must complete client eligibility determinations within 30 days, or the application process must start over. The information must be accurate, complete, consistent and from a reliable source. This information includes, but is not limited to, employer and hourly wage information, proof of an approved activity under TANF, and family household size and composition.

Once determined to be eligible for the program, a client is eligible for one year unless a change in income causes the client to exceed 85 percent of the state's median income. DSHS requires that clients self-report such income changes. If the client's new income exceeds this cutoff level, DSHS must determine if the client exceeded the threshold temporarily, or should be denied services.

DSHS has access to systems that contain wage and household benefit and composition data for some, but not all, child care recipients. DSHS uses this information in part to determine program eligibility, benefit level including client co-payment and the amount of child care the family is eligible to receive. If an ineligible client receives assistance, the payment made to the child care provider is not allowable by federal regulations.

In the past six single audits for Washington, we reported in findings that DSHS did not have adequate internal controls over the eligibility process for child care subsidy recipients. The three most recent audits also reported DSHS was materially non-compliant with federal requirements. These were reported as finding numbers 2018-030, 2017-026, 2016-023, 2015-026, 2014-026, 2013-017 and 12-30.

As of July 1, 2019, the responsibility for making and documenting child care eligibility determinations under the CCDF and TANF grants was transitioned from DSHS to DCYF.

Description of Condition

DSHS did not have adequate internal controls to ensure it correctly determined and adequately documented clients were eligible before paying child care providers.

During the audit period, 39,202 households were determined to be eligible for child care. We used a statistical sampling method to randomly select and examine 86 of these determinations. In 14 instances (16 percent), we found DSHS made eligibility determinations improperly, did not obtain required documentation or did not verify information before authorizing services. Specifically, we found:

- 13 cases (15 percent) when the Department did not obtain sufficient information to make an accurate determination at the time of application, approval, and/or authorization:
    - Nine cases (10 percent) where the Department incorrectly determined the household composition. In five of these cases, the client was not eligible to receive services because at least one parent was not in an approved activity. In another two cases, the household had both parents working, but had exceeded income limits. The remaining two had both parents working and, while they may have been within income limits, the Department obtained information for only one parent.
    - Three cases (3 percent) when the Department did not obtain complete or timely wage data to determine if the household met income eligibility requirements or to

determine the correct level of care assessed and co-pay required. The Department received partial information or had extended timeframes for verifying this data, but never followed up on the remaining income documentation.
    - One case (1 percent) when the Department did not verify hours for job search activities, but instead entered a standard 40-hour workweek schedule and approved the household for care. The Department did not initially obtain or record documentation to support the care authorized.
- One case (1 percent) when the Department had obtained adequate information, but incorrectly entered the income data for the household, causing it to incorrectly assess the household's monthly co-pay amount.

DSHS performs multiple types of internal audits in relation to the CCDF program. These audits usually have a particular focus and do not address all areas regarding a particular client's eligibility. These audits have found significant noncompliance for many years. However, despite being aware of these issues, DSHS has not implemented sufficient internal controls to address and correct them.

We consider these internal control deficiencies to be a material weakness for the CCDF program.

Cause of Condition

DSHS staff made eligibility determinations without obtaining sufficient supporting documentation to ensure the household was eligible, such as three months' of wage information and wage information for a secondary adult in the home. While DSHS has policies and procedures, they are not detailed enough to ensure staff document determinations in a consistent manner. Additionally, management did not ensure staff consistently followed the procedures that were in place.

While DSHS audits of eligibility determinations identify errors after the fact, this has not been effective in preventing clients from being improperly approved.

Effect of Condition and Questioned Costs

By not implementing adequate internal controls, DSHS is at a higher risk of paying providers for child care services when clients are ineligible.

Of the 14 client eligibility determinations we identified that had errors, 12 resulted in $62,488 of federal overpayments to providers. Of this amount, $59,223 was paid with CCDF grant funds and $3,265 was paid with TANF grant funds.

Because we used a statistical sampling method to randomly select the payments examined in the audit, we estimate the amount of likely federal improper payments to be $26,994,629 for the CCDF grant and $1,488,046 for the TANF grant.

Further, some of the improper payments were partially funded by state dollars. Specifically, we found $3,834 of improper CCDF state payments, which projects to a likely improper payment amount of $1,747,750 for CCDF. This amount is not included in the federal questioned costs.

We question costs when we find an agency has not complied with grant regulations or when it does not have adequate documentation to supports its expenditures.

Our sampling methodology meets statistical sampling criteria under generally accepted auditing standards in AU-C 530.05. It is important to note that the sampling technique we used is intended to support our audit conclusions by determining if expenditures were in compliance with program requirements in all material respects. Accordingly, we used an acceptance sampling formula designed to provide a high level of assurance, with a 95 percent confidence of whether exceptions exceeded our materiality threshold. Our audit report and finding reflects this conclusion. . However, the likely improper payment projections are a point estimate and only represent our "best estimate of total questioned costs" as required by 2 CFR 200.516(3).

Recommendations

We recommend DSHS improve its internal controls over determining eligibility to ensure it:

- Supports authorizations for child care adequately with verified documentation
- Reviews eligibility determinations sufficiently to detect improper eligibility determinations
- Supports income and household composition information adequately, and ensures the accuracy of that information

We also recommend the Department consult with the grantor to discuss whether the questioned costs identified in the audit should be repaid.

Department's Response

The Department partially concurs with the audit finding.

The Department concurs that in 14 instances we made eligibility determinations improperly, did not obtain required documentation or did not verify information before authorizing services. We will work with the Department of Children, Youth, and Families (DCYF) to establish overpayments where appropriate and refer it to the Office of Financial Recovery for collection.

The Department partially concurs with the auditor's statement that "DSHS performs multiple types of internal audits in relation to the CCDF program. These audits usually have a particular focus and do not address all areas regarding a particular client's eligibility. These audits have found significant noncompliance for many years. However, despite being aware of these issues, DSHS has not implemented sufficient internal controls to address and correct them."

The Department has made significant improvements to our internal controls over determining eligibility. In response to prior audit findings, the Department worked closely with DCYF creating new or changing existing rules, policies, and/or procedures to enhance overall program integrity. These changes are reflected in the audit findings and show a significant reduction in errors related to workers calculating income incorrectly. At this point, most errors are an issue with clients fraudulently obtaining benefits.

To address client child care fraud, we worked with DCYF to create WAC 110-15-0278 which disqualifies clients found guilty of obtaining child care benefits fraudulently for five years. DCYF

also developed policies and procedures to support this rule, and new training to enable staff to better use available systems to detect fraud. Since the aforementioned WAC did not go into effect until July 1, 2019, we will not see the full benefit of this change until the state fiscal year 2020 audit which will span the period of July 1, 2019 to June 30, 2020.

Also effective July 1, 2019, the Department transferred responsibility for administering all aspects of client eligibility determination and child care provider payment under the Child Care Development Fund (CCDF) to DCYF. Further changes and enhancements to this program are within the purview of DCYF.

If the grantor contacts the Department regarding questioned costs that should be repaid, the Department will confirm these costs with the Department of Health and Human Services and will take appropriate action.

Auditor's Remarks

We thank the Department for its cooperation and assistance throughout the audit. We will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.53 Improper Payments states:

(a) *Improper payment* means any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; and
(b) *Improper payment* includes any payment to an ineligible party, any payment for an ineligible good or service, any duplicate payment, any payment for a good or service not received (except for such payments where authorized by law), any payment that does not account for credit for applicable discounts, and any payment where insufficient or lack of documentation prevents a reviewer from discerning whether a payment was proper.

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

(a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

(b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.
(d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.403 Factors affecting Allowability of costs.

Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under Federal awards.

(a) Be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles.
(b) Conform to any limitations or exclusions set forth in these principles or in the Federal award as to types or amount of cost items.
(c) Be consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the non-Federal entity.
(d) Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the sample purpose in like circumstances has been allocated to the Federal award as an indirect cost.
(e) Be determined in accordance with generally accepted accounting principles (GAAP), except, for state and local governments and Indian tribes only, as otherwise provided for in this part.
(f) Not be included as a cost or used to meet cost sharing or matching requirements of any other federally-financed program in either the current or a prior period. See also §200.306 Cost sharing or matching paragraph (b).
(g) Be adequately documented. See also §§200.300 Statutory and national policy requirements through 200.309 Period of performance of this part.

Section 200.410 Collection of unallowable costs.

Payments made for costs determined to be unallowable by either the Federal awarding agency, cognizant agency for indirect costs, or pass-through entity, either as direct or indirect costs, must be refunded (including interest) to the Federal Government in accordance with instructions from the Federal agency that determined the costs are unallowable unless Federal statute or regulation directs otherwise. See also Subpart D—Post Federal Award Requirements of this part, §§200.300 Statutory and national policy requirements through 200.309 Period of performance.

Section 200.516 Audit findings, states in part:

(a) *Audit findings reported*. The auditor must report the following as audit findings in a schedule of findings and questioned costs:

    (1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit

finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.

(2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.

(3) Known questioned costs that are greater than $25,000 for a type of compliance requirement for a major program. Known questioned costs are those specifically identified by the auditor. In evaluating the effect of questioned costs on the opinion on compliance, the auditor considers the best estimate of total costs questioned (likely questioned costs), not just the questioned costs specifically identified (known questioned costs). The auditor must also report known questioned costs when likely questioned costs are greater than $25,000 for a type of compliance requirement for a major program. In reporting questioned costs, the auditor must include information to provide proper perspective for judging the prevalence and consequences of the questioned costs.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in internal controls over compliance in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, as follows:

.11 For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows: …

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

45 CFR 98.20 – A child's eligibility for child care services, state:

(a) To be eligible for services under § 98.50, a child shall, at the time of eligibility determination or redetermination:

(1)

(i) Be under 13 years of age; or,

(ii) At the option of the Lead Agency, be under age 19 and physically or mentally incapable of caring for himself or herself, or under court supervision;

(2)

(i) Reside with a family whose income does not exceed 85 percent of the State's median income (SMI), which must be based on the most recent SMI data that is published by the Bureau of the Census, for a family of the same size; and

(ii) Whose family assets do not exceed $1,000,000 (as certified by such family member); and

(3)

(i) Reside with a parent or parents who are working or attending a job training or educational program; or

(ii) Receive, or need to receive, protective services, which may include specific populations of vulnerable children as identified by the Lead Agency, and reside with a parent or parents other than the parent(s) described in paragraph (a)(3)(i) of this section.

(A) At grantee option, the requirements in paragraph (a)(2) of this section may be waived for families eligible for child care pursuant to this paragraph, if determined to be necessary on a case-by-case basis.

(B) At grantee option, the waiver provisions in paragraph (a)(3)(ii)(A) of this section apply to children in foster care when defined in the Plan, pursuant to § 98.16(g)(7).

(b) A grantee or other administering agency may establish eligibility conditions or priority rules in addition to those specified in this section and § 98.46, which shall be described in the Plan pursuant to § 98.16(i)(5), so long as they do not:

(1) Discriminate against children on the basis of race, national origin, ethnic background, sex, religious affiliation, or disability;

(2) Limit parental rights provided under subpart D of this part;

(3) Violate the provisions of this section, § 98.46, or the Plan. In particular, such conditions or priority rules may not be based on a parent's preference for a category of care or type of provider. In addition, such additional conditions or rules may not be based on a parent's choice of a child care certificate; or

(4) Impact eligibility other than at the time of eligibility determination or redetermination.

(c) For purposes of implementing the citizenship eligibility verification requirements mandated by title IV of the Personal Responsibility and Work Opportunity Reconciliation Act, 8 U.S.C. 1601 et seq., only the citizenship and immigration status of the child, who is the primary beneficiary of the CCDF benefit, is relevant. Therefore, a Lead Agency or other administering agency may not condition a child's eligibility for services under § 98.50 based upon the citizenship or immigration status of their parent or the provision of any information about the citizenship or immigration status of their parent.

Washington Administrative Code 110-15-005 Eligibility, states:

(1) Consumer. At application and reapplication, to be eligible for WCCC, the consumer must:

(a) Have parental control of one or more eligible children;

(b) Live in the state of Washington;

(c) Participate in an approved activity or meet the eligibility special circumstances requirements under WAC 110-15-0020;

(d) Have countable income at or below two hundred percent of the federal poverty guidelines
(FPG) and have resources under one million dollars per WAC 110-15-0022; and

(e) Have an agreed payment arrangement with any provider to whom any outstanding WCCC copayment is owed.

(2) Children. To be eligible for WCCC, a child must:

(a) Belong to one of the following groups as defined in WAC 388-424-0001:

(i) A U.S. citizen;

(ii) A U.S. national;

(iii) A qualified alien; or

(iv) A nonqualified alien who meets the Washington state residency requirements as listed in WAC 388-468-0005.

(b) Legally reside in Washington state, which will be determined by applying the criteria of WAC 388-468-0005; and

(c) Be less than thirteen years of age on the first day of eligibility; or

(d) Be less than nineteen years of age, and:

(i) Have a verified special need, according to WAC 110-15-0020; or

(ii) Be under court supervision.

Washington Administrative Code 110-15-0012 Verifying consumers' information, states:

(1) DSHS may require the consumer to provide verification of child care subsidy eligibility if DSHS is unable to verify it through agency records or systems. The information and verification provided to DSHS from the consumer must:

(a) Clearly relate to the request made by DSHS;

(b) Be from a reliable source;

(c) Be accurate and complete; and

(d) If DSHS has reasonable cause to believe the information and verification the consumer provides is unreliable, inaccurate, incomplete, or inconsistent, DSHS may:

(i) Ask the consumer to provide additional verification that may include a statement from a person who lives outside of the consumer's residence who knows the consumer's circumstances;

(ii) Send an investigator from the DSHS office of fraud and accountability (OFA) to make an unannounced visit to the consumer's home to verify the consumer's circumstances. Consumer's rights are found in WAC 110-15-0025; or

(iii) Deny the application, request for reduced copay, or request for additional child care.

(2) Gross income of consumers with more than ninety days of employment must be employer-verified. If the consumer has less than ninety days of employment, the consumer must provide verification from the employer within sixty days from the approval date.

(3) DSHS may only request verification for changes during the family's eligibility period that reduce a copayment or increase the authorized amount of care, if agency records or systems cannot provide verification.

(4) If DSHS is unable to verify household composition of a single-parent household through agency records, the single-parent consumer must provide the name and address of the child's other parent, or declare, under penalty of perjury:

(a) That the other parent's identity and address are unknown to the consumer; or

(b) That providing this information will likely result in serious physical or emotional harm to the single-parent consumer or another person residing with the single-parent consumer; and

(c) Whether the other parent is present or absent in the household.

(5) DSHS will pay for requested verification that requires payment; however, this does not include payment for a self-employed consumer's state business registration or license, which is a cost of doing business.

2019-033 The Department of Commerce did not have adequate internal controls over and did not comply with earmarking requirements for the Low-Income Home Energy Assistance program.

Federal Awarding Agency: U.S. Department of Health and Human Services
Pass-Through Entity: None
CFDA Number and Title: 93.568 Low-Income Home Energy Assistance
Federal Award Number: G-17B1 WALIEA
G-1701WALIE4
Applicable Compliance Component: Earmarking
Known Questioned Cost Amount: None

Background

The Department of Commerce (Department) administers the Low-Income Home Energy Assistance program (program), which provides assistance to low-income households to meet their energy needs. The Department subawards federal funds to community-based organizations (subrecipients) that provide this assistance. During state fiscal year 2019, the Department spent $55.8 million in federal funds for the program. Of this amount, the Department passed $53.4 million on to subrecipients.

The grant award limits how much the Department can spend on specific activities. These stipulations are known as earmarks. Specifically, the Department may spend no more than:

- 10 percent on Planning and Administrative costs
- 5 percent on Energy Need Reduction Services

Description of Condition

The Department did not have adequate internal controls over and did not comply with earmarking requirements related to the Energy Need Reduction Services.

During the subaward process, subrecipients are contracted to provide specific services. The Department provided records to show it did not spend more than ten percent on Planning and Administration Costs.
We reviewed the tracking document that the Department maintained to determine how much the Department spent for Energy Need Reduction Services. Based on the document, we could not verify whether the Department met this earmark requirement.

We consider this internal control deficiency to be a material weakness.

We did not report this condition in the prior audit.

Cause of Condition

During the audit period, the Department changed how it monitored the Energy Need Reduction Services costs. In its new method, the Department stopped updating its tracking spreadsheet.

Effect of Condition

Without properly identifying, categorizing, and reviewing earmarked expenditures, the Department is at a higher risk of spending grant funds for unallowable activities. This could result in an overpayment of the federal award that the Department would be required to repay to the federal grantor.

Recommendation

We recommend the Department establish procedures to track Energy Need Reduction Services expenditures. This includes establishing this earmarked category in its accounting records.

Department's Response

The Department concurs with this finding for the time period reviewed. The LIHEAP program, beginning with program year 2019/20, made adjustments to program practices to track expenditures within our accounting records using Master Index codes for earmarked expenditures rather than tracking by spreadsheet. Previously, the program tracked conservation education, other direct services and direct services under the budget line item of "direct services". Currently, the program tracks all program expenditures by individual Master Index codes in the Department's Contract Management System and state-wide accounting system. There are separate codes established for administration, conservation education, other direct services, direct services, other emergency services, and contractor advances which is adequate for earmarking.

Auditor's Concluding Remarks

We thank the Department for its cooperation and assistance throughout the audit. We will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

(a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
(b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.
(d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.516 Audit findings, states in part:
(a) *Audit findings reported*. The auditor must report the following as audit findings in a schedule of findings and questioned costs:

(1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.
(2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in internal controls over compliance in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, as follows:

.11 For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows: …
Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person

performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

Programmatic conditions for G-17B1 WALIEA and G-1701WALIE4, 42 USC 8624(b)(9)(A); 45 CFR section 96.88(a)) states:

Planning and Administrative Costs

No more than 10 percent of a State's LIHEAP funds for a Federal fiscal year may be used for planning and administrative costs, including both direct and indirect costs. This limitation applies, in the aggregate, to planning and administrative costs at both the State and subrecipient levels. This cap may not be exceeded by supplementing with other Federal funds.

Programmatic conditions for G-17B1 WALIEA and G-1701WALIE4, 42 USC 8624(b)(16) states that:

Energy Need Reduction Services

No more than five percent of the LIHEAP funds may be used to provide services that encourage and enable households to reduce their home energy needs and, thereby, the need for energy assistance. Such services may include needs assessments, counseling, and assistance with energy vendors (42 USC 8624(b)(16)).

2019-034 The Department of Commerce did not have adequate internal controls over and did not comply with subrecipient monitoring requirements for the Low-Income Home Energy Assistance program.

Federal Awarding Agency:	U. S. Department of Health and Human Services
Pass-Through Entity:	None
CFDA Number and Title:	93.568 Low-Income Home Energy Assistance
Federal Award Number:	G-1901 WALIEA G-18B1 WALIEA G-1801 WALIE4 G-17B1 WALIEA G-1701WALIE4
Applicable Compliance Component:	Subrecipient Monitoring
Known Questioned Cost Amount:	None

Background

The Department of Commerce (Department) administers the Low-Income Home Energy Assistance program (program), which provides assistance to low-income households to meet their energy needs. The Department subawards federal funds to community-based organizations (subrecipients) that provide this assistance. During state fiscal year 2019, the Department spent $55.8 million in federal funds for the program. Of this amount, $53.4 million was passed on to subrecipients.

The Department performs onsite monitoring of subrecipients every three years and performs desk monitoring during the two intervening years. The onsite monitoring and desk monitoring include the review of a selection of eligibility determinations and three months of expenditures paid to the subrecipient with federal funds.

Federal regulations allow subrecipients to charge certain facility and administrative costs to the grant. These costs can be charged as indirect costs because they are incurred for a common or joint purpose benefiting more than one activity. Indirect cost rates can be charged at:

- An approved federally recognized indirect cost rate negotiated between the subrecipient and the federal government or, if no such rate exists, either:
  - A rate negotiated between the pass-through entity and the subrecipient, or
  - A de minimis indirect cost rate of 10 percent of Modified Total Direct Costs (MTDC), which may be used only if the subrecipient has never received a negotiated indirect cost rate or the Department didn’t previously negotiate a rate with the subrecipient.

The Department must clearly identify the indirect cost rate in the subaward. If the de minimis rate is chosen, the Department is responsible for knowing whether subrecipients are eligible to use it.

In the prior audit, we reported the Department did not have adequate internal controls over and did not comply with requirements to monitor subrecipients of the Low-Income Home Energy Assistance program. The prior finding number was 2018-032.

Description of Condition

The Department of Commerce did not have adequate internal controls over and did not comply with subrecipient monitoring requirements for the Low-Income Home Energy Assistance program.

We reviewed supporting documentation for five of the 11 onsite monitoring visits and six of the 14 desk reviews the Department performed during the audit period to identify the percentage of federal funds the subrecipients received that the Department reviewed.

The Department reviewed the supporting documentation for up to three months of expenditures at each of the subrecipients during its onsite monitoring and desk monitoring. In total, it reviewed $3.8 million (21 percent) of the $17.9 million paid to the 11 subrecipients. In our judgment, this level of monitoring was insufficient to ensure the Department could reasonably detect unallowable or unsupported costs by the community-based organizations.

Additionally, during the subaward process, the Department did not inquire if subrecipients had previously been authorized a Federally Negotiated Indirect Rate (FNIR).

We randomly selected and reviewed eight of the 25 subawards executed during the audit period. In all eight cases, the subawards did not clearly identify that the indirect cost rate subrecipients were authorized to request for reimbursement.

We consider these internal control deficiencies to be a material weakness.

Cause of Condition

The Department took steps to increase its fiscal monitoring after its previous audit. However, the changes it implemented were not fully implemented until the end of this audit period.

During the subaward process, the Department did not know it should verify if subrecipients had ever negotiated an Indirect Cost Rate with the federal government. Management did not establish a process in which they identify the federal subaward requirements that would allow the Department to ensure subawards were compliant.

Effect of Condition

By not adequately monitoring its subrecipients, the Department is at a higher risk of not detecting or preventing unallowable activities and costs from being charged to the federal grant.

Recommendations

We recommend the Department:

- Strengthen its internal controls over how it monitors subrecipients to ensure subawarded federal funds are used for authorized purposes
- Establish a secondary review process to ensure it meets federal requirements before issuing subawards
- Establish a process to inquire whether subrecipients have ever negotiated an FNIR before allowing a subrecipient to request reimbursement using the de minimis indirect cost rate of 10 percent of MTDC
- Ensure that subawards clearly identify indirect cost rates

Department's Response

The Department concurs with this finding. The Department has established procedures to expand fiscal monitoring of its subrecipients during reimbursement, including requiring back up documentation. The procedure requires the submission of a roll-up summary, with every invoice, that documents the exact costs charged to the grant by Master Index code. The roll-up should link the actual expenditures to the amounts requested for reimbursement on the invoice.

The Department also has an established procedure for documenting fiscal monitoring that occurs during in-person site visits. Fiscal monitoring during site visits will include the review of a sampling of timesheet to verify and confirm that salary/benefit charges on a previously submitted invoice have appropriate backup documentation on file. Staff will also document any fiscal policies and procedures reviewed, and any other fiscal monitoring activities will be clearly documented in the site visit report.

The Department has updated the certification forms for MTDC eligibility to inquire whether subrecipients have ever negotiated an FNIR with the federal government.

Auditor's Concluding Remarks

We thank the Department for its cooperation and assistance throughout the audit. We will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

(a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal

award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

(b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.

(d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.331 Requirements for pass-through entities, states in part:

All pass-through entities must:

(b) Ensure that every subaward is clearly identified to the subrecipient as a subaward and includes the following information at the time of the subaward and if any of these data elements change, include the changes in subsequent subaward modification. When some of this information is not available, the pass-through entity must provide the best information available to describe the Federal award and subaward. Required information includes:

1. Federal Award Identification

   xiii. Indirect cost rate for the Federal award (including if the de minimis rate is charged per 200.414 Indirect (F&A) costs).

(d) Monitor the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved. Pass-through entity monitoring of the subrecipient must include:

(1) Reviewing financial and performance reports required by the pass-through entity.

(2) Following-up and ensuring that the subrecipient takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to the subrecipient from the pass-through entity detected through audits, on-site reviews, and other means.

(3) Issuing a management decision for audit findings pertaining to the Federal award provided to the subrecipient from the pass-through entity as required by §200.521 Management decision.

(e) Depending upon the pass-through entity's assessment of risk posed by the subrecipient (as described in paragraph (b) of this section), the following monitoring tools may be useful for the pass-through entity to ensure proper accountability and compliance with program requirements and achievement of performance goals:

(1) Providing subrecipients with training and technical assistance on program-related matters; and

(2) Performing on-site reviews of the subrecipient's program operations;
(3) Arranging for agreed-upon-procedures engagements as described in §200.425 Audit services.

2 CFR 200.414 - Indirect (F&A) costs states in part:

(h) Any non-Federal entity that has never received a negotiated indirect cost rate, except for those non-Federal entities described in Appendix VII to Part 200 - States and Local Government and Indian Tribe Indirect Cost Proposals, paragraph D.1.b, may elect to charge a de minimis rate of 10% of modified total direct costs (MTDC) which may be used indefinitely. As described in § 200.403 Factors affecting allowability of costs, costs must be consistently charged as either indirect or direct costs, but may not be double charged or inconsistently charged as both. If chosen, this methodology once elected must be used consistently for all Federal awards until such time as a non-Federal entity chooses to negotiate for a rate, which the non-Federal entity may apply to do at any time.

Section 200.516 Audit findings, states in part:

(a) *Audit findings reported*. The auditor must report the following as audit findings in a schedule of findings and questioned costs:

(1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.
(2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.
(3) Known or likely fraud affecting a Federal program award, unless such fraud is otherwise reported as an audit finding in the schedule of findings and questioned costs for Federal awards. This paragraph does not require the auditor to report publicly information which could compromise investigative or legal proceedings or to make an additional reporting when the auditor confirms that the fraud was reported outside the auditor's report under the direct reporting requirements of GAGAS.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in internal controls over compliance in its Codification of Statements on Auditing Standards, section 935, Compliance Audits, as follows:

.11 For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows: …

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

2019-035 The Department of Children, Youth, and Families did not have adequate internal controls over and did not comply with requirements to ensure payments to child care providers for the Child Care and Development Fund program were allowable.

Federal Awarding Agency:	U.S. Department of Health and Human Services	
Pass-Through Entity:	None	
CFDA Number and Title:	93.575	Child Care and Development Block Grant
	93.596	Child Care Mandatory and Matching Funds of the Child Care and Development Fund
Federal Award Number:	G1901WACCDF; G1801WACCDF, G1701WACCDF	
Applicable Compliance Component:	Activities Allowed or Unallowed and Allowable Costs/Cost Principles	
Known Questioned Cost Amount:	$7,199	

Background

The Department of Children, Youth, and Families (DCYF) administers the federal Child Care and Development Fund (CCDF) grant to help eligible families pay for child care. The Department of Social and Health Services (DSHS) determines client eligibility for and pays child care providers under an agreement with DCYF. Providers are paid from both the CCDF grant and the Temporary Assistance for Needy Families (TANF) grant, and a payment can include funding from both programs.

DCYF is responsible for establishing policies to ensure payments are allowable. In fiscal year 2019, DSHS made 564,195 monthly child care subsidy payments to child care providers that were at least partially paid with federal CCDF and/or TANF grant funds. Some payments also include state funding. These payments totaled almost $276.4 million in federal funds, with over $187 million paid with CCDF funds.

There are three child care provider types: licensed centers; licensed family homes; and licensed exempt providers referred to as Family, Friends and Neighbor providers (FFN). Licensed centers typically operate as larger facilities, whereas licensed family homes are limited to no more than 12 children at a given time. Both centers and homes must adhere to strict licensing requirements established by DCYF and are subject to annual monitoring visits.

FFN providers are exempt from many of the licensing requirements. These providers are limited to receiving payment for a maximum of six children in their home or the client's home at a time.

Authorizations for child care

To be authorized for child care services, parents must be determined to be eligible based on their income, residency and demonstrated need based on approved activities. Once parents are determined to be eligible, DSHS authorizes the amount of care based on the hours a parent participates in approved activities. For licensed providers, the service levels are generally either 23 full-day units (up to 10 hours a day) or 30 half-day units (up to five hours a day) when

authorizing care for households with more than 110 hours of activity. Care is authorized based on need when approvable activities are less than 110 hours. When more than ten hours per day of care is needed, DSHS may authorize additional care for overtime. FFN providers are paid by the hour and authorizations are made for either part-time care (up to 110 hours a month) or full-time care (up to 230 hours a month). When more than 10 hours per day of care is needed, DSHS may authorize additional care for overtime.

Attendance records

According to state rules, child care providers must maintain attendance records to support their billing. At a minimum, the records must include: the children's names; the child's arrival and departure times; date(s) child care was provided; and authorized identifiers (such as signatures or PINs), typically of a parent or guardian. During the audit period, DCYF implemented a new electronic time and attendance reporting system that maintains electronic copies of attendance records. The adoption dates for using this system varied by provider type, but by November 30, 2019, all providers are required to use DCYF's system or an approved third-party system for tracking.

Before using the new attendance reporting system, providers were not required to submit attendance records with their monthly requests for payment. The new reporting system enables DCYF to perform data analysis and audit of payments. DCYF has established a subsidy audit unit that randomly selects prior payments for review. If the provider has not yet set up access to the electronic system, upon request providers must submit attendance records and other supporting documentation, which are reconciled to paid invoices.

In the prior audit, we reported DCYF did not establish adequate internal controls over and was not compliant with federal requirements to ensure payments to child care providers were allowable. We have reported this condition since 2005. The most recent audit finding numbers were 2018-034, 2017-024, 2016-021, 2015-023, 2014-023, 2013-016, 12-28, 11-23, 10-31, 9-12 and 8-13.

Description of Condition

The Department did not have adequate internal controls over and did not comply with requirements to ensure payments to child care providers for the CCDF program were allowable.

We used a statistical sampling method and randomly sampled 133 of a total population of 564,195 payments for child care to determine if they were allowable. We chose child care payments by totals from each of the three provider types: licensed centers, licensed family homes and FFN's. With assistance from DCYF, we requested attendance records from providers that supported the payments. We reviewed each provider's records to determine if the payments were allowed by federal and state regulations, as well as by DCYF's policies.

We found 48 payments funded by the CCDF grant that were noncompliant. Of these, 22 were partially or fully unallowable and we questioned $7,199 paid by federal CCDF funds.

The reasons the overpayments occurred were:

- Attendance records were not submitted by providers in response to our request
- Providers overbilled for services not performed or not supported by attendance records
- Providers billed for overtime when they did not have a written policy in place to also charge these same fees to private paying parents
- A provider did not have a valid license during the date or service
- Providers were not paid the correct rate

We consider these internal control deficiencies to be a material weakness.

Cause of Condition

Although payment authorizations establish a maximum for what providers may bill without further approval, it does not prevent providers from billing for unallowable days, hours or services. The claim and payment system is not linked to authorizations or attendance. Until the child care providers transition over to the new electronic attendance record system, they must maintain attendance records and submit this supporting documentation only when it is requested.

Effect of Condition and Questioned Costs

By not having adequate internal controls in place, DCYF increases its risk of making improper payments for child care services.

A statistical sampling method was used to randomly select the payments examined in the audit. Based on the results of our testing, we estimate the total amount of likely improper payments with federal CCDF funds to be $25,868,291. In addition, one of the improper payments was partially funded by state dollars. We found $6 of improper state payments, which projects to a likely improper payment amount of $31,567. This amount is not included in the federal questioned costs. Our sampling methodology meets statistical sampling criteria under generally accepted auditing standards in AU-C 530.05. It is important to note that the sampling technique we used is intended to support our audit conclusions by determining if expenditures complied with program requirements in all material respects. Accordingly, we used an acceptance sampling formula designed to provide a very high level of assurance, with a 99 percent confidence of whether exceptions exceeded our materiality threshold. Our audit report and finding reflects this conclusion. However, the likely improper payment projections are a point estimate and only represent our “best estimate of total questioned costs” as required by 2 CFR 200.516(3). To ensure a representative sample, we stratified the population by dollar amount.

We question costs when we find an agency has not complied with grant regulations or when it does not have adequate documentation to support its expenditures.

Recommendations

We recommend the Department:

- Implement preventive internal controls over payments to providers to reduce the rate of unallowable payments

- Consult with the grantor to discuss whether the questioned costs identified in the audit should be repaid

Department's Response

The Department partially concurs with the audit finding.

In response to prior audit findings, the Department has procured an electronic attendance record system. The Department's electronic attendance record system enables accurate, real-time recording of child care attendance, tracks daily attendance, and captures data on child care usage.

Effective December 1, 2018 (about halfway through the 2019 audit period), licensed providers who accept subsidy are required to use the Department's electronic attendance record system or an approved third party system to track attendance. Effective November 30, 2019 (about halfway through the 2020 audit period), FFN providers are also required to use the Department's system or an approved third party system for tracking attendance. Based on the effective dates above, we likely will not see the full benefit of the electronic attendance record system until the state fiscal year 2021 audit which will span the period of July 1, 2020 to June 30, 2021.

Of the 22 exceptions cited, the Department ***concurs*** *that 20 of the payments were partially or fully unallowable due to records not received or being incomplete, incorrect billing hours, and overtime billing rules. The Department will establish overpayments where appropriate and refer the overpayments to the Office of Financial Recovery for collection.*

In response to the five exceptions and cause of condition centering on providers billing for overtime, the Department has filed proposed rules to eliminate the requirement in WAC 110-15-0190(9) that licensed providers have a policy to charge private paying families for overtime in order to bill the Child Care Subsidy Program for the same. Once effective, the Department expects no further associated payment errors for this issue.

The Department ***does not*** *concur that two of these payments were unallowable. The auditor found the payments to be unallowable because the providers submitted records for the correct month, but not for the child sampled. The Department was not given the opportunity to follow-up with the providers for the missing attendance records as historically allowed in prior audits. The Department will follow-up with the providers to obtain the missing attendance records and determine the appropriate next steps.*

If the grantor contacts the Department regarding questioned costs that should be repaid, the Department will confirm these costs with HHS and will take appropriate action.

Auditor's Remarks

The Department states it had no opportunity to follow up with the providers whom we received attendance records from, but that did not include records for the child that was being tested. Our request to the providers was specific and they were to provide records for all children for the month selected. Because we received records from these providers, we did not believe additional records were needed.

We reaffirm our finding and will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.53 Improper Payments states:

(a) *Improper payment* means any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; and
(b) *Improper payment* includes any payment to an ineligible party, any payment for an ineligible good or service, any duplicate payment, any payment for a good or service not received (except for such payments where authorized by law), any payment that does not account for credit for applicable discounts, and any payment where insufficient or lack of documentation prevents a reviewer from discerning whether a payment was proper.

Section 200.303 Internal controls, states in part:

The non-Federal entity must:
(a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
(b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.
(d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.403 Factors affecting Allowability of costs.

Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under Federal awards.
(a) Be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles.
(b) Conform to any limitations or exclusions set forth in these principles or in the Federal award as to types or amount of cost items.
(c) Be consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the non-Federal entity.

(d) Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the sample purpose in like circumstances has been allocated to the Federal award as an indirect cost.
(e) Be determined in accordance with generally accepted accounting principles (GAAP), except, for state and local governments and Indian tribes only, as otherwise provided for in this part.
(f) Not be included as a cost or used to meet cost sharing or matching requirements of any other federally-financed program in either the current or a prior period. See also §200.306 Cost sharing or matching paragraph (b).
(g) Be adequately documented. See also §§200.300 Statutory and national policy requirements through 200.309 Period of performance of this part.

Section 200.410 Collection of unallowable costs.

Payments made for costs determined to be unallowable by either the Federal awarding agency, cognizant agency for indirect costs, or pass-through entity, either as direct or indirect costs, must be refunded (including interest) to the Federal Government in accordance with instructions from the Federal agency that determined the costs are unallowable unless Federal statute or regulation directs otherwise. See also Subpart D—Post Federal Award Requirements of this part, §§200.300 Statutory and national policy requirements through 200.309 Period of performance.

Section 200.516 Audit findings, states in part:
(a) *Audit findings reported*. The auditor must report the following as audit findings in a schedule of findings and questioned costs:

(1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.
(2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.
(3) Known questioned costs that are greater than $25,000 for a type of compliance requirement for a major program. Known questioned costs are those specifically identified by the auditor. In evaluating the effect of questioned costs on the opinion on compliance, the auditor considers the best estimate of total costs questioned (likely questioned costs), not just the questioned costs specifically identified (known questioned costs). The auditor must also report known questioned costs when likely questioned costs are greater than $25,000

for a type of compliance requirement for a major program. In reporting questioned costs, the auditor must include information to provide proper perspective for judging the prevalence and consequences of the questioned costs.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in internal controls over compliance in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, as follows:

> .11 For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows: …
>
> **Deficiency in internal control over compliance.** A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.
>
> **Material weakness in internal control over compliance.** A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:
>
> > **Reasonably possible**. The chance of the future event or events occurring is more than remote but less than likely.
> >
> > **Probable**. The future event or events are likely to occur.
>
> **Significant deficiency in internal control over compliance.** A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.
>
> **Material noncompliance**. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

Washington Administrative Code 110-15-0034 Providers' responsibilities, states:

> Child care providers who accept child care subsidies must do the following:
> (1) Licensed or certified child care providers who accept child care subsidies must comply with all child care licensing or certification requirements contained in this chapter, chapter 43.216 RCW and chapters 110-06, 110-300, 110-300A, 110-300B, and 110-305 WAC.
> (2) In-home/relative child care providers must comply with the requirements contained in this chapter, chapter 43.216 RCW, and chapters 110-06 and 110-16 WAC.
> (3) In-home/relative child care providers must not submit an invoice for more than six children for the same hours of care.
> (4) All child care providers must use DCYF's electronic attendance recordkeeping system or a DCYF-approved electronic attendance recordkeeping system as required by WAC 110-15-0126. Providers must limit attendance system access to authorized individuals and for authorized purposes, and maintain physical and environmental security controls.
> (a) Providers using DCYF's electronic recordkeeping system must submit monthly attendance records prior to claiming payment. Providers using a DCYF-approved electronic recordkeeping system must finalize attendance records prior to claiming payment.
> (b) Providers must not edit attendance records after making a claim for payment.
> (5) All child care providers must complete and maintain accurate daily attendance records. If requested by DCYF or DSHS, the provider must provide to the requesting agency the following records:
> (a) Attendance records must be provided to DCYF or DSHS within twenty-eight calendar days of the date of a written request from either department.
> (b) Pursuant to WAC 110-15-0268, the attendance records delivered to DCYF or DSHS may be used to determine whether a provider overpayment has been made and may result in the establishment of an overpayment and in an immediate suspension of the provider's subsidy payment.
> (6) All child care providers must maintain and provide receipts for billed field trip/quality enhancement fees as follows. If requested by DCYF or DSHS, the provider must provide the following receipts for billed field trip/quality enhancement fees:
> (a) Receipts from the previous twelve months must be available immediately for review upon request by DCYF;
> (b) Receipts from one to five years old must be provided within twenty-eight days of the date of a written request from either department.
> (7) All child care providers must collect copayments directly from the consumer or the consumer's third-party payor, and report to DCYF if the consumer has not paid a copayment to the provider within the previous sixty days.
> (8) All child care providers must follow the billing procedures required by DCYF.
> (9) Child care providers who accept child care subsidies must not:
> (a) Claim a payment in any month a child has not attended at least one day within the authorization period in that month; however, in the event a ten-day notice terminating a provider's authorization extends into the following month, the

provider may claim a payment for any remaining days of the ten calendar day notice in that following month;

(b) Claim an invoice for payment later than six months after the month of service, or the date of the invoice, whichever is later; or

(c) Charge consumers the difference between the provider's customary rate and the maximum allowed state rate.

(10) Licensed and certified providers must not charge consumers for:

(a) Registration fees in excess of what is paid by subsidy program rules;

(b) Days for which the child is scheduled and authorized for care but absent;

(c) Handling fees to process consumer copayments, child care services payments, or paperwork;

(d) Fees for materials, supplies, or equipment required to meet licensing rules and regulations; or

(e) Child care or fees related to subsidy billing invoices that are in dispute between the provider and the state.

(11) Providers who care for children in states bordering Washington state must verify they are in compliance with their state's licensing regulations and notify DCYF within ten days of any suspension, revocation, or changes to their license.

Washington Administrative Code 110-15-0190 WCCC benefit calculations, states:

(1) The amount of care a consumer may receive is determined by DSHS at application or reapplication. Once the care is authorized, the amount will not be reduced during the eligibility period unless:

(a) The consumer requests the reduction;

(b) The care is for a school-aged child as described in subsection (3) of this section; or

(c) Incorrect information was given at application or reapplication.

(2) To determine the amount of weekly hours of care needed, DSHS reviews:

(a) The consumer's participation in approved activities and the number of hours the child attends school, including home school, which will reduce the amount of care needed.

(b) In a two parent household, the days and times approved activities overlap, and only authorize care during those overlapping times. The consumer is eligible for full-time care if overlapping care totals one hundred ten hours in one month.

(c) DSHS will not consider the schedule of a parent in a two parent household who is not able to care for the child.

(3) Full-time care for a family using licensed providers is authorized when the consumer participates in approved activities at least one hundred ten hours per month:

(a) Twenty-three full-day units per month will be authorized when the child needs care five or more hours per day;

(b) Thirty half-day units per month will be authorized when the child needs care less than five hours per day;

(c) Forty-six half-day units per month will be authorized during the months of June, July, and August for a school-aged child who needs five or more hours of care;

(d) Supervisor approval is required for additional days of care that exceeds twenty-three full days or thirty half days per month; and
(e) Care cannot exceed sixteen hours per day, per child.
(4) Full-time care for a family using in-home/relative providers (family, friends and neighbors) is authorized when the consumer participates in approved activities at least one hundred ten hours per month:
(a) Two hundred thirty hours of care will be authorized when the child needs care five or more hours per day;
(b) One hundred fifteen hours of care will be authorized when the child needs care less than five hours per day;
(c) One hundred fifteen hours of care will be authorized during the school year for a school-aged child who needs care less than five hours per day and the provider will be authorized for contingency hours each month, up to a maximum of two hundred thirty hours;
(d) Two hundred thirty hours of care will be authorized during the school year for a school-aged child who needs care five or more hours in a day;
(e) Supervisor approval is required for hours of care that exceed two hundred thirty hours per month; and
(f) Care cannot exceed sixteen hours per day, per child.
(5) When determining part-time care for a family using licensed providers and the activity is less than one hundred ten hours per month:
(a) A full-day unit will be authorized for each day of care that exceeds five hours;
(b) A half-day unit will be authorized for each day of care that is less than five hours; and
(c) A half-day unit will be authorized for each day of care for a school-aged child, not to exceed thirty half days.

(6) When determining part-time care for a family using in-home/relative providers:
(a) Under the provisions of subsection (2) of this section, DSHS will authorize the number of hours of care needed per month when the activity is less than one hundred ten hours per month; and
(b) The total number of authorized hours and contingency hours claimed cannot exceed two hundred thirty hours per month.

(7) DSHS determines the allocation of hours or units for families with multiple providers based upon the information received from the parent.

(8) DSHS may authorize more than the state rate and up to the provider's private pay rate if:
(a) The parent is a WorkFirst participant; and
(b) Appropriate child care, at the state rate, is not available within a reasonable distance from the approved activity site. "Appropriate" means licensed or certified child care under WAC 110-15-0125, or an approved in-home/relative provider under WAC 110-16-0010. "Reasonable distance" is determined by comparing distances other local families must travel to access appropriate child care.

(9) Other fees DSHS may authorize to a provider are:
(a) Registration fees;
(b) Field trip fees;

(c) Nonstandard hours bonus;
(d) Overtime care to a licensed provider who has a written policy to charge all families, when care is expected to exceed ten hours in a day; and
(e) Special needs rates for a child.

Washington Administrative Code 110-15-0249 Nonstandard hours bonus, states:

(1) A consumer's provider may receive a nonstandard hours bonus (NSHB) payment per child per month for care provided if:
  (a) The provider is licensed or certified;
  (b) The provider provides at least thirty hours of nonstandard hours care during one month; and
  (c) The total cost of the NSHB to the state does not exceed the amount appropriated for this purpose by the legislature for the current state fiscal year.
(2) Nonstandard hours are defined as:
  (a) Before 6 a.m. or after 6 p.m.;
  (b) Any hours on Saturdays and Sundays; and
  (c) Any hours on legal holidays, as defined in RCW 1.16.050.
(3) NSHB amounts are:
  (a) Seventy-six dollars and fifty cents for family homes; and
  (b) Seventy-five dollars for centers.

2019-036 The Department of Children, Youth, and Families did not have adequate internal controls and did not comply with requirements to ensure payroll charges to the Child Care and Development Fund program were allowable and properly supported.

Federal Awarding Agency:	U.S. Department of Health and Human Services
Pass-Through Entity:	None
CFDA Number and Title:	93.575 Child Care and Development Block Grant 93.596 Child Care Mandatory and Matching Funds of the Child Care and Development Fund
Federal Award Number:	G1901WACCDF; G1801WACCDF, G1701WACCDF
Applicable Compliance Component:	Activities Allowed or Unallowed and Allowable Costs/Cost Principles
Known Questioned Cost Amount:	$25,875,872

Background

The Department of Children, Youth, and Families administers the federal Child Care and Development Fund (CCDF) grant to help eligible working families pay for child care.

The Department may use grant funds only for costs that are allowable and related to the grant's purpose. According to the Department, each business unit must complete a certification for its employees whose positions are funded by a single federal award. The division director or office unit manager must approve the certification and attest that the employees did not perform any other duties.

In fiscal year 2019, the Department spent over $272 million in federal funds on the CCDF program. Almost $26 million of that total was for payroll expenses of employees who worked on the program.

In the prior audit, we reported the Department did not have adequate internal controls to ensure payroll charges to the CCDF program were allowable and properly supported. The prior finding number is 2018-033.

Description of Condition

The Department did not have adequate internal controls and did not comply with requirements to ensure payroll charges to the CCDF program were allowable and properly supported.

The Department did not complete any semi-annual certifications during our audit period. The Department did complete the first half of the semi-annual certifications, but nine months after the end of the certification period.

We consider these internal control deficiencies to be a material weakness.

Cause of Condition

The Department did not have written policies in place to ensure salaries and benefits paid with federal grant funds were adequately supported. The Department asserted it did have internal controls and a process in place, but did not follow them timely. The Department said that due to the lack of availability of resources, management considered other areas to be of higher priority for responsible staff and therefore did not follow its established process.

Effect of Condition and Questioned Costs

The Department charged $25,875,872 in direct payroll and benefits to the CCDF program that were not adequately supported. We are questioning these costs.

We question costs when we find an agency has not complied with grant regulations or when it does not have adequate records to support its expenditures.

Recommendations

We recommend the Department:

- Establish policies and procedures to ensure payroll costs charged to a federal grant are adequately supported
- Consult with the grantor to discuss whether the questioned costs identified in the audit should be repaid

Department's Response

The Department concurs with the State Auditor's Office that semi-annual certifications were not completed timely.

The Department has completed the July 2018 through December 2018 semi-annual certifications and is working on the second half of the fiscal year. In addition, 182 (representing $13.3 million of the questioned costs) of the employees referenced are licensing or program employees who are 100% eligible for payroll charges to the CCDF grant and who do not perform duties other than those that are approved activities related only to the CCDF program. The Department has internal controls in place around any changes to position coding to ensure direct charges to federal grants are allowable and accurate.

As stated in the Cause of Condition, the Department's resources were focused on the transition of the Juvenile Rehabilitation Division and Child Care Subsidy Program, formerly of the Department of Social and Health Services, into the Department effective July 2019. The cost allocation team responsible for completing the semi-annual certifications were assisting with the transition and onboarding of an additional 1,500 employees during the same time-period. Due to the lack of available resources and vacant positions, the Department chose to focus staff time on processing the new agency payroll and benefits payments and other onboarding activities.

As to the Auditor's specific recommendations:

- *The Department implemented a payroll certification policy effective August 29, 2019.*

- *The Department will work with the Department of Health and Human Service if they determine question costs should be repaid.*

Auditor's Remarks

We thank the Department for its cooperation and assistance throughout the audit. We will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.53 Improper Payments states:

(a) *Improper payment* means any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; and
(b) *Improper payment* includes any payment to an ineligible party, any payment for an ineligible good or service, any duplicate payment, any payment for a good or service not received (except for such payments where authorized by law), any payment that does not account for credit for applicable discounts, and any payment where insufficient or lack of documentation prevents a reviewer from discerning whether a payment was proper.

Section 200.303 Internal controls, states in part:

The non-Federal entity must:
(a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
(b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.
(d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.403 Factors affecting Allowability of costs.

Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under Federal awards.

(a) Be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles.
(b) Conform to any limitations or exclusions set forth in these principles or in the Federal award as to types or amount of cost items.
(c) Be consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the non-Federal entity.
(d) Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the sample purpose in like circumstances has been allocated to the Federal award as an indirect cost.
(e) Be determined in accordance with generally accepted accounting principles (GAAP), except, for state and local governments and Indian tribes only, as otherwise provided for in this part.
(f) Not be included as a cost or used to meet cost sharing or matching requirements of any other federally-financed program in either the current or a prior period. See also §200.306 Cost sharing or matching paragraph (b).
(g) Be adequately documented. See also §§200.300 Statutory and national policy requirements through 200.309 Period of performance of this part.

Section 200.410 Collection of unallowable costs.

Payments made for costs determined to be unallowable by either the Federal awarding agency, cognizant agency for indirect costs, or pass-through entity, either as direct or indirect costs, must be refunded (including interest) to the Federal Government in accordance with instructions from the Federal agency that determined the costs are unallowable unless Federal statute or regulation directs otherwise. See also Subpart D—Post Federal Award Requirements of this part, §§200.300 Statutory and national policy requirements through 200.309 Period of performance.

Section 200.516 Audit findings, states in part:

(a) *Audit findings reported*. The auditor must report the following as audit findings in a schedule of findings and questioned costs:
   (1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.
   (2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.
   (3) Known questioned costs that are greater than $25,000 for a type of compliance requirement for a major program. Known questioned costs are those

specifically identified by the auditor. In evaluating the effect of questioned costs on the opinion on compliance, the auditor considers the best estimate of total costs questioned (likely questioned costs), not just the questioned costs specifically identified (known questioned costs). The auditor must also report known questioned costs when likely questioned costs are greater than $25,000 for a type of compliance requirement for a major program. In reporting questioned costs, the auditor must include information to provide proper perspective for judging the prevalence and consequences of the questioned costs.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in internal controls over compliance in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, as follows:

.11 For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows: …

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

2019-037 The Department of Children, Youth, and Families did not have adequate internal controls over and did not comply with matching requirements for the Child Care and Development Fund.

Federal Awarding Agency:	U.S. Department of Health and Human Services	
Pass-Through Entity:	None	
CFDA Number and Title:	93.575	Child Care and Development Block Grant
	93.596	Child Care Mandatory and Matching Funds of the Child Care and Development Fund
Federal Award Number:	G1901WACCDF, G1801WACCDF, G1701WACCDF; G160WACCDF	
Applicable Compliance Component:	Matching	
Known Questioned Cost Amount:	$440,578	

Background

The Child Care and Development Fund (CCDF) is awarded to states to increase the availability, affordability, and quality of child care services. Funds are used to subsidize child care for low-income families where the parents are working or attending training or educational programs, as well as for activities to promote overall child care quality for all children, regardless of subsidy receipt.

The CCDF consists of three distinct funding sources: the Discretionary Fund, the Mandatory Fund, and the Matching Fund. If federal matching funds are requested, State expenditures will be matched at the Federal Medical Assistance Percentage (FMAP) rate for the applicable fiscal year. Washington's FMAP was 50 percent for fiscal years 2016, 2017, 2018, and 2019.

The Department of Children, Youth, and Families (Department) is the lead agency for the CCDF grant and administers the program. The Department has the overall responsibility for monitoring the CCDF grant activities.

The Department claimed $37,018,014 of federal matching funds from the federal fiscal year 2016 CCDF matching grant that closed during the audit period.

Description of Condition

The Department did not have adequate internal controls over and did not comply with matching requirements for the CCDF cluster.

We examined the federal fiscal year 2016 CCDF matching grant to determine if the Department met the matching requirement. The Department used child care subsidy payments and associated administrative costs made by the Department of Social and Health Services (DSHS) and the Early Childhood Education and Assistance Program (ECEAP) funds to meet the requirement. DSHS reports its share of the matching expenditures to the Department on a claim form.

The Department's required match for the federal fiscal year 2016 grant was $36,990,750. During audit fieldwork, the Department gave us records to support $36,550,172 in spending. Based on

this documentation, we calculated the Department failed to meet the required state match by $440,578.

We consider this internal control deficiency to be a material weakness.

This condition was not reported in the prior audit.

Cause of Condition

The Department did not verify through the review of supporting documentation that the expenditures reported by DSHS were allowed to be claimed as state matching funds.

After our audit fieldwork was over, the Department sent emails and financial reports it believed showed they complied with the matching requirement. We reviewed this information, but did not find it clear and convincing to evidence the Department complied with the requirement and met the required state match.

Effect of Condition

Without adequate internal controls in place, the Department cannot ensure it meets matching requirements. Because the Department did not did have adequate documentation to show it met its required state match, we are questioning $440,578.

We question costs when we find an agency has not complied with grant regulations or when it does not have adequate documentation to support its expenditures.

Recommendation

We recommend the Department:

- Strengthen internal controls to ensure it meets the matching requirements.
- Consult with its grantor about whether the questioned costs identified in the finding should be repaid.

Department's Response

The Department ***does not*** *concur with the audit finding.*

The Department works closely with the Department of Social and Health Services (DSHS) for compliance with matching requirements for the CCDF Grant. Both Departments have the same sufficient internal controls in place to ensure compliance with matching requirements for the CCDF cluster as found by the State Auditor's Office in previous audits.

DSHS did not provide the Department sufficient supporting documentation for $440,578 in spending at the time of the auditor's testing as a result of miscommunication. Both DSHS and the State Auditor's Office had new staff working together on this compliance area and neither party was clear on what to ask for to provide as sufficient supporting documentation. As a result, DSHS provided documentation that did not provide the level of detail needed to provide clear and

convincing evidence that the Department complied with the requirement and met the required state match.

The Department will work with the DSHS to obtain the correct documentation needed to prove to the Department of Health and Human Services (HHS) that the Department met the match requirement.

The Department will work with the HHS if they determine question costs should be repaid.

Auditor's Concluding Remarks

Neither the Department, nor its partner DSHS, provided supporting documentation with enough detail for us to conclude whether the federal matching requirement was met.

We reaffirm our finding and will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations Part 200, Uniform Administrative Requirements, Cost Principles, *and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.53 Improper Payments states:

(a) *Improper payment* means any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; and
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(b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.

(d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.403 Factors affecting Allowability of costs.

Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under Federal awards.

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(e) Be determined in accordance with generally accepted accounting principles (GAAP), except, for state and local governments and Indian tribes only, as otherwise provided for in this part.
(f) Not be included as a cost or used to meet cost sharing or matching requirements of any other federally-financed program in either the current or a prior period. See also §200.306 Cost sharing or matching paragraph (b).
(g) Be adequately documented. See also §§200.300 Statutory and national policy requirements through 200.309 Period of performance of this part.

Section 200.410 Collection of unallowable costs.

Payments made for costs determined to be unallowable by either the Federal awarding agency, cognizant agency for indirect costs, or pass-through entity, either as direct or indirect costs, must be refunded (including interest) to the Federal Government in accordance with instructions from the Federal agency that determined the costs are unallowable unless Federal statute or regulation directs otherwise. See also Subpart D—Post Federal Award Requirements of this part, §§200.300 Statutory and national policy requirements through 200.309 Period of performance.

Section 200.516 Audit findings, states in part:

(a) *Audit findings reported*. The auditor must report the following as audit findings in a schedule of findings and questioned costs:

    (1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.

(2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.

(3) Known questioned costs that are greater than $25,000 for a type of compliance requirement for a major program. Known questioned costs are those specifically identified by the auditor. In evaluating the effect of questioned costs on the opinion on compliance, the auditor considers the best estimate of total costs questioned (likely questioned costs), not just the questioned costs specifically identified (known questioned costs). The auditor must also report known questioned costs when likely questioned costs are greater than $25,000 for a type of compliance requirement for a major program. In reporting questioned costs, the auditor must include information to provide proper perspective for judging the prevalence and consequences of the questioned costs.

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Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

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Probable. The future event or events are likely to occur.

> **Significant deficiency in internal control over compliance.** A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.
> **Material noncompliance**. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

Title 42, U.S. Code, Section 618 – Funding for child care regarding State expenditures, states in part:

> (2)(C) The Secretary shall pay to each eligible State for a fiscal year an amount equal to the lesser of the State's allotment under subparagraph (B) or the Federal medical assistance percentage for the State for the fiscal year (as defined in section 1396d(b) of this title, as such section was in effect on September 30, 1995) of so much of the State's expenditures for child care in that fiscal year as exceed the total amount of expenditures by the State (including expenditures from amounts made available from Federal funds) in fiscal year 1994 or 1995 (whichever is greater) for the programs described in paragraph (1)(A).
>
> Office of Child Care FY 2016 CCDF Allocations (matching requirements):
> https://www.acf.hhs.gov/occ/resource/fy-2016-ccdf-allocations-including-redistributed-funds

2019-038 The Department of Children, Youth, and Families improperly charged $4,212,863 to the Child Care and Development Fund program.

Federal Awarding Agency:	U.S. Department of Health and Human Services	
Pass-Through Entity:	None	
CFDA Number and Title:	93.575	Child Care and Development Block Grant
	93.596	Child Care Mandatory and Matching Funds of the Child Care and Development Fund
Federal Award Number:	G1901WACCDF; G1801WACCDF, G1701WACCDF	
Applicable Compliance Component:	Period of Performance	
Known Questioned Cost Amount:	$4,212,863	

Background

The Department of Children, Youth, and Families (Department) administers the federal Child Care and Development Fund (CCDF) grant to help eligible working families pay for child care.

The Department is responsible for ensuring grant money is used for costs that are allowable and related to each grant's purpose. Each federal grant specifies a performance period during which program costs may be obligated or liquidated. These periods typically align with the federal fiscal year of October 1 through September 30. Payments for costs charged before a grant's beginning date are not allowed without the grantor's prior approval.

In fiscal year 2019, the Department paid about $187 million in CCDF federal funding to child care providers.

Description of Condition

The Department of Children, Youth, and Families improperly charged $4,212,863 to the Child Care and Development Fund program.

We found the Department improperly charged $151 to the CCDF grant for activities that occurred before the grant was open. Additionally, we found $397,014 that was obligated to the grant after the period of performance ended and $3,815,698 that was liquidated to the grant after the period of performance ended.

The Department did not have prior authorization from the grantor to charge these expenditures to these grants.

This condition was not reported in the prior audit.

Cause of Condition

The Department said it received invoices for expenditures totaling $3,815,698 after the liquidation period was closed and reconciliations for the period of performance were not completed due to limited staffing resources during agency transition. In addition, staff resources were focused on tasks related to taking on the management of the Juvenile Rehabilitation Administration and the

Child Care Subsidy Customer Service Contact Center program, which formerly were managed by the Department of Social and Health Services.

Effect of Condition

We are questioning improperly charged expenditures made to the CCDF grant as follows:

- $151 made before the start of the performance period
- $397,014 obligated to a grant after the period of performance ended
- $3,815,698 liquidated to a grant after the period of performance ended

We question costs when we find an agency has not complied with grant regulations or when it does not have adequate documentation to support its expenditures.

Recommendations

We recommend the Department:

- Charge expenditures to federal grants only if the expenditures are obligated or liquidated during the period of performance
- Consult with the grantor to discuss whether the questioned costs identified in the audit should be repaid

Department's Response

The Department partially concurs with the finding. The Department maintains that all of the expenditures were allowable charges to the CCDF grant.

As stated in the Cause of Condition, the Department's resources were focused on the transition of the Juvenile Rehabilitation Division and Child Care Subsidy Customer Service Contact Center program, formerly of the Department of Social and Health Services (DSHS), into the Department effective July 2019. The cost allocation team responsible for reconciliation of the CCDF grants during SFY19 were assisting with the transition and onboarding of an additional 1,500 employees during the same time-period. Due to the lack of available resources and vacant positions, the Department chose to focus staff time on processing the new agency payroll and benefits payments and other onboarding activities.

Since conclusion of the transition period, the Department has prioritized reconciliation of the CCDF grants and the period of performance. Based on those reconciliations, the Department has identified and made corrections to expenditures, but those corrections were outside of the auditors review period and therefore not taken into consideration during the audit and publication of this finding. In addition, due to the timing of the request by SAO for records, the Department was unable to verify that $6,591 was actually charged to the incorrect grant period.

The Department concurs that expenditures totaling $151 were improperly charged to the wrong federal grant period and has processed a journal voucher to correct those expenditures.

The Department concurs that expenditures of $3,815,698 were properly obligated, but liquidated outside of the grant period.

The Department will work with the Department of Health and Human Service if they determine question costs should be repaid.

Auditor's Remarks

We thank the Department for its cooperation and assistance throughout the audit. We will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.53 Improper Payments states:

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(b) *Improper payment* includes any payment to an ineligible party, any payment for an ineligible good or service, any duplicate payment, any payment for a good or service not received (except for such payments where authorized by law), any payment that does not account for credit for applicable discounts, and any payment where insufficient or lack of documentation prevents a reviewer from discerning whether a payment was proper.

Section 200.309 Period of performance, states:

A non-Federal entity may charge to the Federal award only allowable costs incurred during the period of performance and any costs incurred before the Federal awarding agency or pass-through entity made the Federal award that were authorized by the Federal awarding agency or pass-through entity.

Section 200.403 Factors affecting Allowability of costs.

Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under Federal awards.
(a) Be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles.
(b) Conform to any limitations or exclusions set forth in these principles or in the Federal award as to types or amount of cost items.
(c) Be consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the non-Federal entity.
(d) Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the sample purpose in like circumstances has been allocated to the Federal award as an indirect cost.

(e) Be determined in accordance with generally accepted accounting principles (GAAP), except, for state and local governments and Indian tribes only, as otherwise provided for in this part.
(f) Not be included as a cost or used to meet cost sharing or matching requirements of any other federally-financed program in either the current or a prior period. See also §200.306 Cost sharing or matching paragraph (b).
(g) Be adequately documented. See also §§200.300 Statutory and national policy requirements through 200.309 Period of performance of this part.

Section 200.410 Collection of unallowable costs.

Payments made for costs determined to be unallowable by either the Federal awarding agency, cognizant agency for indirect costs, or pass-through entity, either as direct or indirect costs, must be refunded (including interest) to the Federal Government in accordance with instructions from the Federal agency that determined the costs are unallowable unless Federal statute or regulation directs otherwise. See also Subpart D—Post Federal Award Requirements of this part, §§200.300 Statutory and national policy requirements through 200.309 Period of performance.

Section 200.516 Audit findings, states in part:
(a) *Audit findings reported*. The auditor must report the following as audit findings in a schedule of findings and questioned costs:

(3) Known questioned costs that are greater than $25,000 for a type of compliance requirement for a major program. Known questioned costs are those specifically identified by the auditor. In evaluating the effect of questioned costs on the opinion on compliance, the auditor considers the best estimate of total costs questioned (likely questioned costs), not just the questioned costs specifically identified (known questioned costs). The auditor must also report known questioned costs when likely questioned costs are greater than $25,000 for a type of compliance requirement for a major program. In reporting questioned costs, the auditor must include information to provide proper perspective for judging the prevalence and consequences of the questioned costs.

2019-039 The Department of Children, Youth, and Families did not have adequate internal controls over and did not comply with health and safety requirements for the Child Care and Development Fund program.

Federal Awarding Agency:	U.S. Department of Health and Human Services
Pass-Through Entity:	None
CFDA Number and Title:	93.575 Child Care and Development Block Grant 93.596 Child Care Mandatory and Matching Funds of the Child Care and Development Fund
Federal Award Number:	G1901WACCDF, G1801WACCDF, G1701WACCDF
Applicable Compliance Component:	Special Tests and Provisions – Health and Safety Requirements
Known Questioned Cost Amount:	$0

Background

The Department of Children, Youth, and Families (Department) administers the federal Child Care and Development Fund (CCDF) grant to help eligible working families pay for childcare. In fiscal year 2019, the Department paid about $187 million in CCDF federal funding to childcare providers.

The Department oversees two types of providers: license providers and license-exempt Family, Friends, & Neighbors (FFN) providers. The Department is responsible for ensuring all of these providers meet health and safety standards, which includes conducting monitoring visits for licensed providers and background checks for all providers and staff with direct access to children.

Provider inspections

The Department conducts annual, unannounced monitoring visits of licensed providers, using a monitoring checklist to verify whether required health and safety standards are being met.

When health and safety infractions are identified, licensors document them on a Facility Licensing Compliance Agreement (FLCA). The FLCA identifies the areas of provider noncompliance and establishes deadlines for correcting them. Providers must submit a corrective action plan or resolution activity to their licensor. When serious health and safety violations are identified, licensors must conduct an unannounced re-check of the facility within 10 business days. Less serious non-compliance issues must be addressed within 30 days. If the provider does not resolve a noncompliance issue, the Department may impose sanctions, issue fines, or suspend or revoke the provider's license.

In June 2017, the Department replaced the system it used to document its licensing activities with a new electronic system, WA Compass, to allow licensing staff to make more timely updates and streamline their process.

Background checks

The Department ensures FFN providers pass background checks before providing services, and at least every three years or when there is a 30-day break in service in providing care. Beginning October 1, 2018, FFN providers were required to receive a fingerprint background check and be approved by the Department before providing care. The Department received a waiver from the federal government for this deadline. The new deadline to ensure FFN providers pass fingerprint background checks was September 30, 2019.

In prior audits, we reported the Department did not have adequate internal controls over and did not comply with health and safety requirements. The prior finding numbers were 2018-035, 2017-025, 2016-022 and 2015–024.

Description of Condition

The Department did not have adequate internal controls over and did not comply with health and safety requirements for the CCDF program.

Provider inspections

In fiscal year 2019, the Department regulated 3,731 licensed providers and 5,083 license-exempt FFN providers. Beginning July 1, 2018, the annual licensed providers monitoring visit was required within the current state fiscal year.

We used a statistical sampling method to randomly select and examine records for 59 licensed providers who received federal CCDF payments during state fiscal year 2019 to determine if monitoring visits were conducted as required. We found all licensed providers received their monitoring visit in state fiscal year 2019.

We examined the Department's response to serious violations documented during inspections and found 10 instances (17 percent) when there was not sufficient documentation to show adequate follow-up was performed or performed in a timely manner for violations of health, safety or well-being of children.

Some examples of these serious violations were:

- General health and safety hazards to the children
- Inadequate supervision of children

Additionally, in one of these 10 instances a required monitoring checklist was not completed.

Background checks

We used a statistical sampling method to randomly select and examine 59 FFN providers to determine whether the Department performed required background checks. We found three instances when background checks were not performed before the provider became eligible to provide care to children.

We consider these internal control deficiencies to be a material weakness.

Cause of Condition

Provider inspections

The Department did not follow-up on the health and safety violations identified on the FLCA in a timely manner because:

- WA Compass lacked capacity to track when FLCA follow-ups were required. The Department said that WA Compass has since been enhanced to include this capability.
- Licensors were not performing the required re-check visits. To address this issue, the WA Compass enhancement has added risk element identifiers to non-compliance issues prompting the licensors on what follow-up action is required.

Additionally, the transition to WA Compass resulted in difficulties finding the document for the one instance when the monitoring visit checklist was not completed.

Background checks

*T*he Department implemented the new FFN background check rules in October 2018. The new background check can take over 30 days to process, and the Department said it felt this wait period can cause hardship for applicants. To lessen the burden to those needing child care services, the Department decided that when a license exempt FFN provider clears a background check, they would backdate the start date of the approval for those requests received within 10 days of the parent's specified provider request date.

Effect of Condition

Provider inspections

By not following up on violations in a timely manner, the Department cannot ensure identified issues have been corrected and could put children in jeopardy for harm, neglect, and unhealthy emotional and cognitive development environments.

Background checks

The three providers whose background checks were not performed in a timely manner were ineligible to be paid for services for the period prior to their background check approval. We estimate these providers received $1,345 in improper payments with federal funds. Because a

statistical sampling method was used to select the providers examined, we estimate the amount of likely federal improper payments to be $115,875.

Our sampling methodology meets statistical sampling criteria under generally accepted auditing standards in AU-C 530.05. It is important to note that the sampling technique we used is intended to support our audit conclusions by determining if expenditures complied with program requirements in all material respects. Accordingly, we used an acceptance sampling formula designed to provide a high level of assurance, with a 95 percent confidence of whether exceptions exceeded our materiality threshold. Our audit report and finding reflects this conclusion. However, the likely improper payment projections are a point estimate and only represent our "best estimate of total questioned costs" as required by 2 CFR 200.516(3).

When provider background checks are not performed in a timely manner, it increases the risk that children are left in the supervision of an unqualified individual.

Recommendations

We recommend the Department:

- Ensure management follows policy and procedures to ensure all visits are performed in compliance with regulations
- Ensure staff sufficiently document the results of follow-up visits when serious violations are identified
- Ensure background checks are conducted before allowing services to be provided
- Consult with the grantor to discuss whether the questioned costs identified in the audit should be repaid

Department's Response

The Department concurs with the finding and is strongly committed to ensuring the health, safety, and well-being of all children in care.

As to the Auditor's specific recommendations, the Department offers the following detail:

<u>Provider Inspections</u>

The Department concurs with SAO finding that health and safety violations identified on the FLCA were not followed up on in a timely manner.

The Department is working on an enhancement in WA Compass to track when follow up health and safety visit are required. Currently, the WA Compass system lacks the capacity to track when FLCA follow-ups are due. To address this issue, effective August 1, 2019, the Department created three different risk levels for corresponding violations which require follow-up along specific timelines or no follow up at all depending on the level of risk associated with the violation. Risk levels classifications are as follows:

- *IMMEDIATE CONCERN (I). Rules of immediate concern are requirements developed by the department to protect the health and safety of children against substantial risk of injury,*

*illness, or death. The provider must correct any violation of rules of immediate concern **as soon as possible, but in no case later than the next business day.***

- *SHORT TERM CONCERN (S). Rules of short term concern are requirements developed by the department to protect the health and safety of children against the risk of injury or illness that is likely to occur if a provider fails to comply over a short period of time. The provider must correct any violation of rules of short term concern as soon as possible. The provider must demonstrate compliance to the department **within 10 business days** from the date of non-compliance.*
- *LONG TERM CONCERN (L). Rules of long term concern are requirements developed by the department to protect the health and safety of children against the potential risk of injury or illness that is likely to occur if a provider fails to comply over an extended period of time. The provider must agree to correct any violation of rules of long term concern as soon as possible. The provider must demonstrate compliance to the department **within 20 business days** from the date of non-compliance.*

These risk levels were added to Department policies and procedures and the transition to the new methodology and licensing approach will help alleviate the gaps in follow up visits by the Department.

Background Checks

The Department concurs that the license exempt team would request FFN provider's payment start date be backdated in some instances. This included when a significant delay occurred in processing a provider's Portable Background Check (PBC), and only when providers PBC results were returned as approved. The Department maintains that at no time was payment approved for any provider that was disqualified or whose household member was disqualified (if care was provided in the provider's home).

As of October 1, 2018, the Department's License Exempt Services began overseeing the approval of FFN providers. This included:

- *Processing applications for new FFN providers including submission of full PBC.*
- *Updating existing FFN provider accounts who were providing care prior to October 1, 2018 and had until September 30, 2019 to come into compliance with new PBC requirements.*

In addition, the Department's License Exempt Services team had limited staff (12) who worked with the over 5000 provider accounts to;

- *Assist individuals in becoming a provider; and*
- *Updating provider accounts to allow existing providers to submit a PBC.*

Given the Department's limited staffing resources and high volume of providers, assistance to providers was often delayed resulting in the provider or potential provider not beginning the PBC process in a timely manner. To complicate this delay, the PBC process was often taking up to one month to complete.

The issues described above characterized the PBC process during a period of transition that brought the Department into further compliance with CCDF Reauthorization federal rule changes requiring a much more robust, time consuming, background check than had been in place prior. Backdating helped prevent a loss of provider capacity that could have significantly impacted

family access to care during this transition. With the transition now complete, the Department will cease the backdating practice on March 1, 2020. Note there are some PBCs currently in process that may clear after March 1, 2020.

Auditor's Remarks

We thank the Department for its cooperation and assistance throughout the audit. We will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

> Section 200.53 Improper Payments states:
>
> (a) Improper payment means any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; and
> (b) Improper payment includes any payment to an ineligible party, any payment for an ineligible good or service, any duplicate payment, any payment for a good or service not received (except for such payments where authorized by law), any payment that does not account for credit for applicable discounts, and any payment where insufficient or lack of documentation prevents a reviewer from discerning whether a payment was proper.
>
> Section 200.303 Internal controls, states in part:
>
> The non-Federal entity must:
> (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
> (b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.
> (d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.
>
> Section 200.516 Audit findings, states in part:
> (a) *Audit findings reported*. The auditor must report the following as audit findings in a schedule of findings and questioned costs:

(1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.

(2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in internal controls over compliance in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, as follows:

.11 For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows: …

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a

violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

45 Code of Federal Regulations section 98.40 Compliance with applicable State and local regulatory requirements, states:

(a) Lead Agencies shall:

(1) Certify that they have in effect licensing requirements applicable to child care services provided within the area served by the Lead Agency;

(3) Provide a detailed description in the Plan of the requirements under paragraph (a)(1) of this section and of how they are effectively enforced.

(b) (1) This section does not prohibit a Lead Agency from imposing more stringent standards and licensing or regulatory requirements on child care providers of services for which assistance is provided under the CCDF than the standards or requirements imposed on other child care providers.

(2) Any such additional requirements shall be consistent with the safeguards for parental choice in § 98.30(f).

45 Code of Federal Regulations section 98.41 Health and safety requirements, states:

(a) Each Lead Agency shall certify that there are in effect, within the State (or other area served by the Lead Agency), under State, local or tribal law, requirements (appropriate to provider setting and age of children served) that are designed, implemented, and enforced to protect the health and safety of children. Such requirements, which are subject to monitoring pursuant to § 98.42, shall:

(1) Include health and safety topics consisting of, at a minimum:

(i) The prevention and control of infectious diseases (including immunizations); with respect to immunizations, the following provisions apply:

(A) As part of their health and safety provisions in this area, Lead Agencies shall assure that children receiving services under the CCDF are age-appropriately immunized. Those health and safety provisions shall incorporate (by reference or otherwise) the latest recommendation for childhood immunizations of the respective State, territorial, or tribal public health agency.

(B) Notwithstanding this paragraph (a)(1)(i), Lead Agencies may exempt:

(1) Children who are cared for by relatives (defined as grandparents, great grandparents, siblings (if living in a separate residence), aunts, and uncles), provided there are no other unrelated children who are cared for in the same setting.

(2) Children who receive care in their own homes, provided there are no other unrelated children who are cared for in the home.

(3) Children whose parents object to immunization on religious grounds.

(4) Children whose medical condition contraindicates immunization.

(C) Lead Agencies shall establish a grace period that allows children experiencing homelessness and children in foster care to receive services under this part while providing their families (including foster families) a reasonable time to take any necessary action to comply with immunization and other health and safety requirements.

(1) The length of such grace period shall be established in consultation with the State, Territorial or Tribal health agency.

(2) Any payment for such child during the grace period shall not be considered an error or improper payment under subpart K of this part.

(3) The Lead Agency may also, at its option, establish grace periods for other children who are not experiencing homelessness or in foster care.

(4) Lead Agencies must coordinate with licensing agencies and other relevant State, Territorial, Tribal, and local agencies to provide referrals and support to help families of children receiving services during a grace period comply with immunization and other health and safety requirements;

(ii) Prevention of sudden infant death syndrome and use of safe sleeping practices;

(iii) Administration of medication, consistent with standards for parental consent;

(iv) Prevention and response to emergencies due to food and allergic reactions;

(v) Building and physical premises safety, including identification of and protection from hazards, bodies of water, and vehicular traffic;

(vi) Prevention of shaken baby syndrome, abusive head trauma, and child maltreatment;

(vii) Emergency preparedness and response planning for emergencies resulting from a natural disaster, or a man-caused event (such as violence at a child care facility), within the meaning of those terms under section 602(a)(1) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195a(a)(1)) that shall include procedures for evacuation, relocation, shelter-in-place and lock down, staff and volunteer emergency preparedness training and practice drills, communication and reunification with families, continuity of operations, and accommodation of infants and toddlers, children with disabilities, and children with chronic medical conditions;

(viii) Handling and storage of hazardous materials and the appropriate disposal of biocontaminants;

(ix) Appropriate precautions in transporting children, if applicable;

(x) Pediatric first aid and cardiopulmonary resuscitation;

(xi) Recognition and reporting of child abuse and neglect, in accordance with the requirement in paragraph (e) of this section; and

(xii) May include requirements relating to:

(A) Nutrition (including age-appropriate feeding);

(B) Access to physical activity;

(C) Caring for children with special needs; or

(D) Any other subject area determined by the Lead Agency to be necessary to promote child development or to protect children's health and safety.

(2) Include minimum health and safety training on the topics above, as described in § 98.44.

(b) Lead Agencies may not set health and safety standards and requirements other than those required in paragraph (a) of this section that are inconsistent with the parental choice safeguards in § 98.30(f).

(c) The requirements in paragraph (a) of this section shall apply to all providers of child care services for which assistance is provided under this part, within the area served by the Lead Agency, except the relatives specified at § 98.42(c).

(d) Lead Agencies shall describe in the Plan standards for child care services for which assistance is provided under this part, appropriate to strengthening the adult and child relationship in the type of child care setting involved, to provide for the safety and developmental needs of the children served, that address:

(1) Group size limits for specific age populations;

(2) The appropriate ratio between the number of children and the number of caregivers, in terms of age of children in child care; and

(3) Required qualifications for caregivers in child care settings as described at § 98.44(a)(4).

(e) Lead Agencies shall certify that caregivers, teachers, and directors of child care providers within the State or service area will comply with the State's, Territory's, or Tribe's child abuse reporting requirements as required by section 106(b)(2)(B)(i) of the Child Abuse and Prevention and Treatment Act (42 U.S.C. 5106a(b)(2)(B)(i)) or other child abuse reporting procedures and laws in the service area.

The Department of Children, Youth & Families Licensing Policy 10.1.3.T Managing Facility Licensing Compliance Agreements, states in part:

1. Compliance Agreements Must Be Completed For Any Violation of RCW or WAC for Early Learning Programs

Violations must be cited immediately at the time when non-compliance is known if possible. Exceptions include:

- Staffing needed.
- Early Learning Provider or designee is not available.
- Violations identified through phone/email.
- Supervisory approval required for any other exceptions.

5. A FLCA Must Include:

- Complete WAC code number including subsection.
- Observations clearly describing the non-compliance issue in detail.

7. DCYF Must Verify Immediate Health And Safety Concerns Are Corrected Within 15 Business Days Of Citation

The Department of Children, Youth & Families Licensing Procedures 10.1.3.T Managing Facility Licensing Compliance Agreements, states in part:

Licensor 1. Determines non-compliance during a visit at an early learning program.

2. Creates a FLCA form in WA Compass and documents WAC or RCW violation and observation.

3. Discusses specific non-compliance with early learning provider.

4. Verifies written plan of correction will correct the RCW and/or WAC non-compliance.
5. Establishes a date that each non-compliance issue will be corrected.
   - No more than 30 calendar days may be given from the date of non-compliance.
   - Non-compliance with health and safety issues must be corrected immediately if possible or within 10 business days.
     Health and safety issues may include but is not limited to:
     - Health and safety hazards
     - Behavior management
     - Supervision
     - Staff and child interaction
     - Group size/capacity
     - Medication management
     - Safe sleep practices
     - Window blind cords that form a loop

5a. If provider requests more than 30 calendar days to correct noncompliance, consults with Supervisor for prior approval.
5b. If a health and safety item requires more than 10 business days, consults with supervisor for details of how health and safety requirements will be met.
5c. If an issue of non-compliance is corrected during the licensing visit, a health and safety recheck for that specific WAC is not required. Exceptions: see 10.1.16.T Managing Safe Sleep Practices and 10.1.6.T Managing Window Blinds And Coverings.

Facility Licensing Compliance Agreement Follow up:

Licensor	11. Verifies completion of FLCA citations through an on-site health and safety recheck. FLCA citations given 10 or fewer business days for correction must be verified within 15 business days from the date of non-compliance citation. All other FLCA citations requiring a recheck must be verified within 30 calendar days of citation. 11a. If unable to complete verification within required timeline, requests supervisor approval for extension.
Supervisor	12. Documents approval of extended timeline in WA Compass.
Licensor	13. If program is not in compliance or FLCA is not returned, consults with Supervisor to determine next steps. 14. Ensures “Date Completed” information has been recorded in WA Compass within 20 business days of receipt. 15. Documents health and safety recheck site visit in WA Compass within 10 business days.

2019-040 The Department of Children, Youth, and Families improperly charged $161,394 to the federal Foster Care grant.

Federal Awarding Agency:	Department of Health and Human Services, Administration for Children and Families
Pass-Through Entity:	None
CFDA Number and Title:	93.658 Foster Care – Title IV-E
Federal Award Number:	G-1801WAFOST, G-1902WAFOST
Applicable Compliance Component:	Activities Allowed or Unallowed, Allowable Costs/Cost Principles
Known Questioned Cost Amount:	$161,394

Background

The federal Foster Care – Title IV-E (Foster Care) program helps states provide safe and stable out-of-home care for children under the jurisdiction of the State's child welfare agency until the children are returned home, placed with adoptive families, or placed in other planned, permanent arrangements. The program provides funds to reduce the costs of foster care for eligible children, reduce administrative costs to manage the program, and provide training for adults in the Foster Care program, including state agency staff, foster parents and certain private agency staff.

As of July 1, 2018, the Legislature created a new state agency that combined the Department of Social and Health Services (DSHS) Children's Administration and the Department of Early Learning. The new agency is called the Department of Children, Youth, and Families (Department) and is now responsible for managing the Foster Care program.

The Department is responsible for ensuring grant money is used only for costs allowable under the grant and that payments are adequately supported. During fiscal year 2019, the Department spent about $124 million in federal grant funds, including over $33 million paid to foster care service providers.

In prior audits, we reported DSHS improperly charged costs to the foster care grant. The prior finding numbers were 2018-038 and 2017-028.

Description of Condition

The Department improperly charged $161,394 to the federal foster care grant.

As part of the audit, we attempted to reconcile the Department's payment data with its accounting records to ensure our testing population was complete. The accounting records showed the Department paid $33,711,533 in federal funds to providers. However, according to the Department's provider payment system, it spent only $33,550,139 on these services. We asked the Department to explain the difference and provide supporting records to show what it spent the

funds on. Department management decided not to research these costs. Therefore, we determined $161,394 of the recorded federal expenditures was not supported.

Federal regulations require the auditor to issue a finding when the known or estimated questioned costs identified in a single audit exceed $25,000. We are issuing this finding because the amount of known questioned costs we identified exceeded this amount.

Cause of Condition

The Department believes the difference between the accounting record and the payment system resulted from multiple factors. These factors include contract payments made outside of the provider payment system, payment adjustments in its case management system and journal voucher adjustments. However, the Department did not provide records to support the variance.

Effect of Condition

When an agency spends federal grant funds that are not adequately supported, it is non-compliant with federal regulations. The federal grantor may request the agency to repay the cost of the unsupported payments.

Recommendations

We recommend the Department:

- Ensure only expenditures supported by the Department's accounting records are charged to the federal grant
- Consult with the grantor to discuss whether the questioned costs identified in the audit should be repaid

Department's Response

The Department does not concur with the finding.

During the audit period, the Department's resources were focused on the transition of the Juvenile Rehabilitation Division and Child Care Subsidy Customer Service Contact Center program, formerly of the Department of Social and Health Services, into the Department effective July 2019. The cost allocation team responsible for researching the reconciliation difference were assisting with the transition and onboarding of an additional 1,500 employees during the same time-period. Due to the lack of available resources and vacant positions, the Department chose to focus staff time on processing the new agency payroll and benefits payments and other onboarding activities.

The auditors determined that $161,394 of federal expenditures were not supported because this amount could not be reconciled between the Department's provider payment system (SSPS) and the State's accounting system (AFRS). While SSPS does interface with AFRS, it is not the only payment mechanism utilized when paying for eligible foster care services. As such, there will always be a difference in the total expenditures between the two systems.

The Title IV-E difference in expenditures between SSPS and AFRS is the result of multiple factors. These expenditures are paid outside of SSPS, but are recorded in AFRS. These expenditures include:

- *Contractor payments*
- *Updates to SSPS and Famlink*
- *A-19 payments*
- *Recoveries received*
- *Adjustments needed to appropriately claim Title IV-E dollars*

The Department will work with the Department of Health and Human Service if they determine question costs should be repaid.

Auditor's Concluding Remarks

We concur that the SSPS system is not the only payment mechanism used to pay for foster care services. As stated in the cause of the finding, we requested the Department provide documentation to explain the variance between SSPS and AFRS and it was unable to do so. Because the expenditures were not adequately supported, we are questioning the costs.

We reaffirm our finding and will follow-up with the Department in the next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.53 Improper Payments states:

(a) Improper payment means any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; and

(b) Improper payment includes any payment to an ineligible party, any payment for an ineligible good or service, any duplicate payment, any payment for a good or service not received (except for such payments where authorized by law), any payment that does not account for credit for applicable discounts, and any payment where insufficient or lack of documentation prevents a reviewer from discerning whether a payment was proper.

Section 200.403 Factors affecting Allowability of costs.

Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under Federal awards.

(a) Be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles.

(b) Conform to any limitations or exclusions set forth in these principles or in the Federal award as to types or amount of cost items.
(c) Be consistent with policies and procedures that apply uniformly to both federally financed and other activities of the non-Federal entity.
(d) Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the sample purpose in like circumstances has been allocated to the Federal award as an indirect cost.
(e) Be determined in accordance with generally accepted accounting principles (GAAP), except, for state and local governments and Indian tribes only, as otherwise provided for in this part.
(f) Not be included as a cost or used to meet cost sharing or matching requirements of any other federally-financed program in either the current or a prior period. See also §200.306 Cost sharing or matching paragraph (b).
(g) Be adequately documented. See also §§200.300 Statutory and national policy requirements through 200.309 Period of performance of this part.

Section 200.410 Collection of unallowable costs.

Payments made for costs determined to be unallowable by either the Federal awarding agency, cognizant agency for indirect costs, or pass-through entity, either as direct or indirect costs, must be refunded (including interest) to the Federal Government in accordance with instructions from the Federal agency that determined the costs are unallowable unless Federal statute or regulation directs otherwise. See also Subpart D - Post Federal Award Requirements of this part, §§200.300 Statutory and national policy requirements through 200.309 Period of performance.

Section 200.516 Audit findings, states in part:

(a) Audit findings reported. The auditor must report the following as audit findings in a schedule of findings and questioned costs:
    (3) Known questioned costs that are greater than $25,000 for a type of compliance requirement for a major program. Known questioned costs are those specifically identified by the auditor. In evaluating the effect of questioned costs on the opinion on compliance, the auditor considers the best estimate of total costs questioned (likely questioned costs), not just the questioned costs specifically identified (known questioned costs). The auditor must also report known questioned costs when likely questioned costs are greater than $25,000 for a type of compliance requirement for a major program. In reporting questioned costs, the auditor must include information to provide proper perspective for judging the prevalence and consequences of the questioned costs.

2019-041 **The Department of Children, Youth, and Families did not have adequate internal controls over and did not comply with requirements to ensure direct payroll charges for the Foster Care grant were allowable and properly supported.**

Federal Awarding Agency:	Department of Health and Human Services, Administration for Children and Families
Pass-Through Entity:	None
CFDA Number and Title:	93.658 Foster Care – Title IV-E
Federal Award Number:	G-1801WAFOST, G-1902WAFOST
Applicable Compliance Component:	Activities Allowed/Unallowed Allowable Costs/Cost Principles
Known Questioned Cost Amount:	$7,976,305

Background

The federal Foster Care – Title IV-E (Foster Care) program helps states provide safe and stable out-of-home care for children under the jurisdiction of the state's child welfare agency until the children are returned home, placed with adoptive families, or placed in other planned, permanent arrangements. The Department of Children, Youth, and Families (Department) is responsible for managing the Foster Care program. The Department spent about $124 million in federal grant funds during fiscal year 2019.

The Department operates the state's Foster Care program under a demonstration-project waiver, or Family Assessment Response (FAR) program, which was approved in January 2014. The waiver allows the Department to waive standard eligibility rules for a specified period and to use federal funds more flexibly to operate projects that test innovative approaches to delivering and financing program services. The goal of the demonstration project is to improve the safety, permanency and well-being of the target population while being cost neutral to the federal awarding agency.

The Department is allowed to request federal reimbursement for salaries and benefits. The Department charges the cost of FAR program salaries and benefits directly to the foster care grant. The Department claimed $7,976,305 in federal grant funds for FAR program salaries and benefits in fiscal year 2019. This amount represented 6.4 percent of total grant expenditures.

Description of Condition

The Department did not have adequate internal controls over and did not comply with requirements to ensure direct payroll charges for the federal foster care grant were allowable and properly supported.

The Department said it did not complete any semi-annual certifications or implement any other method to support FAR program payroll costs during the audit period for employees charged directly to the grant.

We consider this internal control deficiency to be a material weakness. This condition was not reported in the previous audit.

Cause of Condition

The Department said it did not perform payroll certifications because of limited staffing resources. Management has focused its resources on the recent merger of multiple agencies and taking on the management of the Juvenile Rehabilitation Administration and the Child Care Subsidy Customer Service Contact Center program, which formerly were managed by the Department of Social and Health Services.

Additionally, the Department did not have written policies in place to ensure it adequately supported payroll costs paid for by federal grant funds.

Effect of Condition and Questioned Costs

The Department charged $7,976,305 in direct payroll charges to the Foster Care program that were not adequately supported. We are questioning these costs.

We question costs when we find an agency has not complied with grant regulations or when it does not have adequate records to support its expenditures.

Recommendations

We recommend the Department:

- Establish policies and procedures to ensure it adequately supports direct payroll costs charged to the federal grant
- Consult with the grantor to discuss whether the questioned costs identified in the audit should be repaid

Department's Response

The Department partially concurs with the State Auditor's Office that the Department did not comply with requirements to ensure direct payroll charges for the federal foster care grant were allowable and properly supported.

The Department does not concur that the FAR payroll charges were unallowable. The employees referenced in the finding are FAR program employees who are 100% eligible for payroll charges to the federal Foster Care – Title IV-E (Foster Care) grant and who do not perform duties other than those that are approved activities related only to the program. These direct payroll charges are documented in the Department's PACAP under Title IV-E Foster Care Waiver Summary and allows for direct allocation to the grant for the FAR payroll charges. The Department has internal controls in place around any changes to position coding to ensure direct charges to federal grants are allowable and accurate.

The Department does concur that semi-annual certifications were not completed timely.

As stated in the Cause of Condition, the Department's resources were focused on the transition of the Juvenile Rehabilitation Division and Child Care Subsidy Customer Service Contact Center program, formerly of the Department of Social and Health Services, into the Department effective July 2019. The cost allocation team responsible for completing the semi-annual certifications were assisting with the transition and onboarding of an additional 1,500 employees during the same time-period. Due to the lack of available resources and vacant positions, the Department chose to focus staff time on processing the new agency payroll and benefits payments and other onboarding activities.

As to the Auditor's specific recommendations:

- *The Department implemented a payroll certification policy effective August 29, 2019.*
- *The Department will complete payroll certifications for SFY19.*
- *The Department will work with the Department of Health and Human Service if they determine question costs should be repaid.*

Auditor's Remarks

Without completing semi-annual certifications or implementing another method to support FAR program payroll costs during the audit period, there was no supporting documentation for us to examine to evaluate whether the payroll costs charged to the grant were allowable.

We reaffirm our finding and will follow-up with the Department in the next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.53 Improper Payments states:

(a) *Improper payment* means any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; and
(b) *Improper payment* includes any payment to an ineligible party, any payment for an ineligible good or service, any duplicate payment, any payment for a good or service not received (except for such payments where authorized by law), any payment that does not account for credit for applicable discounts, and any payment where insufficient or lack of documentation prevents a reviewer from discerning whether a payment was proper.

Section 200.303 Internal controls, states in part:

The non-Federal entity must:
(a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and

conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

(b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.

(d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.403 Factors affecting Allowability of costs.

Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under Federal awards.

(a) Be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles.
(b) Conform to any limitations or exclusions set forth in these principles or in the Federal award as to types or amount of cost items.
(c) Be consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the non-Federal entity.
(d) Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the sample purpose in like circumstances has been allocated to the Federal award as an indirect cost.
(e) Be determined in accordance with generally accepted accounting principles (GAAP), except, for state and local governments and Indian tribes only, as otherwise provided for in this part.
(f) Not be included as a cost or used to meet cost sharing or matching requirements of any other federally-financed program in either the current or a prior period. See also §200.306 Cost sharing or matching paragraph (b).
(g) Be adequately documented. See also §§200.300 Statutory and national policy requirements through 200.309 Period of performance of this part.

Section 200.410 Collection of unallowable costs.

Payments made for costs determined to be unallowable by either the Federal awarding agency, cognizant agency for indirect costs, or pass-through entity, either as direct or indirect costs, must be refunded (including interest) to the Federal Government in accordance with instructions from the Federal agency that determined the costs are unallowable unless Federal statute or regulation directs otherwise. See also Subpart D—Post Federal Award Requirements of this part, §§200.300 Statutory and national policy requirements through 200.309 Period of performance.

Section 200.430 Compensation-personal services states:

a) *General.* Compensation for personal services includes all remuneration, paid currently or accrued, for services of employees rendered during the period of

performance under the Federal award, including but not necessarily limited to wages and salaries. Compensation for personal services may also include fringe benefits which are addressed in §200.431 Compensation—fringe benefits. Costs of compensation are allowable to the extent that they satisfy the specific requirements of this part, and that the total compensation for individual employees:

(1) Is reasonable for the services rendered and conforms to the established written policy of the non-Federal entity consistently applied to both Federal and non-Federal activities;

(2) Follows an appointment made in accordance with a non-Federal entity's laws and/or rules or written policies and meets the requirements of Federal statute, where applicable; and

(3) Is determined and supported as provided in paragraph (i) of this section, Standards for Documentation of Personnel Expenses, when applicable.

(b) Reasonableness. Compensation for employees engaged in work on Federal awards will be considered reasonable to the extent that it is consistent with that paid for similar work in other activities of the non-Federal entity. In cases where the kinds of employees required for Federal awards are not found in the other activities of the non-Federal entity, compensation will be considered reasonable to the extent that it is comparable to that paid for similar work in the labor market in which the non-Federal entity competes for the kind of employees involved.

(c) Professional activities outside the non-Federal entity. Unless an arrangement is specifically authorized by a Federal awarding agency, a non-Federal entity must follow its written non-Federal entity-wide policies and practices concerning the permissible extent of professional services that can be provided outside the non-Federal entity for non-organizational compensation. Where such non-Federal entity-wide written policies do not exist or do not adequately define the permissible extent of consulting or other non-organizational activities undertaken for extra outside pay, the Federal Government may require that the effort of professional staff working on Federal awards be allocated between:

(1) Non-Federal entity activities, and

(2) Non-organizational professional activities. If the Federal awarding agency considers the extent of non-organizational professional effort excessive or inconsistent with the conflicts-of-interest terms and conditions of the Federal award, appropriate arrangements governing compensation will be negotiated on a case-by-case basis

Section 200.516 Audit findings, states in part:

(a) *Audit findings reported*. The auditor must report the following as audit findings in a schedule of findings and questioned costs:

(1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.

(2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.

(3) Known questioned costs that are greater than $25,000 for a type of compliance requirement for a major program. Known questioned costs are those specifically identified by the auditor. In evaluating the effect of questioned costs on the opinion on compliance, the auditor considers the best estimate of total costs questioned (likely questioned costs), not just the questioned costs specifically identified (known questioned costs). The auditor must also report known questioned costs when likely questioned costs are greater than $25,000 for a type of compliance requirement for a major program. In reporting questioned costs, the auditor must include information to provide proper perspective for judging the prevalence and consequences of the questioned costs.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in internal controls over compliance in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, as follows:

.11 For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows: …

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will

not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

> **Reasonably possible**. The chance of the future event or events occurring is more than remote but less than likely.
>
> **Probable**. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

2019-042 The Department of Children, Youth, and Families made improper payments to Foster Care providers.

Federal Awarding Agency: Department of Health and Human Services, Administration for Children and Families
Pass-Through Entity: None
CFDA Number and Title: 93.658 Foster Care – Title IV-E
Federal Award Number: G-1801WAFOST, G-1902WAFOST
Applicable Compliance Component: Eligibility
Known Questioned Cost Amount: $4,443,104

Background

The federal Foster Care – Title IV-E (Foster Care) program helps states provide safe and stable out-of-home care for children under the jurisdiction of the state's child welfare agency until the children are returned home, placed with adoptive families, or placed in other planned, permanent arrangements. The Department of Children, Youth, and Families (Department) is responsible for managing the Foster Care program. The Department spent about $124 million in federal grant funds during fiscal year 2019.

On October 1, 2018, the Family First Prevention Service Act (FFPSA) became effective. The purpose of the FFPSA is to reduce incentives for states to place children in congregate care and increase the stringency of background check requirements at group homes. Under the FFPSA, states no longer could claim reimbursement for the cost of placing a child in a licensed group home facility unless that home's licensing file contained proof that every individual working or volunteering in the facility successfully passed a national fingerprint-based background check.

During the audit period, the Department was operating under a provisional hire policy. The policy allowed a group care applicant who had lived three consecutive years in Washington before submitting their background check application, cleared a state background check and submitted fingerprints for a national check, to work and be paid for up to 120 days while the national check was pending.

Description of Condition

We found the Department materially complied with eligibility requirements for the Foster Care grant.

However, we found the Department paid $4,443,104 to providers who had not passed background checks as required by the FFPSA before providing services to clients.

This condition was not reported in the previous audit.

Cause of Condition

The Department submitted a waiver request to the federal government to seek additional time to comply with the FFPSA. The request was denied in April 2019.

The Department gave us evidence to show how it identified the improper payments. However, these funds were not repaid to the federal government during the audit period. The Department has requested additional resources during the current Legislative session to fund the improper payments.

Effect of Condition and Questioned Costs

The Department charged $4,443,104 to the federal grant that were not allowable. Therefore, we are questioning these costs.

We question costs when we find an agency has not complied with grant regulations or when it does not have adequate records to support its expenditures.

Recommendations

We recommend the Department consult with the grantor to discuss whether the questioned costs identified in the audit should be repaid.

Department's Response

The Department concurs with the audit finding that reimbursements made to group homes that had made provisional hires between October 1, 2018 and June 30, 2019 were unallowable.

Immediately after the president signed FFPSA into law on February 9, 2018, the Department began communicating with the group care facilities (stakeholders) about the new requirements. In response to stakeholder concerns, the Department agreed to continue placing and paying for children in group homes under the provisional hire policy and began seeking a waiver from HHS-ACF that would allow stakeholders more time to implement the necessary changes. However, in April of 2019, HHS-ACF denied the Department's request.

In response to HHS-ACF's decision, the Department drafted a new policy and notified the stakeholders that, effective July 1, 2019, it would no longer be placing children in group care facilities that did not meet the FFPSA background check requirements. Additionally, the Department calculated the amount of improper payments and submitted a budget request to the Legislature to repay the ineligible reimbursements.

Auditor's Remarks

We thank the Department for its cooperation and assistance throughout the audit. We will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.53 Improper Payments states:

(a) *Improper payment* means any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; and
(b) *Improper payment* includes any payment to an ineligible party, any payment for an ineligible good or service, any duplicate payment, any payment for a good or service not received (except for such payments where authorized by law), any payment that does not account for credit for applicable discounts, and any payment where insufficient or lack of documentation prevents a reviewer from discerning whether a payment was proper.

Section 200.403 Factors affecting Allowability of costs.

Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under Federal awards.
(a) Be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles.
(b) Conform to any limitations or exclusions set forth in these principles or in the Federal award as to types or amount of cost items.
(c) Be consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the non-Federal entity.
(d) Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the sample purpose in like circumstances has been allocated to the Federal award as an indirect cost.
(e) Be determined in accordance with generally accepted accounting principles (GAAP), except, for state and local governments and Indian tribes only, as otherwise provided for in this part.
(f) Not be included as a cost or used to meet cost sharing or matching requirements of any other federally-financed program in either the current or a prior period. See also §200.306 Cost sharing or matching paragraph (b).
(g) Be adequately documented. See also §§200.300 Statutory and national policy requirements through 200.309 Period of performance of this part.

Section 200.410 Collection of unallowable costs.

Payments made for costs determined to be unallowable by either the Federal awarding agency, cognizant agency for indirect costs, or pass-through entity, either as direct or indirect costs, must be refunded (including interest) to the Federal Government in accordance with instructions from the Federal agency that determined the costs are unallowable unless Federal statute or regulation directs otherwise. See also Subpart

D—Post Federal Award Requirements of this part, §§200.300 Statutory and national policy requirements through 200.309 Period of performance.

Section 200.516 Audit findings, states in part:

(a) *Audit findings reported*. The auditor must report the following as audit findings in a schedule of findings and questioned costs, states in part:

(3) Known questioned costs that are greater than $25,000 for a type of compliance requirement for a major program. Known questioned costs are those specifically identified by the auditor. In evaluating the effect of questioned costs on the opinion on compliance, the auditor considers the best estimate of total costs questioned (likely questioned costs), not just the questioned costs specifically identified (known questioned costs). The auditor must also report known questioned costs when likely questioned costs are greater than $25,000 for a type of compliance requirement for a major program. In reporting questioned costs, the auditor must include information to provide proper perspective for judging the prevalence and consequences of the questioned costs.

Title 45 U.S. Code of Federal Regulations Part 1356, *Requirements Applicable to Title IV-E*

Section 1356.30 Safety requirements for foster care and adoptive home providers, states in part:

(a) The title IV-E agency must provide documentation that criminal records checks have been conducted with respect to prospective foster and adoptive parents.

(f) In order for a child care institution to be eligible for title IV-E funding, the licensing file for the institution must contain documentation which verifies that safety considerations with respect to the staff of the institution have been addressed.

2019-043 The Department of Children, Youth and Families did not have adequate internal controls over and did not comply with requirements to ensure it separately identified and reported demonstration project costs.

Federal Awarding Agency:	Department of Health and Human Services, Administration for Children and Families
Pass-Through Entity:	None
CFDA Number and Title:	93.658 Foster Care – Title IV-E
Federal Award Number:	G-1801WAFOST, G-1902WAFOST
Applicable Compliance Component:	Special Tests and Provisions – Operation of a Foster Care Demonstration Project
Known Questioned Cost Amount:	None

Background

The federal Foster Care – Title IV-E (Foster Care) program helps states provide safe and stable out-of-home care for children under the jurisdiction of the state's child welfare agency until the children are returned home, placed with adoptive families, or placed in other planned, permanent arrangements.

As of July 1, 2018, the Legislature created a new state agency that combined the Department of Social and Health Services (DSHS) Children's Administration and the Department of Early Learning. The new agency is called the Department of Children, Youth, and Families (Department) and is now responsible for managing the Foster Care program. The Department spent about $124 million in federal grant funds during fiscal year 2019.

The Department operates the state's Foster Care program under a demonstration-project waiver approved in January 2014. The waiver allows the Department to waive standard eligibility rules for a specified period and to use federal funds more flexibly to operate projects that test innovative approaches to delivering and financing program services. The goal of the demonstration project is to improve the safety, permanency and well-being of the target population while being cost neutral to the federal awarding agency.

The Department's approved demonstration project is the Family Assessment Response program (FAR). The purpose of the FAR program is to reduce the number of children placed in foster care by Child Protective Services (CPS). The FAR program accomplishes this by providing an alternative method for CPS to respond to non-emergent allegations of child-neglect. By using federal funds to reduce the need for foster care placement, the Department will, in theory, reduce the cost of operating its traditional foster care system, and thereby accomplish the project goals while not increasing the net cost of the program.

The Department must operate its regular Foster Care program in tandem with the demonstration project while the waiver is in effect. The costs for both programs must be separately identified and

reported to the federal grantor each quarter based on whether they were standard Foster Care program costs or were allowable only because of the demonstration-project waiver. This provides the Department and federal grantor some of the data needed to determine the project's effectiveness.

The demonstration project concluded September 30, 2019.

In the prior audit, we reported DSHS did not have adequate internal controls over and did not comply with requirements to ensure it separately identified and reported demonstration project costs. The prior finding number is 2018-037.

Description of Condition

The Department did not have adequate internal controls over and did not comply with requirements to ensure it separately identified and reported demonstration project costs.

When submitting its quarterly financial reports to the federal grantor, the Department did not accurately report the amount it spent on activities that were allowable only for a demonstration project, as required. Instead, the Department reported only those costs that were not allowed to be paid with demonstration funds as traditional foster care spending. All other spending was reported as demonstration project costs. This resulted in the Department improperly reporting a significant amount of traditional foster care costs as demonstration project spending.

We consider this internal control deficiency to be a material weakness.

This condition was reported in the prior audit.

Cause of Condition

The Department did not completely understand the requirement for distinct accounting when it began operating under the demonstration-project waiver. The Department's accounting system was not designed to classify costs based on whether they were allowable or unallowable to be paid with demonstration project funds.

Effect of Condition

Because the accounting system did not separately track both cost categories, the Department misreported the amount of expenditures related to the demonstration project to the federal grantor. Due to this lack of separate accounting, we could not determine the amount that was misreported.

Recommendations

We recommend the Department:

- Revise its report preparation process and accounting system coding, if necessary, to enable it to separately identify both project cost categories

- Consult with the grantor about whether the Department must submit revised reports from prior years

Department's Response

The Department concurs with the finding.

While this is a repeat finding, the Department received the FY18 finding from the State Auditor's Office during February 2019, eight months after FY18 ended. Therefore, the Department was unable to revise its reporting process prior to the 2019 fiscal year.

During the last quarter of FY19, the Department's reporting process to separately identify and report project costs for both the Title IV-E Foster Care program and demonstration project were revised. Additionally, the Department assigned specific Famlink codes for payments and tracking purposes.

The Department would also like to note the Demonstration project concluded September 30, 2019.

The Department will work with the grantor if revisions to prior reports are determined to be necessary.

Auditor's Concluding Remarks

We thank the Department for its cooperation and assistance throughout the audit. We will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

(a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

(b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.

(d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.516 Audit findings, states in part:

(a) *Audit findings reported*. The auditor must report the following as audit findings in a schedule of findings and questioned costs:

(1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.

(2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.

Title 2 U.S. Code of Federal Regulations Part 200, Appendix XI, Compliance Supplement 2019, Part 3-Compliance Requirements, states in part:

Section N. Special Tests and Provisions, states in part:

2. Operation of a Foster Care Demonstration Project (Applicable Only for Title IV-E Agencies with ACF Approval to Operate a Foster Care Demonstration Project)

Compliance Requirement – Those Title IV-E agencies that receive approval to operate a foster care demonstration project for a specified period of time must do so in accordance with ACF-approved terms and conditions that define the operational parameters and the waivers granted. The funding for operation of such a project is subject to a cost neutrality limit that is calculated either through an experimental design (involving experimental group cases and either a control or matched comparison group process) or an established capped allocation table for identified populations (including agency-wide) in specific funding categories.

All Title IV-E agencies that operate a foster care demonstration project are also simultaneously continuing to operate the traditional (non-demonstration) foster care program for some portion of the agency's service population and/or funding. Operation of a foster care demonstration project, therefore, includes both the continuation of assistance payments and, where applicable, administration or training under the existing approved Title IV-E Plan and provision of project interventions or other waiver-based services for an identified population. Demonstration project operational costs, to the extent that they provide payments,

administration or training that is allowable for traditional Title IV-E foster care funding, must be in compliance with all applicable Title IV-E requirements (unless waived) and are subject to separate identification as part of financial reporting. Funding is also available, subject to separate ACF approvals, for the costs of demonstration project developmental and evaluation costs.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in internal controls over compliance in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, as follows:

.11 For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows: …

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

2019-044 The Department of Children, Youth, and Families did not have adequate internal controls over and did not comply with some Public Assistance Cost Allocation Plan Requirements.

Federal Awarding Agency:	Administration for Children & Families	
Pass-Through Entity:	None	
CFDA Number and Title:	93.658	Foster Care Title IV-E
	93.659	Adoption Assistance
	93.778	Medical Assistance Program
Federal Award Number:	1801WAFOST; 1902WAFOST; 1801WAADPT; 1902WAADPT; 1805WA5MAP; 1805WA5ADM;	
Applicable Compliance Component:	Activities Allowed/Unallowed Allowable Costs/Cost Principles	
Questioned Cost Amount:	None	

Background

The Department of Children, Youth, and Families (Department) uses the Random Moment Time Study (RMTS) to allocate costs for its headquarters and regional operations to the proper state and federal funds programs.

Department staff generally work on multiple programs and cases throughout a workday, which makes maintaining a timesheet difficult and time consuming. RMTS simplifies how the Department allocates the cost of time and effort to state and federal programs. RMTS is a sampling tool that is used to generate statistically valid statewide estimates of various activities performed by Department employees. The Department uses a system called FamLink to allow staff to work on client cases, document information, generate samples and compile RMTS results.

The Department's use of RMTS is included in its Public Assistance Cost Allocation Plan (PACAP) with the federal grantor. The PACAP is approved annually and outlines the general operating policies and procedures that RMTS staff must follow.

For the RMTS to properly calculate the percentages of activities performed by the Department, it must start by identifying a sampling universe that is accurate and complete. The sampling universe lists the eligible worker types to be included and is updated monthly to ensure all eligible workers are included in the sample. RMTS Coordinators and RMTS Headquarters (HQ) are responsible for keeping the list of sample workers current. Sampled workers are responsible for the accurate and timely completion of the RMTS sample and must complete samples within three business days. RMTS HQ performs a quality control review of all completed samples to ensure samples are being completed correctly. At the end of the month, the Department compiles the samples and enters results into the cost allocation system.

During fiscal year 2019, the Department used RMTS to allocate about $88 million to the following federal programs: Foster Care-Title IV-E, Adoption Assistance, and Medical Assistance Program.

Description of Condition

The Department did not have adequate internal controls over RMTS and did not comply with some Public Assistance Cost Allocation Plan requirements.

We randomly selected five out of the 12 monthly employee updates to determine whether the sampling universe was complete.

RMTS Headquarters

The Program Manager is responsible for creating monthly employee reports that show current staff that are in the sampling population and a report of employees who may be RMTS eligible. The Program Manager forwards these reports to the RMTS Coordinators asking for updates of employees on each report. Once program manager receives the RMTS Coordinators responses, the Program Manager updates FamLink to ensure the sampling universe is complete.

We found all five months the Program Manager created reports and communicated the reports to RMTS Coordinators. We also found that the Program Manager updates FamLink with responses from RMTS Coordinators.

RMTS Coordinators

RMTS Coordinators receive reports from the Program Manager asking for updates on employees in the reports. RMTS Coordinators review and send updates to the Program Manager, so updates can be made in FamLink to ensure the sampling universe is complete.

For the five months we reviewed, not all RMTS coordinators sent updates to the Program Manager regarding employee changes. Because the RMTS coordinators did not send updates, the sampling universe was not complete.

The Department had procedures in place, but they were ineffective in ensuring compliance with the PACAP. We consider this internal control deficiency to be a material weakness.

We consider these deficiencies to be a material weakness. This issue was not reported as a finding in the prior audit.

This condition was not reported in the prior audit.

Cause of Condition

The Department did not monitor RMTS coordinators to ensure that coordinators reviewed and sent updates to the Program Manager.

Effect of Condition

The Department’s inadequate internal controls affected the integrity of its RMTS sample universe. An erroneous sample could cause the costs charged by the Department for its headquarters and regional operations to federally funded programs to be unallowable according to the PACAP. If

the Department charged unallowable or unsupported costs to federal programs, the grantors could seek repayment for those costs.

Recommendation

We recommend the Department establish a process, including monitoring, to ensure RMTS sampling populations are complete.

Department's Response

The Department concurs with the finding that some RMTS Coordinators did not update data in Famlink timely.

The Department is committed to the importance of the RMTS data and ensuring that data is entered accurately and timely to ensure the proper allocation of costs across the agency. In December 2019, the Department hired an Assistant Secretary for Child Welfare Field Operations. The Assistant Secretary and the Financial and Business Services Division will work to strengthen internal controls and improve the processes around the RMTS sampling populations.

Auditor's Remarks

We thank the Department for its cooperation and assistance throughout the audit. We will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

(a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

(b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.

(d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.430 Compensation-personal services, states in part:

(5) For states, local governments and Indian tribes, substitute processes or systems for allocating salaries and wages to Federal awards may be used in place of or in addition to

the records described in paragraph (1) if approved by the cognizant agency for indirect cost. Such systems may include, but are not limited to, random moment sampling, “rolling” time studies, case counts, or other quantifiable measures of work performed.

(i) Substitute systems which use sampling methods (primarily for Temporary Assistance for Needy Families (TANF), the Supplemental Nutrition Assistance Program (SNAP), Medicaid, and other public assistance programs) must meet acceptable statistical sampling standards including:

(A) The sampling universe must include all of the employees whose salaries and wages are to be allocated based on sample results except as provided in paragraph (i)(5)(iii) of this section;

(B) The entire time period involved must be covered by the sample; and

(C) The results must be statistically valid and applied to the period being sampled.

(ii) Allocating charges for the sampled employees' supervisors, clerical and support staffs, based on the results of the sampled employees, will be acceptable.

(iii) Less than full compliance with the statistical sampling standards noted in subsection (5)(i) may be accepted by the cognizant agency for indirect costs if it concludes that the amounts to be allocated to Federal awards will be minimal, or if it concludes that the system proposed by the non-Federal entity will result in lower costs to Federal awards than a system which complies with the standards.

(6) Cognizant agencies for indirect costs are encouraged to approve alternative proposals based on outcomes and milestones for program performance where these are clearly documented. Where approved by the Federal cognizant agency for indirect costs, these plans are acceptable as an alternative to the requirements of paragraph (i)(1) of this section.

(7) For Federal awards of similar purpose activity or instances of approved blended funding, a non-Federal entity may submit performance plans that incorporate funds from multiple Federal awards and account for their combined use based on performance-oriented metrics, provided that such plans are approved in advance by all involved Federal awarding agencies. In these instances, the non-Federal entity must submit a request for waiver of the requirements based on documentation that describes the method of charging costs, relates the charging of costs to the specific activity that is applicable to all fund sources, and is based on quantifiable measures of the activity in relation to time charged.

(8) For a non-Federal entity where the records do not meet the standards described in this section, the Federal Government may require personnel activity reports, including prescribed certifications, or equivalent documentation that support the records as required in this section.

Section 200.516 Audit findings, states in part:

(a) *Audit findings reported*. The auditor must report the following as audit findings in a schedule of findings and questioned costs:

(1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.

(2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in internal controls over compliance in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, as follows:

.11 For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows: …

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.
Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

C-22-1, Department of Children Youth and Families RMTS Program Instructions, page 83, states in part:

Headquarters RMTS staff shall be responsible for the following actions:

Overseeing the system's monthly batching of new samples, which includes three variables:

- Random Starting Time
- Random Interval Time Random
- Employee List

The Headquarters RMTS Staff work with the RMTS Coordinators in order to keep the list of sampled workers current. Worker employment status changes should be reported by the social workers' supervisors to RMTS Coordinators. In addition, HQ Staff need to verify that each worker has an RMTS Worker Type associated with him or her and an RMTS Group linking the worker to his or her coordinator.

The Regional RMTS Coordinator shall be responsible for the following actions:

Notify HQ RMTS Staff of any updates to their worker list when there is any change in employment status of a worker participating in the RMTS survey within five working days of change. In addition, the coordinator needs to provide HQ RMTS Staff with an appropriate RMTS Worker Type code for each worker added to the system.

2019-045 The Department of Children, Youth, and Families did not have adequate internal controls over its process to allocate administrative expenditures to federal grants.

Federal Awarding Agency:	Office of Child Care, Administration for Children & Families, Department of Health and Human Services
Pass-Through Entity:	None
CFDA Number and Title:	93.575 Child Care and Development Fund Cluster 93.658 Foster Care Title IV-E 93.659 Adoption Assistance 93.870 Maternal, Infant and Early Childhood Home Visiting Grant 93.778 Medical Assistance Program
Federal Award Number:	1801WATANF;1801WATAN3; 1901WATANF;1901WATAN3; G1801WACCDF; G1901WACCDF; 1801WAFOST; 1902WAFOST; 1801WAADPT; 1902WAADPT; UH4MC30465; UH4MC33157; X10MC32742; 1805WA5MAP; 1805WA5ADM;
Applicable Compliance Component:	Activities Allowed/Unallowed Allowable Costs/Cost Principles
Questioned Cost Amount:	None

Background

As a condition of receiving federal grant funds, the Department of Children, Youth, and Families (Department) must submit a public assistance cost allocation plan (PACAP) to the U.S. Department of Health and Human Services each state fiscal year. The PACAP describes how administrative costs of the Department are allocated to all funding sources including federal grants.

The Department uses the Cost Allocation System (CAS), a subsystem of the Agency Financial Reporting System (AFRS), to execute its PACAP. The Department develops appropriate methodologies and updates cost allocation base input tables that contain cost objectives, which automatically distributes the cost of payments to either state, local, or federal funding sources. The tables in CAS can be added, deleted, changed, or inactivated each calendar month.

As part of its cost allocation process, the Department establishes bases that are used to distribute costs to multiple funding sources. Each base consists of elements that are assigned a percentage that dictates how much of the original payment is allocated to it. For example, a base could be made up of three elements that allocate 35 percent, 25 percent and 40 percent, respectively, that will total 100 percent. Records of these bases are kept in workbooks that are reviewed and approved before being uploaded or keyed to AFRS for use.

In fiscal year 2019, the Department used CAS to allocate about $220 million in administrative costs to federal programs, such as but not limited to: Child Care and Development Block Grant, Foster Care Title IV-E, Adoption Assistance, Maternal, Infant and Early Childhood Visiting Home Visiting and Medical Assistance Program.

Description of Condition

The Department did not have adequate internal controls over its process to allocate administrative expenditures to federal grants.

During fiscal year 2019, the Department established 156 total bases used to allocate costs. We randomly selected 26 to examine and found:

- Three instances when the Department did not have adequate documentation to show the updates made to the tables in CAS were accurate and supported
- One instance when there was no documented evidence to show that workbooks were reviewed and approved by a supervisor
- 12 instances when there was no documented evidence that the coding input into AFRS was reviewed to ensure its accuracy before being finalized
- Three instances when the person who input coding into AFRS was the same person who reviewed and finalized the input to ensure its accuracy. According to the Department, these duties should be segregated.

We consider these deficiencies to be a material weakness. This issue was not reported as a finding in the prior audit.

Cause of Condition

The Department said it did not keep proper documentation because of limited staffing resources. Management has focused its resources on the recent merger of multiple agencies and taking on the management of the Juvenile Rehabilitation Administration and the Child Care Subsidy Customer Service Contact Center program, which formerly were managed by the Department of Social and Health Services.

Effect of Condition

By not establishing adequate internal controls, there is an increased risk that the Department will not properly allocate costs to the federal government. Improper allocations could lead to improper payments, for which grantors could seek reimbursement from the Department.

Recommendations

We recommend the Department:

- Ensure there is adequate documentation to show what updates are made to base workbooks and that supervisors have reviewed and approved the updates
- Establish segregation of duties, with different people preparing and reviewing workbooks

Department's Response

The Department concurs with the finding that adequate documentation was not maintained to show that proper internal controls were in place for changes made to the cost allocation bases in AFRS.

During the audit period, the Department's resources were focused on the transition of the Juvenile Rehabilitation Division and Child Care Subsidy Customer Service Contact Center program,

formerly of the Department of Social and Health Services, into the Department effective July 2019. The cost allocation team responsible for completing the documentation for changes to AFRS bases were assisting with the transition and onboarding of an additional 1,500 employees during the same time-period. Due to the lack of available resources and vacant positions, the Department chose to focus staff time on processing the new agency payroll and benefits payments and other onboarding activities.

As to the Auditor's specific recommendations, the Department will provide training to cost allocation employees on segregation of duties and proper documentation for cost allocation base changes.

Auditor's Remarks

We thank the Department for its cooperation and assistance throughout the audit. We will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

(a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

(b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.

(d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.516 Audit findings, states in part:

(a) *Audit findings reported*. The auditor must report the following as audit findings in a schedule of findings and questioned costs:

(1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.

(2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.

Appendix VI to Part 200—Public Assistance Cost Allocation Plans

A. GENERAL

Federally-financed programs administered by state public assistance agencies are funded predominately by the Department of Health and Human Services (HHS). In support of its stewardship requirements, HHS has published requirements for the development, documentation, submission, negotiation, and approval of public assistance cost allocation plans in Subpart E of 45 CFR Part 95. All administrative costs (direct and indirect) are normally charged to Federal awards by implementing the public assistance cost allocation plan. This Appendix extends these requirements to all Federal awarding agencies whose programs are administered by a state public assistance agency. Major federally-financed programs typically administered by state public assistance agencies include: Temporary Aid to Needy Families (TANF), Medicaid, Food Stamps, Child Support Enforcement, Adoption Assistance and Foster Care, and Social Services Block Grant.

B. DEFINITIONS

1. State public assistance agency means a state agency administering or supervising the administration of one or more public assistance programs operated by the state as identified in Subpart E of 45 CFR Part 95. For the purpose of this Appendix, these programs include all programs administered by the state public assistance agency.
2. State public assistance agency costs means all costs incurred by, or allocable to, the state public assistance agency, except expenditures for financial assistance, medical contractor payments, food stamps, and payments for services and goods provided directly to program recipients.

C. POLICY

State public assistance agencies will develop, document and implement, and the Federal Government will review, negotiate, and approve, public assistance cost allocation plans in accordance with Subpart E of 45 CFR Part 95. The plan will include all programs administered by the state public assistance agency. Where a letter of approval or disapproval is transmitted to a state public assistance agency in accordance with Subpart E, the letter will apply to all Federal agencies and programs. The remaining sections of this Appendix (except for the requirement for certification) summarize the provisions of Subpart E of 45 CFR Part 95.

D. SUBMISSION, DOCUMENTATION, AND APPROVAL OF PUBLIC ASSISTANCE COST ALLOCATION PLANS

1. State public assistance agencies are required to promptly submit amendments to the cost allocation plan to HHS for review and approval.

2. Under the coordination process outlined in section E, Review of Implementation of Approved Plans, affected Federal agencies will review all new plans and plan amendments and provide comments, as appropriate, to HHS. The effective date of the plan or plan amendment will be the first day of the calendar quarter following the event that required the amendment, unless another date is specifically approved by HHS. HHS, as the cognizant agency for indirect costs acting on behalf of all affected Federal agencies, will, as necessary, conduct negotiations with the state public assistance agency and will inform the state agency of the action taken on the plan or plan amendment.

E. REVIEW OF IMPLEMENTATION OF APPROVED PLANS

1. Since public assistance cost allocation plans are of a narrative nature, the review during the plan approval process consists of evaluating the appropriateness of the proposed groupings of costs (cost centers) and the related allocation bases. As such, the Federal Government needs some assurance that the cost allocation plan has been implemented as approved. This is accomplished by reviews by the Federal awarding agencies, single audits, or audits conducted by the cognizant agency for indirect costs.
2. Where inappropriate charges affecting more than one Federal awarding agency are identified, the cognizant HHS cost negotiation office will be advised and will take the lead in resolving the issue(s) as provided for in Subpart E of 45 CFR Part 95.
3. If a dispute arises in the negotiation of a plan or from a disallowance involving two or more Federal awarding agencies, the dispute must be resolved in accordance with the appeals procedures set out in 45 CFR Part 16. Disputes involving only one Federal awarding agency will be resolved in accordance with the Federal awarding agency's appeal process.
4. To the extent that problems are encountered among the Federal awarding agencies or governmental units in connection with the negotiation and approval process, the Office of Management and Budget will lend assistance, as required, to resolve such problems in a timely manner.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in internal controls over compliance in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, as follows:

.11 For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows: …

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person

performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

> **Reasonably possible**. The chance of the future event or events occurring is more than remote but less than likely.
> **Probable**. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.
Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

2019-046 The Department of Health did not have adequate internal controls over and did not comply with requirements to ensure complaints for Medicaid hospitals were responded to promptly.

Federal Awarding Agency:	U.S. Department of Health and Human Services	
Pass-Through Entity:	None	
CFDA Number and Title:	93.775	State Medicaid Fraud Control Units
	93.777	State Survey and Certification of Health Care Providers and Suppliers (Title XVIII) Medicare
	93.778	Medical Assistance Program (Medicaid; Title XIX)
Federal Award Number:	1905WA5MAP; 1905WA5ADM; 1905WAIMPL; 1905WAINCT	
Applicable Compliance Component:	Special Test – Provider Health and Safety Standards	
Known Questioned Cost Amount:	None	

Background

Medicaid is a jointly funded state and federal partnership providing coverage for about 1.8 million eligible low-income Washington residents who otherwise might go without medical care. Medicaid is Washington's largest public assistance program and accounts for about one-third of the State's federal expenditures. The program spent about $13.6 billion in federal and state funds during fiscal year 2019.

The Centers for Medicare and Medicaid Services (CMS), which administers the program at the federal level, relies on states to regulate and license hospitals that serve Medicaid clients. Medicaid coverage for hospitals is authorized only when the facility is licensed by the state and certified by either the state survey agency (for non-deemed hospitals) or an accrediting organization (for deemed hospitals). The term "deemed" means the facility has voluntarily requested and received permission from the CMS to be certified by an accrediting organization, while hospitals that are "non-deemed" have not.

The Department of Health (Department) is the state licensing agency and is also responsible for investigating hospital complaints that meet the federal-prioritization level. The Department's Office of Health Systems Oversight (OHSO) is responsible for coordinating and performing investigation surveys. The Department's Office of Investigation and Legal Services (OILS) is the front line response system for providing the intake and assignment functions for complaints from staff, patients, accrediting organizations, and the public.

Deemed hospitals are surveyed for CMS certification by their accrediting organizations. However, the Department performs an investigation survey for complaints that meet the federal-prioritization level.

Complaints can be submitted to the OILS online or by mail, email or telephone. The OILS uses the Integrated Licensing and Regulatory System (ILRS) to input, prioritize and track complaints. OILS intake staff review all report types regardless of delivery method before entering them into ILRS. OILS performs a check for imminent danger and then delivers the complaint to the Office of Customer Service where the paper file is scanned into a secure drive. Finally, the intake staff determine which Office or Commission within the Department to route the complaint to for further assessment.

In fiscal year 2019, OILS received 23,714 complaints, of which 1,074 were valid hospital complaints.

Complaints can also be submitted to the OHSO as a result of an on-site investigation already being conducted by the Department, from an accrediting organization, or directly from CMS. Complaints received from these sources guarantee the federal threshold for investigation has been met. Once a complaint has been identified as meeting the federal threshold for an investigation, the complaint is entered into the ASPEN Complaint Tracking System (ACTS). OHSO is responsible for reviewing, prioritizing and tracking the complaints. The following table lists the four priority levels for new complaints and their respective federal response times for non-deemed hospitals:

Priority levels and response times for non-deemed hospitals

Priority Levels	Required Response
Immediate Jeopardy	Initiate onsite survey within 2 working days of receipt
Non-Immediate Jeopardy High	Initiate onsite survey within 45 calendar days of prioritization
Non-Immediate Jeopardy Medium	Must investigate no later than when the next onsite survey occurs
Non-Immediate Jeopardy Low	Must track/trend for potential focus areas during the next onsite survey

The Department has full jurisdiction for complaints received against non-deemed hospitals. However, if a hospital is deemed and certified by an accrediting organization, the Department must receive CMS regional office authorization before investigating the complaint. The following table lists the four priority levels for new complaints and their respective federal response times for deemed hospitals:

Priority levels and response times for deemed hospitals

Priority Levels	Required Response
Immediate Jeopardy	Initiate onsite survey within 2 working days of receipt of regional office authorization
Non-Immediate Jeopardy High	Initiate onsite survey within 45 calendar days of receipt of regional office authorization
Non-Immediate Jeopardy Medium	Complainant is referred to the applicable accrediting organization(s)
Non-Immediate Jeopardy Low	Complainant is referred to the applicable accrediting organization(s)

In addition to the federal timelines listed above, Washington Administrative Code WAC 246-14-040 states in part (2) that the basic time period for initial assessment is 21 days.

The CMS State Operations Manual requires an assessment of each hospital complaint to be made by an individual who is professionally qualified to evaluate the nature of the problem based on his or her knowledge and experience of current clinical standards of practice and federal requirements. The complaints are then assigned to the field staff.

Case managers from the (OHSO) unit review the complaints for immediate jeopardy. If it does not identify immediate jeopardy, it prioritizes the complaint at the next weekly case management meeting. Once a decision is made that the complaint meets the federal-prioritization level for investigation, the case manager assigns the complaint to field staff or, for non-deemed hospitals, requests authorization from the regional office through ACTS to initiate an investigation.

In fiscal year 2019, the OHSO created 97 hospital complaints. The following table shows the number of complaints assigned to each priority level:

Number and priority of hospital complaints created by OHSO

Priority Level	Number of Complaints Created
Immediate Jeopardy	20
Non-Immediate Jeopardy high	60
Non-Immediate Jeopardy Medium	11
Referral-Other	2
No Action Necessary	4

OHSO field staff investigate the complaint and perform follow-up within the assigned priority time frame determined by the priority level noted in the above table.

Description of Condition

The Department did not have adequate internal controls over and did not comply with requirements to ensure complaints for CMS certified hospitals were responded to promptly.

We found the Department followed its established procedures. However, they were not designed effectively to prevent non-compliance with federal and state response timelines.

We consider this internal control deficiency to be a material weakness.

This condition was not reported in the prior audit.

Cause of Condition

Multiple offices were involved with the intake and processing of complaints before reaching the Department staff who made determinations about how to properly prioritize the complaints. Intake staff also stated that they had an increase in the number of complaints coupled with a lack of

staffing during that period. This prevented the Department from ensuring timely responses to hospital complaints.

Effect of Condition

The Department did not comply with the requirements related to assessment of and response to complaints.

We used a statistical sampling method to randomly select 57 out of 1,074 total hospital complaints received by OILS and found six (11 percent) complaints were not initially assessed within 21 days as required by state rule.

Additionally, we used a statistical sampling method to randomly select 15 out of 97 total hospital complaints that met the federal-deficiency threshold for investigation and found one (7 percent) non-immediate jeopardy high prioritized complaint that was not investigated within the federal timeframe of 45 calendar days.

When complaints are not received, prioritized and investigated in a timely manner, vulnerable patients are at a higher risk of abuse, neglect and substandard care.

Recommendation

We recommend the Department strengthen its internal controls to ensure it responds to hospital complaints as required by state and federal regulations.

Department's Response

We appreciate the State Auditor's Office (SAO) audit of CMS hospital complaint response. DOH is committed to ensuring our programs comply with federal regulations and understand that it is SAO's point of view that we were not in compliance with the state and federal timelines. We recognize and are in the process of hiring 3 additional staff to assist with the intake process. We have reviewed our process with CMS and received a letter stating that they agree with the process that is currently in place.

Auditor's Remarks

We thank the Department for its cooperation and assistance throughout the audit. We will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

(a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

(b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.

(d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.516 Audit findings, states in part:

(a) *Audit findings reported*. The auditor must report the following as audit findings in a schedule of findings and questioned costs:

(1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.

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Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

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Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

Centers for Medicare and Medicaid, The State Medicaid Manual, Chapter 5 – Complaint Procedures, modified 09-19-14:

5075.2 – Non-Immediate Jeopardy – High Priority (for Nursing Homes and Deemed and Non-Deemed Non-Long Term Care Providers/Suppliers) states in part:

Intakes assigned this priority require an onsite survey to be initiated within 45 calendar days after intake prioritization for non-deemed providers/suppliers, and within 45 days calendar days after authorization of the investigation by the RO for deemed status providers/suppliers.

Washington Administrative Code WAC 246-14-040 Initial assessment of reports states:

(1) Initial assessment is the process of determining whether a report warrants an investigation and becomes a complaint. The complainant and credential holder or applicant will be notified as soon as possible after the initial assessment is complete.
(2) The basic time period for initial assessment is twenty-one days.
(3) All reports will be reviewed for imminent danger within two working days. If imminent danger is identified, the report will be immediately forwarded for processing.

2019-047 The Health Care Authority did not have adequate internal controls over and did not comply with a state law requirement to perform semi-annual data sharing with health insurers.

Federal Awarding Agency:	U.S. Department of Health and Human Services
Pass-Through Entity:	None
CFDA Number and Title:	93.775 State Medicaid Fraud Control Units 93.777 State Survey and Certification of Health Care Providers and Suppliers (Title XVIII) Medicare 93.778 Medical Assistance Program (Medicaid; Title XIX)
Federal Award Number:	1905WA5MAP; 1905WA5ADM; 1905WAIMPL; 1905WAINCT
Applicable Compliance Component:	Allowable Costs/Cost Principles
Questioned Cost Amount:	None

Background

Medicaid is a jointly funded state and federal partnership providing coverage for about 1.8 million eligible low-income Washington residents who otherwise might go without medical care. Medicaid is Washington's largest public assistance program and accounts for about one-third of the State's federal expenditures. The program spent about $13.6 billion in federal and State funds during fiscal year 2019.

It is common for Medicaid beneficiaries to have one or more additional sources of coverage for health care services. Third-party liability refers to the legal obligation of third parties, such as insurance companies, to pay part or all of the expenditures for medical assistance furnished under a Medicaid state plan. By law, Medicaid is the "payer of last resort," meaning all other available third-party resources must meet their legal obligation to pay claims before the Medicaid program pays for the care of an individual eligible for Medicaid.

The federal Deficit Reduction Act of 2005 (Act) requires health insurers to give states eligibility and coverage information that will enable Medicaid agencies to determine whether clients have third-party coverage. As a condition of receiving federal Medicaid funding, the Act directed states to enact laws requiring health insurers doing business in their state to provide the eligibility and coverage information necessary to determine whether Medicaid clients have third-party coverage. To comply with this requirement, in 2007 the Legislature passed Revised Code of Washington (RCW) 74.09A, which requires the Health Care Authority (Authority) to provide Medicaid client eligibility and coverage information to health insurers. As a condition of doing business with the State, the insurers must use that information to identify Medicaid clients with third-party coverage and provide those results to the Authority. The law requires the exchange of data to occur at least twice a year. The Authority must focus its implementation of the law on those health insurers with the highest probability of joint beneficiaries.

In January 2015, the U.S. Government Accountability Office (GAO) published audit report GAO-15-208, *Additional Federal Action Needed to Further Improve Third-Party Liability Efforts* for the Medicaid program. GAO found states commonly face challenges with their third-party liability efforts, such as health insurers refusing the provider coverage information or denying liability for procedural reasons.

Since 2008, we have reported findings regarding lack of internal controls over and noncompliance with State law in this area. Prior audit finding numbers were 2018-041, 2017-031, 2016-028, 2015-030, 2014-034, 2013-020, 12-49, 11-38, 10-40, 09-19 and 08-25.

Description of Condition

The Authority did not have adequate internal controls over and did not comply with a State law requirement to perform semi-annual data sharing with health insurers.

The U.S. Centers for Medicare and Medicaid Services developed the Payer Initiated Eligibility/Benefits (PIE) transaction format for data sharing. The Authority implemented this transaction format in July 2013. In October 2013, the Authority sent letters to 10 major insurance carriers with the most Medicaid clients, inviting them to begin data sharing. Three insurance networks organized under one carrier (Cambia Health Solutions) – Regence, Bridgespan and Assuris – have chosen to work with the Authority to implement the PIE transaction and share data.

During fiscal year 2018, the Authority refined the logic for uploading PIE data files into its Medicaid Management Information System, ProviderOne, to ensure accurate automated loading of data. However, the Authority could not complete data exchanges because of data file uploading issues. The Authority worked with the ProviderOne vendor and resolved the issues on June 1, 2018, with the file uploading process occurring weekly beginning in July 2018. The participating carrier provided data on 14.7 million policyholders. From these policyholders, the Authority successfully identified 193,419 Medicaid recipients. However, the remaining nine major carriers did not participate in the data exchange process.

The law (RCW 74.09A.020(1)) stipulates that the Authority must provide client data to health insurers, and the insurers must identify joint beneficiaries and send the information to the Authority. The law and the Authority's current practice do not align because the insurers are not conducting this identification. In practice, the data exchange is initiated by payers (insurers), and then the Authority uploads primary payer information into ProviderOne.

Cause of Condition

The Authority asserts it has no legal influence to enforce or compel private insurance carriers to participate in the PIE data exchange.

Prior findings for this area have been shown to the Legislature, and we have recommended the Authority seek and obtain legal authority to enforce the data sharing requirements prescribed in RCW 74.09A.020(2). Because of our recommendations, the Authority requested legislation to

modify the method and timing of data exchange with insurance carriers to help it comply. The bill proposed by the Authority did not receive legislative sponsorship.

Effect of Condition

Without performing the data exchange and cross-matching insurance claims, the Authority cannot completely and promptly identify Medicaid clients who have third-party coverage. This increases the Authority's risk of paying unallowable claims.

Because this finding reports non-compliance with State law, the Office of Financial Management must (RCW 43.09.312(1)) submit the agency's response and plan for remediation to the Governor, the Joint Legislative Audit and Review Committee, and the relevant fiscal and policy committees of the Senate and House of Representatives.

Recommendations

We recommend the Authority:

- Work with the Legislature to bring Washington into compliance with State law
- Continue its efforts to perform data matches with private insurers

Authority's Response

The SAO is correct in stating that not all health insurers participate in semi-annual data sharing processes with the Health Care Authority (HCA) according to the specifics described in state law (RCW 74.09A.020(5)). The SAO is not correct in concluding that, because of this, HCA is not able to promptly identify Medicaid clients with third party insurance coverage.

Insurers do share data, and HCA has robust and effective processes for identifying and collecting from third parties, much of which happens on an on-going basis and in real time. These activities include data exchanges with insurers; data matching using information obtained from other governmental agencies; cross-matching of insurance claims; and regularly exchanging data with our Medicaid Managed Care Organizations (MCOs). Acting on behalf of HCA, as required by contract, MCOs perform data matches with insurance carriers in the State of Washington that includes the utilization of large national databases to identify third party coverage. MCOs regularly share the results of their data matches with HCA. HCA has found these activities to be very effective in the timely identification of third party insurers.

SAO's finding is based on a specific data exchange method which most carriers have chosen not to participate in and which HCA has no legal authority to enforce. SAO management stated it believes HCA should seek and obtain that legal authority through legislation, and continues this audit finding in support of that opinion. The Office of the Insurance Commissioner is responsible for regulating insurers, not HCA. HCA has requested legislation to amend the specific details of data exchange to align with the data exchange method used by HCA. This legislation will not give HCA enforcement authority to require insurers to participate in that specific data exchange.

HCA will continue to engage in a variety of effective third party liability identification activities, including encouraging insurance carriers to share data, as we have been doing for many years.

Auditor's Concluding Remarks

State law (RCW 74.09A) requires the Authority to use a specific method of data exchange to accomplish third-party verification. The Authority is not using that method, putting it out of material compliance with the law.

The Authority does engage in other methods of third-party payment verification. However, the Authority will continue to be bound by the specific requirements of state law, just as our Office is bound by the requirement to audit to that standard. Because a state law is at issue, our Office suggested the Authority work with the Legislature on a resolution.

We reaffirm our finding and will review the status of this issue during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes reporting requirements for audit findings.

Section 200.303 Internal controls.

The non-Federal entity must:

(a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

(b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.

Section 200.516 Audit reporting, states in part:

(a) *Audit findings reported.* The auditor must report the following as audit findings in a schedule of findings and questioned costs:

(1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.

(2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is

material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in internal controls over compliance in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits:

.11 For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows: …
Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.
Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:
Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.
Probable. The future event or events are likely to occur.
Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.
Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

Title 42, United States Code, Part 1396a(a)(25) State plan for medical assistance, states in part:

(A) that the State or local agency administering such plan will take all reasonable measures to ascertain the legal liability of third parties (including health insurers, self-insured plans, group health plans (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1167(1)]), service benefit plans, managed

care organizations, pharmacy benefit managers, or other parties that are, by statute, contract, or agreement, legally responsible for payment of a claim for a health care item or service) to pay for care and services available under the plan, including-

(i) the collection of sufficient information (as specified by the Secretary in regulations) to enable the State to pursue claims against such third parties, with such information being collected at the time of any determination or redetermination of eligibility for medical assistance, and

(ii) the submission to the Secretary of a plan (subject to approval by the Secretary) for pursuing claims against such third parties, which plan shall be integrated with, and be monitored as a part of the Secretary's review of, the State's mechanized claims processing and information retrieval systems required under section 1396b(r) of this title;

(H) that to the extent that payment has been made under the State plan for medical assistance in any case where a third party has a legal liability to make payment for such assistance, the State has in effect laws under which, to the extent that payment has been made under the State plan for medical assistance for health care items or services furnished to an individual, the State is considered to have acquired the rights of such individual to payment by any other party for such health care items or services; and

Revised Code of Washington 74.09A.005 Findings, states:

The legislature finds that:

(1) Simplification in the administration of payment of health benefits is important for the state, providers, and health insurers;

(2) The state, providers, and health insurers should take advantage of all opportunities to streamline operations through automation and the use of common computer standards;

(3) It is in the best interests of the state, providers, and health insurers to identify all third parties that are obligated to cover the cost of health care coverage of joint beneficiaries; and

(4) Health insurers, as a condition of doing business in Washington, must increase their effort to share information with the authority and accept the authority’s timely claims consistent with 42 U.S.C. 1396a(a)(25).

Therefore, the legislature declares that to improve the coordination of benefits between the health care authority and health insurers to ensure that medical insurance benefits are properly utilized, a transfer of information between the authority and health insurers should be instituted, and the process for submitting requests for information and claims should be simplified.

Revised Code of Washington 74.09A.020 Computerized information — Provision to health insurers, states:

1. The authority shall provide routine and periodic computerized information to health insurers regarding client eligibility and coverage information. Health insurers shall use this information to identify joint beneficiaries. Identification of joint beneficiaries shall be transmitted to the authority. The authority shall use this information to improve

accuracy and currency of health insurance coverage and promote improved coordination of benefits.

2. To the maximum extent possible, necessary data elements and a compatible database shall be developed by affected health insurers and the authority. The authority shall establish a representative group of health insurers and state agency representatives to develop necessary technical and file specifications to promote a standardized database. The database shall include elements essential to the authority and its population's health insurance coverage information.
3. If the state and health insurers enter into other agreements regarding the use of common computer standards, the database identified in this section shall be replaced by the new common computer standards.
4. The information provided will be of sufficient detail to promote reliable and accurate benefit coordination and identification of individuals who are also eligible for authority programs.
5. The frequency of updates will be mutually agreed to by each health insurer and the authority based on frequency of change and operational limitations. In no event shall the computerized data be provided less than semiannually.
6. The health insurers and the authority shall safeguard and properly use the information to protect records as provided by law, including but not limited to chapters 42.48, 74.09, 74.04, 70.02, and 42.56 RCW, and 42 U.S.C. Sec. 1396a and 42 C.F.R. Sec. 43 et seq. The purpose of this exchange of information is to improve coordination and administration of benefits and ensure that medical insurance benefits are properly utilized.
7. The authority shall target implementation of this section to those health insurers with the highest probability of joint beneficiaries.

2019-048 The Health Care Authority did not have adequate internal controls over and did not comply with requirements to ensure certain Medicaid providers were revalidated every five years or that screening and fingerprint-based criminal background check requirements were met.

Federal Awarding Agency:	U.S. Department of Health and Human Services
Pass-Through Entity:	None
CFDA Number and Title:	93.775 State Medicaid Fraud Control Units 93.777 State Survey and Certification of Health Care Providers and Suppliers (Title XVIII) Medicare 93.778 Medical Assistance Program (Medicaid; Title XIX)
Federal Award Number:	1905WA5MAP; 1905WA5ADM; 1905WAIMPL; 1905WAINCT
Applicable Compliance Component:	Special Tests and Provisions – Provider Eligibility-Provider Revalidation
Known Questioned Cost Amount:	None

Background

Medicaid is a jointly funded state and federal partnership providing coverage for about 1.8 million eligible low-income Washington residents who otherwise might go without medical care. Medicaid is Washington's largest public assistance program and accounts for about one-third of the State's federal expenditures. The program spent about $13.6 billion in federal and state funds during fiscal year 2019.

Provider enrollment

In March 2011, a new federal regulation required state Medicaid agencies to revalidate the enrollment of all Medicaid providers at least every five years. The Centers for Medicare and Medicaid Services (CMS) notified states through an informational bulletin that the revalidation of all providers, enrolled on or before March 25, 2011, must be completed by March 24, 2016.

In January 2016, CMS issued updated guidance to states that extended the deadline for provider revalidation to September 25, 2016. This new deadline applied to all providers enrolled on or before September 25, 2011. After this deadline, all providers must be revalidated every five years from their initial enrollment date. As part of this updated guidance, CMS required states to notify all affected providers of the revalidation requirement by the original March 24, 2016, deadline.

Provider screening risk levels

The first step in revalidating a provider is to determine the provider's screening risk level. A provider can be designated as one of three risk levels: limited, moderate or high. Each risk level requires progressively greater scrutiny of the provider before it can be revalidated. CMS issued initial guidance on screening levels for specific provider types. For providers enrolled with both Medicare and Medicaid, state Medicaid agencies must assign providers to the same or higher risk category applicable under Medicare. In addition, certain provider behaviors require a provider to be moved to a higher screening risk level.

The following are the required screening procedures for each of the risk levels:

<u>Limited risk</u>

- Verify that provider meets applicable federal regulations or state requirements for provider type before making an enrollment determination
- Conduct license verifications, including for licenses in states other than where the provider is enrolling
- Conduct database checks to ensure providers continue to meet the enrollment criteria for their provider type

<u>Moderate risk</u>

- Perform the limited risk screening requirements
- Conduct onsite visits

<u>Higher risk</u>

- Perform the limited risk screening requirements
- Conduct a fingerprint-based criminal background check

According to federal regulation, state Medicaid agencies must adjust the categorical risk level of a particular provider from limited or moderate to high when any of the following situations occurs:

- A Medicaid agency imposes a payment suspension on a provider based on credible allegation of fraud, waste or abuse. The provider's risk level remains high for 10 years after the date the payment suspension was issued.
- A provider that, upon applying for enrollment or revalidation, is found to have an existing state Medicaid plan overpayment.
- The provider has been excluded by the Office of Inspector General or another state's Medicaid program in the previous 10 years,
- A Medicaid agency or CMS, in the previous six months, lifted a temporary moratorium for the particular provider type and a provider that was prevented from enrolling based on the moratorium applies for enrollment as a provider any time within six months from the date the moratorium was lifted.

Fingerprint-based criminal background check

In revalidating a provider's enrollment, the state Medicaid agency must conduct a fingerprint-based criminal background check when the agency has designated a provider as high risk. A high-risk provider or a person with a 5 percent or more direct or indirect ownership interest in the provider is subject to the fingerprint check requirement. The deadline to fully implement a fingerprint-based criminal background check process was June 1, 2016. The full implementation date is the date when the state Medicaid agency is required to have completed each of the following tasks related to fingerprint-based criminal background checks:

- Notify each provider in the high risk category about the fingerprint-based criminal background check requirement
- Collect and use fingerprints to verify whether the provider or any other person with a 5 percent or more indirect ownership interest in the provider has a criminal history in the state or, if it chooses, at the national level
- Take necessary termination action based on the criminal history date and updated enrollment records to reflect fingerprint-based check status
- Indicate in the enrollment record for a provider in the high-risk category whether and when the provider passed, failed or failed to respond to the requirement for fingerprint-based criminal background checks

On August 1, 2017, CMS extended the deadline to implement a fingerprint-based criminal background check process to July 1, 2018.

Over 106,000 Medicaid providers were active in Washington during fiscal year 2019. The Health Care Authority (Authority), which administers the state's Medicaid program, spent about $1.52 billion for fee-for-service claims billed by medical providers. In the prior audit, we reported the Authority did not have adequate internal controls over and did not comply with requirements to ensure Medicaid medical fee-for-service providers were revalidated every five years and screening requirements were met. The prior finding numbers were 2018-042, 2017-033 and 2016-035.

Description of Condition

We found the Authority did not have adequate internal controls over and did not comply with requirements to ensure Medicaid medical providers were revalidated every five years or that screening and fingerprint-based criminal background check requirements were met.

Provider enrollment

In October 2018, the Authority implemented the Automated Provider Screening (APS) system, which performs all necessary data matches for providers participating in the Medicaid program. However, the Authority did not establish an adequate follow-up process to review the data match results and finalize the revalidation process.

Provider screening levels

The Authority implemented a risk level adjustment process for all situations except for overpayments in January 2019. A process to adjust risk levels for providers with overpayments was not implemented until October 2019.

Fingerprint-based criminal background check

The Authority did not implement a fingerprint-based criminal background check process, as required by federal regulations.

We consider these internal control deficiencies to be a material weakness.

Cause of Condition

The Authority said that limited staff resources were the reason follow-up on the data match results was not completed and a fingerprint-based criminal background check process was not implemented.

The provider enrollment unit did not communicate to the Authority's Office of Program Integrity unit until October 2019 that providers with overpayments needed to be reported to the enrollment unit so that the providers' screening level could be adjusted.

Effect of Condition

The Authority did not revalidate 92,825 out of 106,288 (87.3 percent) medical providers required to be revalidated as of July 1, 2019.

By not complying with federal provider revalidation, screening and fingerprint-based criminal background check requirements, the Authority is at higher risk of not detecting when medical providers are ineligible to provide services or be paid with Medicaid funds.

Recommendations

We recommend the Authority:

- Implement internal controls designed to bring it into material compliance with the provider revalidation process
- Ensure it properly adjusts each provider's screening risk level
- Implement a process to conduct fingerprint-based criminal background checks for high-risk providers

Authority's Response

HCA is compliant with the revalidation requirement as of 11/23/2019. This means that as of 11/23/2019 all HCA providers have been:

- *screened according to the ACA rules within the last 5 years during enrollment (i.e. enrolled after 11/23/2014) or*
- *screened according to the ACA rules within the last 5 years due to revalidation (i.e. revalidated since 11/23/2014) or*
- *Notified of an approaching revalidation.*

As of October 2019 HCA has a process in place that ensures a provider's risk level is adjusted as required under federal requirements.

By July 2020, the Authority plans to implement the fingerprint based criminal background check requirement for enrollment applications and revalidations, and will conduct fingerprinting on the high risk providers whose risk category is adjusted due to federal requirements

Auditor's Remarks

We thank the Authority for its cooperation and assistance throughout the audit. We will review the status of the Authority's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

(a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

(b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.

(d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.516 Audit findings, states in part:

(a) *Audit findings reported*. The auditor must report the following as audit findings in a schedule of findings and questioned costs:

(1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit

finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.

(2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in internal controls over compliance in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, as follows:

.11 For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows: …

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

Title 42 U.S. Code of Federal Regulations section 455 Subpart E – Provider Screening and Enrollment, states in part:

Section 455.414 Revalidation of enrollment

The State Medicaid agency must revalidate the enrollment of all providers regardless of provider type at least every 5 years.

Section 455.434 Criminal background checks

The State Medicaid agency -

(a) As a condition of enrollment, must require providers to consent to criminal background checks including fingerprinting when required to do so under State law or by the level of screening based on risk of fraud, waste or abuse as determined for that category of provider.

(b) Must establish categorical risk levels for providers and provider categories who pose an increased financial risk of fraud, waste or abuse to the Medicaid program.

(1) Upon the State Medicaid agency determining that a provider, or a person with a 5 percent or more direct or indirect ownership interest in the provider, meets the State Medicaid agency's criteria hereunder for criminal background checks as a "high" risk to the Medicaid program, the State Medicaid agency will require that each such provider or person submit fingerprints.

(2) The State Medicaid agency must require a provider, or any person with a 5 percent or more direct or indirect ownership interest in the provider, to submit a set of fingerprints, in a form and manner to be determined by the State Medicaid agency, within 30 days upon request from CMS or the State Medicaid agency.

Section 455.450 Screening levels for Medicaid providers.

A State Medicaid agency must screen all initial applications, including applications for a new practice location, and any applications received in response to a re-enrollment or revalidation of enrollment request based on a categorical risk level of "limited," "moderate," or "high." If a provider could fit within more than one risk level described in this section, the highest level of screening is applicable.

(a) Screening for providers designated as limited categorical risk. When the State Medicaid agency designates a provider as a limited categorical risk, the State Medicaid agency must do all of the following:

(1) Verify that a provider meets any applicable Federal regulations, or State requirements for the provider type prior to making an enrollment determination.

(2) Conduct license verifications, including State licensure verifications in States other than where the provider is enrolling, in accordance with § 455.412.

(3) Conduct database checks on a pre- and post-enrollment basis to ensure that providers continue to meet the enrollment criteria for their provider type, in accordance with § 455.436.

(b) Screening for providers designated as moderate categorical risk. When the State Medicaid agency designates a provider as a “moderate” categorical risk, a State Medicaid agency must do both of the following:
   (1) Perform the “limited” screening requirements described in paragraph (a) of this section.
   (2) Conduct on-site visits in accordance with § 455.432.

(c) Screening for providers designated as high categorical risk. When the State Medicaid agency designates a provider as a “high” categorical risk, a State Medicaid agency must do both of the following:
   (1) Perform the “limited” and “moderate” screening requirements described in paragraphs (a) and (b) of this section.
   (2) (i)Conduct a criminal background check; and (ii) Require the submission of a set of fingerprints in accordance with § 455.434.

(d) Denial or termination of enrollment. A provider, or any person with 5 percent or greater direct or indirect ownership in the provider, who is required by the State Medicaid agency or CMS to submit a set of fingerprints and fails to do so may have its -
   (1) Application denied under § 455.434; or
   (2) Enrollment terminated under § 455.416.

(e) Adjustment of risk level. The State agency must adjust the categorical risk level from “limited” or “moderate” to “high” when any of the following occurs:
   (1) The State Medicaid agency imposes a payment suspension on a provider based on credible allegation of fraud, waste or abuse, the provider has an existing Medicaid overpayment, or the provider has been excluded by the OIG or another State's Medicaid program within the previous 10 years.
   (2) The State Medicaid agency or CMS in the previous 6 months lifted a temporary moratorium for the particular provider type and a provider that was prevented from enrolling based on the moratorium applies for enrollment as a provider at any time within 6 months from the date the moratorium was lifted.

Centers for Medicare and Medicaid Services, Center for Medicaid and CHIP Services, CMCS Informational Bulletin, dated December 21, 2011, states in part:

> The Federal regulation at 42 CFR 455.414 requires States, beginning March 25, 2011, to complete revalidation of enrollment for all providers, regardless of provider type, at least every five years. Based upon this requirement, States must complete the revalidation process of all provider types by March 24, 2016.

Centers for Medicare and Medicaid Services (CMS) Sub Regulatory Guidance for State Medicaid Agencies (SMA): Revalidation (2016-001) states in part:

> The federal regulation at 42 CFR 455.414 requires that state Medicaid agencies revalidate the enrollment of all providers, regardless of provider types, at least every 5 years. The regulation was effective March 25, 2011. Based on this requirement, in a December 23,

2011 CMCS Informational Bulletin, we directed states to complete the revalidation process of all provider types by March 24, 2016.

The purpose of this guidance is to revise previous guidance in order to align Medicare and Medicaid revalidation activities to the greatest extent possible. We are revising that previous guidance to now require a two-step deadline under which states must notify all affected providers of the revalidation requirement by the original March 24, 2016 deadline, and must have completed the revalidation process by a new deadline of September 25, 2016.

…

(1) Deadline for SMA to revalidate providers enrolled on or before September 25, 2011. The Federal regulation at 42 CFR § 455.414 requires states, beginning March 25, 2011, to revalidate the enrollment of all Medicaid providers, regardless of provider type, at least every five years. Based upon this requirement, by March 24, 2016, states must notify providers that were enrolled on or before March 25, 2011 that they must revalidate their enrollment. On March 25, 2016, states that have notified all providers subject to the revalidation requirement will be considered compliant with the revalidation activities required as of that date.

2019-049 The Health Care Authority did not have adequate internal controls to ensure Medicaid expenditures for Children's Health Insurance Program Funds were allowable.

Federal Awarding Agency:	U.S. Department of Health and Human Services
Pass-Through Entity:	None
CFDA Number and Title:	93.775 State Medicaid Fraud Control Units 93.777 State Survey and Certification of Health Care Providers and Suppliers (Title XVIII) Medicare 93.778 Medical Assistance Program (Medicaid; Title XIX)
Federal Award Number:	1905WA5MAP; 1905WA5ADM; 1905WAIMPL; 1905WAINCT
Applicable Compliance Component:	Activities Allowed/Unallowed Allowable Costs/Cost Principles
Questioned Cost Amount:	$4

Background

Medicaid is a jointly funded state and federal partnership providing coverage for about 1.8 million eligible low-income Washington residents who otherwise might go without medical care. Medicaid is Washington's largest public assistance program and accounts for about one-third of the State's federal expenditures. The program spent about $13.6 billion in federal and State funds during fiscal year 2019.

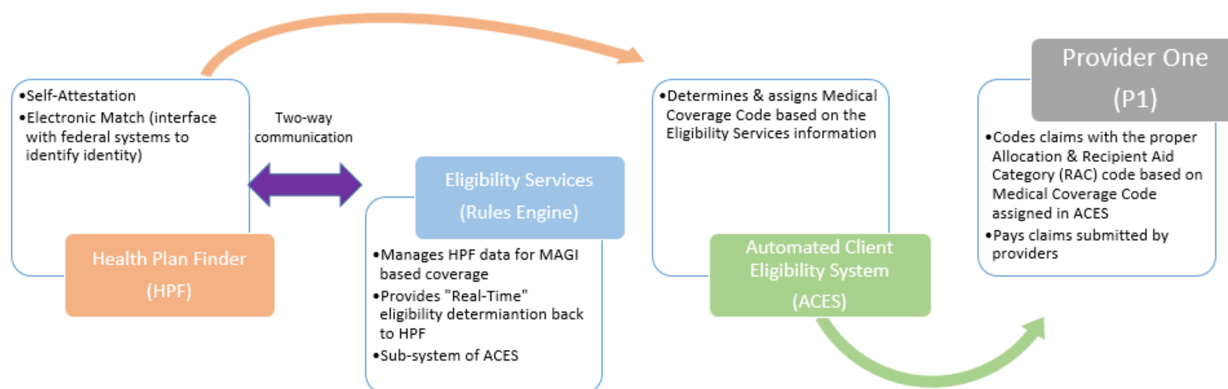
In fiscal year 2019, the state Medicaid program paid about $84.2 million for Medicaid eligible children under 42 U.S. Code §1397ee authority.

In Washington, Medicaid and the CHIP program provide medical and behavioral health assistance for children up to 19 years old who reside in low-income households. Both programs are funded by State and federal money. Federal funds reimburse the State for about 88 percent of CHIP expenditures and 50 percent of Medicaid expenditures incurred by the Health Care Authority (Authority).

The State may claim additional CHIP funding when two conditions are met: a child is younger than 19 at the time of service and the child's family income equals or exceeds 133 percent of the federal poverty level, but does not exceed the Medicaid applicable income level (which is 210 percent of the federal poverty level). If the Medicaid costs have already been claimed and reimbursed, the State submits a claim for the difference between the CHIP and Medicaid rates.

The following describes the process the Authority uses to identify Medicaid expenditures that are allowable for the additional CHIP funds:

- Medicaid eligibility is determined in the Eligibility Services system based on income information submitted by applicants through Health Plan Finder, www.wahealthplanfinder.org, the online application system (see diagram below).
- The Eligibility Service then notifies ProviderOne, the Authority's Medicaid Management Information System, of the appropriate Recipient Aid Category (RAC) code for the children who are eligible for additional CHIP funds based on income information in the Automated Client Eligibility System (Eligibility System), Washington's social service program client eligibility system.
- The Authority creates a report showing all payments that ProviderOne assigns both a RAC code of 1204 and an allocation code of 3MXA; payments that are assigned both these codes are identified as allowable for additional CHIP funding.



The Authority uses ProviderOne to identify Medicaid expenditures and prepare a journal voucher based on the RAC and allocations to identify allowable Medicaid expenditures.

In prior audits, we reported the Authority did not have adequate internal controls to ensure additional CHIP funds were properly claimed for allowable Medicaid expenditures. The prior finding numbers were 2018-048, 2017-038, 2016-034, 2015-039, and 2014-037. Prior findings reported inadequate internal controls over additional CHIP funds for the Authority's fee-for-service and managed care claims.

Description of Condition

The Health Care Authority did not have adequate internal controls to ensure Medicaid expenditures for Children's Health Insurance Program Funds were allowable.

The Authority performs a post-eligibility review on required programs, as outlined in the state's verification plan, to ensure Medicaid eligibility is properly determined.

However, it performs the review only when household income exceeds the Medicaid applicable income level. The applicable family income for Medicaid children is 210 percent of the federal poverty level. Additional CHIP funds are allowable for Medicaid children whose household income equals or exceeds 133 percent of the federal poverty level, but does not exceed 210 percent of that level. When a household's income is below 133 percent of the federal poverty level, the Authority does not conduct a post-eligibility review for Children's coverage.

Because the Authority did not perform post eligibility reviews for clients whose income was below 133 percent, it did not detect when RAC codes were incorrectly assigned to clients. This resulted in the Authority improperly claiming additional CHIP funds.

We used a statistical sampling method to randomly select and examine 87 clients of a total population of 282,328 who had a RAC code of 1204 and had paid fee-for-service and managed care claims with an allocation code of 3MXA during the period the claim was made for. We reviewed the client eligibility to determine if the Authority properly coded the client and that the claims were allowable for additional CHIP funds. We identified four clients (4.6 percent) that were not coded to the correct RAC code and were not coded to the correct allocation code when the client's eligibility was determined for CHIP. These clients reported income below 133 percent of the federal poverty level.

We consider this internal control deficiency to be a significant deficiency.

Cause of Condition

The Authority uses specific client eligibility criteria to determine claims that are allowable for additional CHIP federal funding. The Eligibility System is configured to accept changes to self-attested household income in Health Plan Finder during the certification period. Prior to July 2017, the ProviderOne system was not programmed to make changes in RAC assignment during the middle of the certification period. While the Authority fixed the previously identified issues around RAC assignment to ProviderOne in July 2017, the journal vouchers that were processed during the audit period included claims that were paid before the solution was implemented. For clients tested, eligibility determinations made after July 2017 were accurately determined and did not result in question costs.

Effect of Condition

We used a statistical sampling method to randomly select and examine 87 clients of a total population of 282,328 who had a RAC code of 1204 and had paid fee-for-service and managed care claims with an allocation code of 3MXA during the period the claim was made for. We reviewed each client's income and age at the time of service to determine if the claim was allowable for the additional CHIP match.

We found that for four clients, claims of $4 in additional CHIP federal funds were unallowable.
When we project the results to the entire population of Authority claims, we estimate the total improper payments to be $25,899.
Our sampling methodology meets statistical sampling criteria under generally accepted auditing standards in AU-C 530.05. It is important to note that the sampling technique we used is intended to support our audit conclusions by determining if expenditures complied with program requirements in all material respects. Accordingly, we used an acceptance sampling formula designed to provide a high level of assurance, with a 95 percent confidence of whether exceptions exceeded our materiality threshold. Our audit report and finding reflects this conclusion. However, the likely improper payment projections are a point estimate and only represent our "best estimate

of total questioned costs" as required by 2 CFR 200.516(3). To ensure a representative sample, we stratified the population by dollar amount.

Recommendations

We recommend the Authority:

- Continue to implement procedures to ensure additional CHIP funds are claimed only for eligible expenditures
- Consult with the U.S. Department of Health and Human Services to discuss whether the questioned costs and improper payments identified in the audit should be repaid

Authority's Response

The Authority does not agree with the SAO's Description of Condition, Effect of Condition, or the estimated amount of improper payments. The Authority agrees with the actual questioned cost amount of $4.

The questioned costs were due to a system issue identified during the 2016 audit. Certain RAC codes were not updating in ProviderOne when specific elements were missing during the annual renewal process. This RAC assignment issue was corrected in July of 2017. While the Authority agrees there were some ineligible costs, the cause of those instances was not due to PERs not being conducted, but rather costs that occurred prior to the July, 2017 system fix that were included in subsequent JVs.

The Authority will consult with its grantor to resolve the $4 in unallowable charges.

Auditor's Concluding Remarks

We acknowledge that a system fix was implemented in July, 2017, but our fieldwork shows that the Authority did not have an appropriate monitoring and review process in place to ensure only allowable payments were being applied to the journal vouchers processed during the audit period.

We reaffirm our finding and will review the status of the Authority's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes reporting requirements for audit findings.

Section 200.53 Improper Payments states:

(a) *Improper payment* means any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; and

(b) *Improper payment* includes any payment to an ineligible party, any payment for an ineligible good or service, any duplicate payment, any payment for a good or

service not received (except for such payments where authorized by law), any payment that does not account for credit for applicable discounts, and any payment where insufficient or lack of documentation prevents a reviewer from discerning whether a payment was proper.

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

(a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States or the “Internal Control Integrated Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

(d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.403 Factors affecting Allowability of costs.

Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under Federal awards.

(a) Be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles.
(b) Conform to any limitations or exclusions set forth in these principles or in the Federal award as to types or amount of cost items.
(c) Be consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the non-Federal entity.
(d) Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the sample purpose in like circumstances has been allocated to the Federal award as an indirect cost.
(e) Be determined in accordance with generally accepted accounting principles (GAAP), except, for state and local governments and Indian tribes only, as otherwise provided for in this part.
(f) Not be included as a cost or used to meet cost sharing or matching requirements of any other federally-financed program in either the current or a prior period. See also §200.306 Cost sharing or matching paragraph (b).
(g) Be adequately documented. See also §§200.300 Statutory and national policy requirements through 200.309 Period of performance of this part.

Section 200.410 Collection of unallowable costs.

Payments made for costs determined to be unallowable by either the Federal awarding agency, cognizant agency for indirect costs, or pass-through entity, either as direct or indirect costs, must be refunded (including interest) to the Federal Government in accordance with instructions from the Federal agency that determined the costs are unallowable unless Federal statute or regulation directs otherwise. See also Subpart

D—Post Federal Award Requirements of this part, §§200.300 Statutory and national policy requirements through 200.309 Period of performance.

Section 200.516 Audit reporting, states in part:

(a) *Audit findings reported*. The auditor must report the following as audit findings in a schedule of findings and questioned costs:

(1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.

(3) Known questioned costs that are greater than $25,000 for a type of compliance requirement for a major program. Known questioned costs are those specifically identified by the auditor. In evaluating the effect of questioned costs on the opinion on compliance, the auditor considers the best estimate of total costs questioned (likely questioned costs), not just the questioned costs specifically identified (known questioned costs). The auditor must also report known questioned costs when likely questioned costs are greater than $25,000 for a type of compliance requirement for a major program. In reporting questioned costs, the auditor must include information to provide proper perspective for judging the prevalence and consequences of the questioned costs.

Title 42 U.S. Code of Federal Regulations Part 433, State Fiscal Administration, Subpart F - Refunding of Federal Share of Medicaid Overpayments to Providers states in part:

Section 433.300 Basis.

This subpart implements -

(a) Section 1903(d)(2)(A) of the Act, which directs that quarterly Federal payments to the States under title XIX (Medicaid) of the Act are to be reduced or increased to make adjustment for prior overpayments or underpayments that the Secretary determines have been made.

(b) Section 1903(d)(2)(C) and (D) of the Act, which provides that a State has 1 year from discovery of an overpayment for Medicaid services to recover or attempt to recover the overpayment from the provider before adjustment in the Federal Medicaid payment to the State is made; and that adjustment will be made at the end of the 1-year period, whether or not recovery is made, unless the State is unable to recover from a provider because the overpayment is a debt that has been discharged in bankruptcy or is otherwise uncollectable.

Section 433.316 When discovery of overpayment occurs and its significance.

(a) *General rule*. The date on which an overpayment is discovered is the beginning date of the 1-year period allowed for a State to recover or seek to recover an overpayment before a refund of the Federal share of an overpayment must be made to CMS.

(b) *Requirements for notification.* Unless a State official or fiscal agent of the State chooses to initiate a formal recoupment action against a provider without first giving written notification of its intent, a State Medicaid agency official or other State official must notify the provider in writing of any overpayment it discovers in accordance with State agency policies and procedures and must take reasonable actions to attempt to recover the overpayment in accordance with State law and procedures.

(c) *Overpayments resulting from situations other than fraud.* An overpayment resulting from a situation other than fraud is discovered on the earliest of - -

(1) The date on which any Medicaid agency official or other State official first notifies a provider in writing of an overpayment and specifies a dollar amount that is subject to recovery;

(2) The date on which a provider initially acknowledges a specific overpaid amount in writing to the medicaid agency; or

(3) The date on which any State official or fiscal agent of the State initiates a formal action to recoup a specific overpaid amount from a provider without having first notified the provider in writing.

(d) Overpayments resulting from fraud.

(1) An overpayment that results from fraud is discovered on the date of the final written notice (as defined in § 433.304 of this subchapter) of the State's overpayment determination.

(2) When the State is unable to recover a debt which represents an overpayment (or any portion thereof) resulting from fraud within 1 year of discovery because no final determination of the amount of the overpayment has been made under an administrative or judicial process (as applicable), including as a result of a judgment being under appeal, no adjustment shall be made in the Federal payment to such State on account of such overpayment (or any portion thereof) until 30 days after the date on which a final judgment (including, if applicable, a final determination on an appeal) is made.

(3) The Medicaid agency may treat an overpayment made to a Medicaid provider as resulting from fraud under subsection (d) of this section only if it has referred case to the Medicaid fraud control unit, or appropriate law enforcement agency in States with no certified Medicaid fraud control unit, as required by § 455.15, § 455.21, or § 455.23 of this chapter, and the Medicaid fraud control unit or appropriate law enforcement agency has provided the Medicaid agency with written notification of acceptance of the case; or if the Medicaid fraud control unit or appropriate law enforcement agency has filed a civil or criminal action against a provider and has notified the State Medicaid agency.

(e) *Overpayments identified through Federal reviews.* If a Federal review at any time indicates that a State has failed to identify an overpayment or a State has identified an overpayment but has failed to either send written notice of the overpayment to the provider that specified a dollar amount subject to recovery or initiate a formal recoupment from the provider without having first notified the provider in writing, CMS will consider the overpayment as discovered on the date that the Federal official first notifies the State in writing of the overpayment and specifies a dollar amount subject to recovery.

(f) *Effect of changes in overpayment amount*. Any adjustment in the amount of an overpayment during the 1-year period following discovery (made in accordance with the approved State plan, Federal law and regulations governing Medicaid, and the appeals resolution process specified in State administrative policies and procedures) has the following effect on the 1-year recovery period:

(1) A downward adjustment in the amount of an overpayment subject to recovery that occurs after discovery does not change the original 1-year recovery period for the outstanding balance.

(2) An upward adjustment in the amount of an overpayment subject to recovery that occurs during the 1-year period following discovery does not change the 1-year recovery period for the original overpayment amount. A new 1-year period begins for the incremental amount only, beginning with the date of the State's written notification to the provider regarding the upward adjustment.

(g) Effect of partial collection by State. A partial collection of an overpayment amount by the State from a provider during the 1-year period following discovery does not change the 1-year recovery period for the balance of the original overpayment amount due to CMS.

(h) Effect of administrative or judicial appeals. Any appeal rights extended to a provider do not extend the date of discovery.

Office of Management and Budget OMB Uniform Guidance, Compliance Supplement for 2019, *Part 4 – Agency Program Requirements, 4.93.778 Medicaid Cluster*, states in part:

General Audit Approach for Medicaid Payments

To be allowable, Medicaid costs for medical services must be (1) covered by the State plan and waivers; (2) reviewed by the State consistent with the State's documented procedures and system for determining medical necessity of claims; (3) properly coded; and (4) paid at the rate allowed by the State plan. Additionally, Medicaid costs must be net of beneficiary cost-sharing obligations and applicable credits (e.g., insurance, recoveries from other third parties who are responsible for covering the Medicaid costs, and drug rebates), paid to eligible providers, and only provided on behalf of eligible individuals.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in internal controls over compliance in its Codification of Statements on Auditing Standards, section 935, Compliance Audits:

.11 For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows: …

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation

exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

42 U.S. Code §1397ee. Payments to States, states in part:

(g) Authority for qualifying states to use certain funds for Medicaid expenditures. -

(1) State option.—

(A) In general.—Notwithstanding any other provision of law subject to paragraph (4), a qualifying State (as defined in paragraph (2)) may elect to use not more than 20 percent of any allotment under section 1397dd of this title for fiscal year 1998, 1999, 2000, 2001, 2004, 2005, 2006, 2007, or 2008 (insofar as it is available under subsections (e) and (g) of such section) for payments under subchapter XIX of this chapter in accordance with subparagraph (B), instead of for expenditures under this subchapter .

(B) Payments to states.—

(i) In In general.—In the case of a qualifying State that has elected the option described in subparagraph (A), subject to the availability of funds under such subparagraph with respect to the State, the Secretary shall pay the State an amount each quarter equal to the additional amount that would have been paid to the State under subchapter XIX of this chapter with respect to expenditures described in clause (ii) if the enhanced FMAP (as determined under subsection (b) of this section) had been substituted for the Federal medical assistance percentage (as defined in section 1396d(b) of this title).

(ii) Expenditures described.—For purposes of this subparagraph, the expenditures described in this clause are expenditures, made after August 15, 2003, and during the period in which funds are available to the

qualifying State for use under subparagraph (A), for medical assistance under subchapter XIX of this chapter to individuals who have not attained age 19 and whose family income exceeds 150 percent of the poverty line.

(iii) No impact on determination of budget neutrality for waivers.—In the case of a qualifying State that uses amounts paid under this subsection for expenditures described in clause (ii) that are incurred under a waiver approved for the State, any budget neutrality determinations with respect to such waiver shall be determined without regard to such amounts paid.

(2) Qualifying state.—In this subsection, the term "qualifying State" means a State that, on and after April 15, 1997, has an income eligibility standard that is at least 184 percent of the poverty line with respect to any 1 or more categories of children (other than infants) who are eligible for medical assistance under section 1396a(a)(10)(A) of this title or, in the case of a State that has a statewide waiver in effect under section 1315 of this title with respect to subchapter XIX of this chapter that was first implemented on August 1, 1994, or July 1, 1995, has an income eligibility standard under such waiver for children that is at least 185 percent of the poverty line, or, in the case of a State that has a statewide waiver in effect under section 1315 of this title with respect to subchapter XIX of this chapter that was first implemented on January 1, 1994, has an income eligibility standard under such waiver for children who lack health insurance that is at least 185 percent of the poverty line, or, in the case of a State that had a statewide waiver in effect under section 1315 of this title with respect to subchapter XIX of this chapter that was first implemented on October 1, 1993, had an income eligibility standard under such waiver for children that was at least 185 percent of the poverty line and on and after July 1, 1998, has an income eligibility standard for children under section 1396a(a)(10)(A) of this title or a statewide waiver in effect under section 1315 of this title with respect to subchapter XIX of this chapter that is at least 185 percent of the poverty line.

(3) Construction.—Nothing in paragraphs (1) and (2) shall be construed as modifying the requirements applicable to States implementing State child health plans under this subchapter.

(4) Option for allotments for fiscal years 2009 through 2015.—

(A) Payment of enhanced portion of matching rate for certain expenditures.—In the case of expenditures described in subparagraph (B), a qualifying State (as defined in paragraph (2)) may elect to be paid from the State's allotment made under section 1397dd of this title for any of fiscal years 2009 through 2015 (insofar as the allotment is available to the State under subsections (e) and (m) of such section) an amount each quarter equal to the additional amount that would have been paid to the State under subchapter XIX with respect to such expenditures if the enhanced FMAP (as determined under subsection (b)) had been substituted for the Federal medical assistance percentage (as defined in section 1396d(b) of this title).

(B) Expenditures described.—For purposes graph (A), the expenditures described in this subparagraph are expenditures made after February 4, 2009, and during the period in which funds are available to the qualifying State for use under subparagraph (A), for the provision of medical assistance to individuals

residing in the State who are eligible for medical assistance under the State plan under subchapter XIX or under a waiver of such plan and who have not attained age 19 (or, if a State has so elected under the State plan under subchapter XIX, age 20 or 21), and whose family income equals or exceeds 133 percent of the poverty line but does not exceed the Medicaid applicable income level.

2019-050 The Health Care Authority made improper Medicaid payments to clients that were not eligible for the Modified Adjusted Gross Income Medicaid program.

Federal Awarding Agency:	U.S. Department of Health and Human Services
Pass-Through Entity:	None
CFDA Number and Title:	93.775 State Medicaid Fraud Control Units 93.777 State Survey and Certification of Health Care Providers and Suppliers (Title XVIII) Medicare 93.778 Medical Assistance Program (Medicaid; Title XIX)
Federal Award Number:	1905WA5MAP; 1905WA5ADM; 1905WAIMPL; 1905WAINCT
Applicable Compliance Component:	Activities Allowed/Allowable Costs Eligibility
Known Questioned Cost Amount:	$1,589

Background

Medicaid is a jointly funded state and federal partnership providing coverage for about 1.8 million eligible low-income Washington residents who otherwise might go without medical care. Medicaid is Washington's largest public assistance program and accounts for about one-third of the State's federal expenditures. The program spent about $13.6 billion in federal and state funds during fiscal year 2019.

The Affordable Care Act (ACA) requires states to establish a streamlined approach to enroll applicants into Medicaid. The ACA allows states to verify an applicant's income before or after enrollment. Washington's Health Care Authority (Authority) verifies income after enrollment, allowing clients to receive Medicaid services until the Authority makes a final eligibility decision. The Authority receives more than 500,000 new Medicaid applications each year.

The ACA established a new methodology for determining income eligibility for Medicaid, which is based on Modified Adjusted Gross Income (MAGI). MAGI is used to determine financial eligibility for Medicaid, the Children's Health Insurance Program (CHIP), and premium tax credits and cost sharing reductions available through the health insurance marketplace.

MAGI is the basis for determining Medicaid income eligibility for most children, pregnant women, parents, and adults. The MAGI-based methodology considers taxable income and tax filing relationships to determine financial eligibility for Medicaid.

To apply for Medicaid, most clients submit an application through Washington's Health Benefit Exchange website - HealthPlan Finder. As part of the application process, an individual must attest to their income, Social Security Number (SSN) and citizenship/immigration status, which is verified through a data exchange between the state's Automated Client Eligibility System (ACES) and federal systems. Information for most applicants are automatically verified. However, if the

client's information is not verified, the Authority staff are required to complete a post-eligibility review to determine if the client is eligible for services.

In Washington, CHIP provides prenatal care coverage to undocumented immigrant pregnant women with countable income at or below the Medicaid standard. Labor and delivery services are considered emergency-related and covered by Medicaid. The State covers postpartum services for those undocumented immigrant women.

The Authority has established a MAGI-based eligibility verification plan that was approved by the Centers for Medicare and Medicaid Services. The plan describes the specific procedures the Authority performs to verify client information, such as income, SSN and citizenship.

When a client's attested income is not compatible with the federal cross-match, the Authority is responsible for verifying the information. Neither the verification plan, nor federal regulations, specify a specific timeline by when the verification must be performed. When a client's attested SSN or citizenship is non-compatible with the federal cross-match, federal regulations require the state to provide the individual with a reasonable opportunity period of 95 days from the date when such opportunity is noticed. For an individual covered by managed-care, the Authority provides coverage for120 days considering that a monthly managed-care premium covers an entire month. If the individual's information has not been verified by the end of the reasonable opportunity period, the Authority must take action to terminate eligibility within 30 days.

In fiscal year 2019, the Authority paid about $5.3 billion for services provided to Medicaid clients who were determined eligible based on the MAGI determination process.

Description of Condition

The Health Care Authority made improper Medicaid payments to clients that were not eligible for the Modified Adjusted Gross Income Medicaid program.

We found the Authority had established adequate internal controls to ensure it was in material compliance with eligibility and allowable costs over payments to Medicaid clients.

We found the Authority did not follow up on identified incompatibilities between client attested information and the actual information on applications promptly.

We used a statistically valid sampling method to randomly select 45 clients from a population of 1,772,938 whose SSN's were federally verified and the Authority paid for Medicaid services during the audit period.

Additionally, we randomly selected 86 clients from a population of 27,574 whose SSN's were not federally verified and the Authority paid for Medicaid services during the audit period.

We found:

- One instance on a case where an eligible newborn was not followed up on appropriately to provide their SSN. During the audit period, the Authority paid $67 in Medicaid funds when the client was not eligible.
- One instance when a post eligibility review was not completed within the time frame required by federal and state regulation for a client with an identified SSN/citizenship incompatibility. During the audit period, the Authority paid $344 in federal Medicaid funds when this client was not eligible.

We also found 17 clients who were enrolled in a MAGI pregnancy program for Not Lawfully Present clients whose services were paid for with federal Medicaid funds. The Authority staff confirmed the claims should not have been paid with Medicaid federal funds. Instead, these claims should have been paid with CHIP funds at a higher federal match rate. The Authority paid $1,178 in federal Medicaid funds during the audit period.

This condition was not reported in the prior audit.

Cause of Condition

The Authority did not follow up on identified incompatibilities in accordance with its policies and procedures timely because of limited staffing resources.

The Authority was not able to determine the cause for the improper Medicaid payments for the 17 Not Lawfully Present pregnant clients.

Effect of Condition and Questioned Costs

We are questioning $1,589, which is the federal portion of the unallowable payments made on behalf of clients who were not eligible to receive Medicaid services. Because we used a statistical sample to design our testing, we estimate the amount of likely improper payments to be $913,361. The federal share of this estimate is $456,680.

Projection to population	Known questioned costs	Likely improper payments
Federal expenditures	$1,589	$456,681
State expenditures	$1,588	$456,680
Total expenditures	**$3,177**	**$913,361**

Our sampling methodology meets statistical sampling criteria under generally accepted auditing standards in AU-C 530.05. It is important to note that the sampling technique we used is intended to support our audit conclusions by determining if expenditures complied with program requirements in all material respects. Accordingly, we used an acceptance sampling formula designed to provide a high level of assurance, with a 95 percent confidence of whether exceptions exceeded our materiality threshold. Our audit report and finding reflects this conclusion. However, the likely improper payment projections are a point estimate and only represent our "best estimate of total questioned costs" as required by 2 CFR 200.516(3). To ensure a representative sample, we stratified the population by dollar amount.

We question costs when we find an agency has not complied with grant regulations or when it does not have adequate documentation to support its expenditures.

Recommendations

We recommend the Authority:

- Follow its own policies and procedures to ensure post eligibility reviews are completed timely
- Consult with the U.S. Department of Health and Human Services to discuss whether the known questioned costs identified in the audit should be repaid

Authority's Response

The Authority concurs with the findings and will work with its federal grantor to resolve the questioned costs. The Authority will also seek to claim the higher federal participation rate on the 17 identified cases claimed to Medicaid instead of the Children's Health Insurance Program (CHIP).

Auditor's Remarks

We thank the Authority for its cooperation and assistance throughout the audit. We will review the status of the Authority's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.53 Improper Payments states:

(a) *Improper payment* means any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; and

(b) *Improper payment* includes any payment to an ineligible party, any payment for an ineligible good or service, any duplicate payment, any payment for a good or service not received (except for such payments where authorized by law), any payment that does not account for credit for applicable discounts, and any payment where insufficient or lack of documentation prevents a reviewer from discerning whether a payment was proper.

Section 200.403 Factors affecting Allowability of costs.

Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under Federal awards.

(a) Be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles.

(b) Conform to any limitations or exclusions set forth in these principles or in the Federal award as to types or amount of cost items.

(c) Be consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the non-Federal entity.
(d) Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the sample purpose in like circumstances has been allocated to the Federal award as an indirect cost.
(e) Be determined in accordance with generally accepted accounting principles (GAAP), except, for state and local governments and Indian tribes only, as otherwise provided for in this part.
(f) Not be included as a cost or used to meet cost sharing or matching requirements of any other federally-financed program in either the current or a prior period. See also §200.306 Cost sharing or matching paragraph (b).
(g) Be adequately documented. See also §§200.300 Statutory and national policy requirements through 200.309 Period of performance of this part.

Section 200.410 Collection of unallowable costs.

Payments made for costs determined to be unallowable by either the Federal awarding agency, cognizant agency for indirect costs, or pass-through entity, either as direct or indirect costs, must be refunded (including interest) to the Federal Government in accordance with instructions from the Federal agency that determined the costs are unallowable unless Federal statute or regulation directs otherwise. See also Subpart D—Post Federal Award Requirements of this part, §§200.300 Statutory and national policy requirements through 200.309 Period of performance.

Section 200.516 Audit findings, states in part:

(a) *Audit findings reported*. The auditor must report the following as audit findings in a schedule of findings and questioned costs:
  (3) Known questioned costs that are greater than $25,000 for a type of compliance requirement for a major program. Known questioned costs are those specifically identified by the auditor. In evaluating the effect of questioned costs on the opinion on compliance, the auditor considers the best estimate of total costs questioned (likely questioned costs), not just the questioned costs specifically identified (known questioned costs). The auditor must also report known questioned costs when likely questioned costs are greater than $25,000 for a type of compliance requirement for a major program. In reporting questioned costs, the auditor must include information to provide proper perspective for judging the prevalence and consequences of the questioned costs.

Title 42 U.S. Code of Federal Regulations Part 433, State Fiscal Administration, Subpart F – Refunding of Federal Share of Medicaid Overpayments to Providers

Section 433.300 Basis, states in part:

This subpart implements -

(a) Section 1903(d)(2)(A) of the Act, which directs that quarterly Federal payments to the States under title XIX (Medicaid) of the Act are to be reduced or increased

to make adjustment for prior overpayments or underpayments that the Secretary determines have been made.

(b) Section 1903(d)(2)(C) and (D) of the Act, which provides that a State has 1 year from discovery of an overpayment for Medicaid services to recover or attempt to recover the overpayment from the provider before adjustment in the Federal Medicaid payment to the State is made; and that adjustment will be made at the end of the 1-year period, whether or not recovery is made, unless the State is unable to recover from a provider because the overpayment is a debt that has been discharged in bankruptcy or is otherwise uncollectable.

Section 433.316 When discovery of overpayment occurs and its significance, states in part:

(a) *General rule.* The date on which an overpayment is discovered is the beginning date of the 1-year period allowed for a State to recover or seek to recover an overpayment before a refund of the Federal share of an overpayment must be made to CMS.

(b) *Requirements for notification.* Unless a State official or fiscal agent of the State chooses to initiate a formal recoupment action against a provider without first giving written notification of its intent, a State Medicaid agency official or other State official must notify the provider in writing of any overpayment it discovers in accordance with State agency policies and procedures and must take reasonable actions to attempt to recover the overpayment in accordance with State law and procedures.

(c) *Overpayments resulting from situations other than fraud.* An overpayment resulting from a situation other than fraud is discovered on the earliest of - -

(1) The date on which any Medicaid agency official or other State official first notifies a provider in writing of an overpayment and specifies a dollar amount that is subject to recovery;

(2) The date on which a provider initially acknowledges a specific overpaid amount in writing to the medicaid agency; or

(3) The date on which any State official or fiscal agent of the State initiates a formal action to recoup a specific overpaid amount from a provider without having first notified the provider in writing.

(d) *Overpayments resulting from fraud.*

(1) An overpayment that results from fraud is discovered on the date of the final written notice (as defined in § 433.304 of this subchapter) of the State's overpayment determination.

(2) When the State is unable to recover a debt which represents an overpayment (or any portion thereof) resulting from fraud within 1 year of discovery because no final determination of the amount of the overpayment has been made under an administrative or judicial process (as applicable), including as a result of a judgment being under appeal, no adjustment shall be made in the Federal payment to such State on account of such overpayment (or any portion thereof) until 30 days after the date on which a final judgment (including, if applicable, a final determination on an appeal) is made.

(3) The Medicaid agency may treat an overpayment made to a Medicaid provider as resulting from fraud under subsection (d) of this section only if it has referred

a provider's case to the Medicaid fraud control unit, or appropriate law enforcement agency in States with no certified Medicaid fraud control unit, as required by § 455.15, § 455.21, or § 455.23 of this chapter, and the Medicaid fraud control unit or appropriate law enforcement agency has provided the Medicaid agency with written notification of acceptance of the case; or if the Medicaid fraud control unit or appropriate law enforcement agency has filed a civil or criminal action against a provider and has notified the State Medicaid agency.

(e) *Overpayments identified through Federal reviews.* If a Federal review at any time indicates that a State has failed to identify an overpayment or a State has identified an overpayment but has failed to either send written notice of the overpayment to the provider that specified a dollar amount subject to recovery or initiate a formal recoupment from the provider without having first notified the provider in writing, CMS will consider the overpayment as discovered on the date that the Federal official first notifies the State in writing of the overpayment and specifies a dollar amount subject to recovery.

(f) *Effect of changes in overpayment amount.* Any adjustment in the amount of an overpayment during the 1-year period following discovery (made in accordance with the approved State plan, Federal law and regulations governing Medicaid, and the appeals resolution process specified in State administrative policies and procedures) has the following effect on the 1-year recovery period:

(1) A downward adjustment in the amount of an overpayment subject to recovery that occurs after discovery does not change the original 1-year recovery period for the outstanding balance.

(2) An upward adjustment in the amount of an overpayment subject to recovery that occurs during the 1-year period following discovery does not change the 1-year recovery period for the original overpayment amount. A new 1-year period begins for the incremental amount only, beginning with the date of the State's written notification to the provider regarding the upward adjustment.

(g) *Effect of partial collection by State.* A partial collection of an overpayment amount by the State from a provider during the 1-year period following discovery does not change the 1-year recovery period for the balance of the original overpayment amount due to CMS.

42 U.S. Code of Federal Regulations 435.911 Determination of eligibility

(a) Statutory basis. This section implements sections 1902(a)(4), (a)(8), (a)(10)(A), (a)(19), and (e)(14) and section 1943 of the Act.

(b)(1) Except as provided in paragraph (b)(2) of this section, applicable modified adjusted gross income standard means 133 percent of the Federal poverty level or, if higher -

(i) In the case of parents and other caretaker relatives described in § 435.110(b), the income standard established in accordance with § 435.110(c) or § 435.220(c);

(ii) In the case of pregnant women, the income standard established in accordance with § 435.116(c) of this part;

(iii) In the case of individuals under age 19, the income standard established in accordance with § 435.118(c) of this part;

(iv) The income standard established under § 435.218(b)(1)(iv) of this part, if the State has elected to provide coverage under such section and, if applicable, coverage under the State's phase-in plan has been implemented for the individual whose eligibility is being determined.

(2) In the case of individuals who have attained at least age 65 and individuals who have attained at least age 19 and who are entitled to or enrolled for Medicare benefits under part A or B or title XVIII of the Act, there is no applicable modified adjusted gross income standard, except that in the case of such individuals -

(i) Who are also pregnant, the applicable modified adjusted gross income standard is the standard established under paragraph (b)(1) of this section; or

(ii) Who are also a parent or caretaker relative, as described in § 435.4, the applicable modified adjusted gross income standard is the higher of the income standard established in accordance with § 435.110(c) or § 435.220(c).

(c) For each individual who has submitted an application described in § 435.907 or whose eligibility is being renewed in accordance with § 435.916 and who meets the non-financial requirements for eligibility (or for whom the agency is providing a reasonable opportunity to verify citizenship or immigration status in accordance with § 435.956(b)) of this chapter, the State Medicaid agency must comply with the following -

(1) The agency must, promptly and without undue delay consistent with timeliness standards established under § 435.912, furnish Medicaid to each such individual whose household income is at or below the applicable modified adjusted gross income standard.

(2) For each individual described in paragraph (d) of this section, the agency must collect such additional information as may be needed consistent with § 435.907(c), to determine whether such individual is eligible for Medicaid on any basis other than the applicable modified adjusted gross income standard, and furnish Medicaid on such basis.

(3) For individuals not eligible on the basis of the applicable modified adjusted gross income standard, the agency must comply with the requirements set forth in § 435.1200(e) of this part.

(d) For purposes of paragraph (c)(2) of this section, individuals described in this paragraph include:

(1) Individuals whom the agency identifies, on the basis of information contained in an application described in § 435.907(b) of this part, or renewal form described in § 435.916(a)(3) of this part, or on the basis of other information available to the State, as potentially eligible on a basis other than the applicable MAGI standard;

(2) Individuals who submit an alternative application described in § 435.907(c) of this part; and

(3) Individuals who otherwise request a determination of eligibility on a basis other than the applicable MAGI standard as described in § 435.603(j) of this part.

42 U.S. Code of Federal Regulations 435.916 Periodic renewal of Medicaid eligibility

(a) Renewal of individuals whose Medicaid eligibility is based on modified adjusted gross income methods (MAGI).

(1) Except as provided in paragraph (d) of this section, the eligibility of Medicaid beneficiaries whose financial eligibility is determined using MAGI-based income must be renewed once every 12 months, and no more frequently than once every 12 months.

(2) Renewal on basis of information available to agency. The agency must make a redetermination of eligibility without requiring information from the individual if able to do so based on reliable information contained in the individual's account or other more current information available to the agency, including but not limited to information accessed through any data bases accessed by the agency under §§ 435.948, 435.949 and 435.956 of this part. If the agency is able to renew eligibility based on such information, the agency must, consistent with the requirements of this subpart and subpart E of part 431 of this chapter, notify the individual -

(i) Of the eligibility determination, and basis; and

(ii) That the individual must inform the agency, through any of the modes permitted for submission of applications under § 435.907(a) of this subpart, if any of the information contained in such notice is inaccurate, but that the individual is not required to sign and return such notice if all information provided on such notice is accurate.

(3) Use of a pre-populated renewal form. If the agency cannot renew eligibility in accordance with paragraph (a)(2) of this section, the agency must -

(i) Provide the individual with -

(A) A renewal form containing information, as specified by the Secretary, available to the agency that is needed to renew eligibility.

(B) At least 30 days from the date of the renewal form to respond and provide any necessary information through any of the modes of submission specified in § 435.907(a) of this part, and to sign the renewal form in a manner consistent with § 435.907(f) of the part;

(C) Notice of the agency's decision concerning the renewal of eligibility in accordance with this subpart and subpart E of part 431 of this chapter;

(ii) Verify any information provided by the beneficiary in accordance with §§ 435.945 through 435.956 of this part;

(iii) Reconsider in a timely manner the eligibility of an individual who is terminated for failure to submit the renewal form or necessary information, if the individual subsequently submits the renewal form within 90 days after the date of termination, or a longer period elected by the State, without requiring a new application;

(iv) Not require an individual to complete an in-person interview as part of the renewal process.

42 U.S. Code of Federal Regulations 435.920 Verification of SSNs

(a) In redetermining eligibility, the agency must review case records to determine whether they contain the beneficiary's SSN or, in the case of families, each family member's SSN.
(b) If the case record does not contain the required SSNs, the agency must require the beneficiary to furnish them and meet other requirements of § 435.910.
(c) For any beneficiary whose SSN was established as part of the case record without evidence required under the SSA regulations as to age, citizenship, alien status, or true identity, the agency must obtain verification of these factors in accordance with § 435.910.

42 U.S. Code of Federal Regulations 435.945 General requirements

(a) Except where the law requires other procedures (such as for citizenship and immigration status information), the agency may accept attestation of information needed to determine the eligibility of an individual for Medicaid (either self-attestation by the individual or attestation by an adult who is in the applicant's household, as defined in § 435.603(f) of this part, or family, as defined in section 36B(d)(1) of the Internal Revenue Code, an authorized representative, or, if the individual is a minor or incapacitated, someone acting responsibly for the individual) without requiring further information (including documentation) from the individual.
(b) The agency must request and use information relevant to verifying an individual's eligibility for Medicaid in accordance with §§ 435.948 through 435.956 of this subpart.
(c) The agency must furnish, in a timely manner, income and eligibility information, subject to regulations at part 431 subpart F of this chapter, needed for verifying eligibility to the following programs:
   (1) To other agencies in the State and other States and to the Federal programs both listed in § 435.948(a) of this subpart and identified in section 1137(b) of the Act;
   (2) Other insurance affordability programs;
   (3) The child support enforcement program under part D of title IV of the Act; and
   (4) SSA for OASDI under title II and for SSI benefits under title XVI of the Act.
(d) All State eligibility determination systems must conduct data matching through the Public Assistance Reporting Information System (PARIS).
(e) The agency must, as required under section 1137(a)(7) of the Act, and upon request, reimburse another agency listed in § 435.948(a) of this subpart or paragraph (c) of this section for reasonable costs incurred in furnishing information, including new developmental costs.
(f) Prior to requesting information for an applicant or beneficiary from another agency or program under this subpart, the agency must inform the individual that the agency will obtain and use information available to it under this subpart to verify income and eligibility or for other purposes directly connected to the administration of the State plan.
(g) Consistent with § 431.16 of this subchapter, the agency must report information as prescribed by the Secretary for purposes of determining compliance with § 431.305 of

this subchapter, subpart P of part 431, §§ 435.910 and 435.940 through 435.965 and of evaluating the effectiveness of the income and eligibility verification system.

(h) Information exchanged electronically between the State Medicaid agency and any other agency or program must be sent and received via secure electronic interfaces as defined in § 435.4 of this part.

(i) The agency must execute written agreements with other agencies before releasing data to, or requesting data from, those agencies. Such agreements must provide for appropriate safeguards limiting the use and disclosure of information as required by Federal or State law or regulations.

(j) Verification plan. The agency must develop, and update as modified, and submit to the Secretary, upon request, a verification plan describing the verification policies and procedures adopted by the State agency to implement the provisions set forth in §§ 435.940 through 435.956 of this subpart in a format and manner prescribed by the Secretary.

(k) Flexibility in information collection and verification. Subject to approval by the Secretary, the agency may request and use information from a source or sources alternative to those listed in § 435.948(a) of this subpart, or through a mechanism other than the electronic service described in § 435.949(a) of this subpart, provided that such alternative source or mechanism will reduce the administrative costs and burdens on individuals and States while maximizing accuracy, minimizing delay, meeting applicable requirements relating to the confidentiality, disclosure, maintenance, or use of information, and promoting coordination with other insurance affordability programs.

42 U.S. Code of Federal Regulations 435.948 Verifying financial information

(a) The agency must in accordance with this section request the following information relating to financial eligibility from other agencies in the State and other States and Federal programs to the extent the agency determines such information is useful to verifying the financial eligibility of an individual:

(1) Information related to wages, net earnings from self-employment, unearned income and resources from the State Wage Information Collection Agency (SWICA), the Internal Revenue Service (IRS), the Social Security Administration (SSA), the agencies administering the State unemployment compensation laws, the State-administered supplementary payment programs under section 1616(a) of the Act, and any State program administered under a plan approved under Titles I, X, XIV, or XVI of the Act; and

(2) Information related to eligibility or enrollment from the Supplemental Nutrition Assistance Program, the State program funded under part A of title IV of the Act, and other insurance affordability programs.

(b) To the extent that the information identified in paragraph (a) of this section is available through the electronic service established in accordance with § 435.949 of this subpart, the agency must obtain the information through such service.

(c) The agency must request the information by SSN, or if an SSN is not available, using other personally identifying information in the individual's account, if possible.

42 U.S. Code of Federal Regulations 435.949 Verification of information through an electronic service

(a) The Secretary will establish an electronic service through which States may verify certain information with, or obtain such information from, Federal agencies and other data sources, including SSA, the Department of Treasury, and the Department of Homeland Security.

(b) To the extent that information related to eligibility for Medicaid is available through the electronic service established by the Secretary, States must obtain the information through such service, subject to the requirements in subpart C of part 433 of this chapter, except as provided for in § 435.945(k) of this subpart.

42 U.S. Code of Federal Regulations 435.952 Use of information and requests of additional information from individuals

(a) The agency must promptly evaluate information received or obtained by it in accordance with regulations under § 435.940 through § 435.960 of this subpart to determine whether such information may affect the eligibility of an individual or the benefits to which he or she is entitled.

(b) If information provided by or on behalf of an individual (on the application or renewal form or otherwise) is reasonably compatible with information obtained by the agency in accordance with § 435.948, § 435.949 or § 435.956 of this subpart, the agency must determine or renew eligibility based on such information.

(c) An individual must not be required to provide additional information or documentation unless information needed by the agency in accordance with § 435.948, § 435.949 or § 435.956 of this subpart cannot be obtained electronically or the information obtained electronically is not reasonably compatible, as provided in the verification plan described in § 435.945(j) with information provided by or on behalf of the individual.

  (1) Income information obtained through an electronic data match shall be considered reasonably compatible with income information provided by or on behalf of an individual if both are either above or at or below the applicable income standard or other relevant income threshold.

  (2) If information provided by or on behalf of an individual is not reasonably compatible with information obtained through an electronic data match, the agency must seek additional information from the individual, including -

    (i) A statement which reasonably explains the discrepancy; or

    (ii) Other information (which may include documentation), provided that documentation from the individual is permitted only to the extent electronic data are not available and establishing a data match would not be effective, considering such factors as the administrative costs associated with establishing and using the data match compared with the administrative costs associated with relying on paper documentation, and the impact on program integrity in terms of the potential for ineligible individuals to be approved as well as for eligible individuals to be denied coverage;

    (iii) The agency must provide the individual a reasonable period to furnish any additional information required under paragraph (c) of this section.

(3) Exception for special circumstances. The agency must establish an exception to permit, on a case-by-case basis, self-attestation of individuals for all eligibility criteria when documentation does not exist at the time of application or renewal, or is not reasonably available, such as in the case of individuals who are homeless or have experienced domestic violence or a natural disaster. This exception does not apply if documentation is specifically required under title XI or XIX, such as requirements for verifying citizenship and immigration status, as implemented at § 435.956(a).

(d) The agency may not deny or terminate eligibility or reduce benefits for any individual on the basis of information received in accordance with regulations under § 435.940 through § 435.960 of this subpart unless the agency has sought additional information from the individual in accordance with paragraph (c) of this section, and provided proper notice and hearing rights to the individual in accordance with this subpart and subpart E of part 431.

42 U.S. Code of Federal Regulations 435.956 Verification of other non-financial information

(a) Citizenship and immigration status.

(1) (i) The agency must -

(A) Verify citizenship status through the electronic service established in accordance with § 435.949 or alternative mechanism authorized in accordance with § 435.945(k), if available; and

(B) Promptly attempt to resolve any inconsistencies, including typographical or other clerical errors, between information provided by the individual and information from an electronic data source, and resubmit corrected information through such electronic service or alternative mechanism.

(ii) If the agency is unable to verify citizenship status in accordance with paragraph (a)(1)(i) of this section, the agency must verify citizenship either -

(A) Through a data match with the Social Security Administration; or

(B) In accordance with § 435.407.

(2) The agency must -

(i) Verify immigration status through the electronic service established in accordance with § 435.949, or alternative mechanism authorized in accordance with § 435.945(k);

(ii) Promptly attempt to resolve any inconsistencies, including typographical or other clerical errors, between information provided by the individual and information from an electronic data source, and resubmit corrected information through such electronic service or alternative mechanism.

(3) For purposes of the exemption from the five-year waiting period described in 8 U.S.C. 1613, the agency must verify that an individual is an honorably discharged veteran or in active military duty status, or the spouse or unmarried dependent child of such person, as described in 8 U.S.C. 1612(b)(2) through the electronic service described in § 435.949 or alternative mechanism authorized in accordance with § 435.945(k). If the agency is unable to verify such status through such service the agency may accept self-attestation of such status.

(4)

(i) The agency must maintain a record of having verified citizenship or immigration status for each individual, in a case record or electronic database in accordance with the State's record retention policies in accordance with § 431.17(c) of this chapter.

(ii) Unless the individual reports a change in citizenship or the agency has received information indicating a potential change in the individual's citizenship, the agency may not re-verify or require an individual to re-verify citizenship at a renewal of eligibility under § 435.916 of this subpart, or upon a subsequent application following a break in coverage.

(5) If the agency cannot promptly verify the citizenship or satisfactory immigration status of an individual in accordance with paragraph (a)(1) or (2) of this section, the agency

(i) Must provide a reasonable opportunity in accordance with paragraph (b) of this section; and

(ii) May not delay, deny, reduce or terminate benefits for an individual whom the agency determines to be otherwise eligible for Medicaid during such reasonable opportunity period, in accordance with § 435.911(c).

(iii) If a reasonable opportunity period is provided, the agency may begin to furnish benefits to otherwise eligible individuals, effective the date of application, or the first day of the month of application, consistent with the agency's election under § 435.915(b).

(b) Reasonable opportunity period.

(1) The agency must provide a reasonable opportunity period to individuals who have made a declaration of citizenship or satisfactory immigration status in accordance with § 435.406(a), and for whom the agency is unable to verify citizenship or satisfactory immigration status in accordance with paragraph (a) of this section. During the reasonable opportunity period, the agency must continue efforts to complete verification of the individual's citizenship or satisfactory immigration status, or request documentation if necessary. The agency must provide notice of such opportunity that is accessible to persons who have limited English proficiency and individuals with disabilities, consistent with § 435.905(b). During such reasonable opportunity period, the agency must, if relevant to verification of the individual's citizenship or satisfactory immigration status -

(i) In the case of individuals declaring citizenship who do not have an SSN at the time of such declaration, assist the individual in obtaining an SSN in accordance with § 435.910, and attempt to verify the individual's citizenship in accordance with paragraph (a)(1) of this section once an SSN has been obtained and verified;

(ii) Promptly provide the individual with information on how to contact the electronic data source described in paragraph (a) of this section so that he or she can attempt to resolve any inconsistencies defeating electronic verification directly with such source, and pursue verification of the individual's citizenship or satisfactory immigration status if the individual or source informs the agency that the inconsistencies have been resolved; and

(iii) Provide the individual with an opportunity to provide other documentation of citizenship or satisfactory immigration status, in accordance with section 1137(d) of the Act and § 435.406 or § 435.407.

(2) The reasonable opportunity period -

(i) Begins on the date on which the notice described in paragraph (b)(1) of this section is received by the individual. The date on which the notice is received is considered to be 5 days after the date on the notice, unless the individual shows that he or she did not receive the notice within the 5-day period.

(ii)

(A) Ends on the earlier of the date the agency verifies the individual's citizenship or satisfactory immigration status or determines that the individual did not verify his or her citizenship or satisfactory immigration status in accordance with paragraph (a)(2) of this section, or 90 days after the date described in paragraph (b)(2)(i) of this section, except that,

(B) The agency may extend the reasonable opportunity period beyond 90 days for individuals declaring to be in a satisfactory immigration status if the agency determines that the individual is making a good faith effort to obtain any necessary documentation or the agency needs more time to verify the individual's status through other available electronic data sources or to assist the individual in obtaining documents needed to verify his or her status.

(3) If, by the end of the reasonable opportunity period, the individual's citizenship or satisfactory immigration status has not been verified in accordance with paragraph (a) of this section, the agency must take action within 30 days to terminate eligibility in accordance with part 431 subpart E (relating to notice and appeal rights) of this chapter, except that §§ 431.230 and 431.231 of this chapter (relating to maintaining and reinstating services) may be applied at State option.

(4)

(i) The agency may establish in its State plan reasonable limits on the number of reasonable opportunity periods during which medical assistance is furnished which a given individual may receive once denied eligibility for Medicaid due to failure to verify citizenship or satisfactory immigration status, provided that the conditions in paragraph (b)(4)(ii) of this section are met.

(ii) Prior to implementing any limits under paragraph (b)(4)(i) of this section, the agency must -

(A) Demonstrate that the lack of limits jeopardizes program integrity; and

(B) Receive approval of a State plan amendment prior to implementing limits.

42 U.S. Code of Federal Regulations 440.255 Limited services available to certain aliens

(a) FFP for services. FFP is available for services provided to aliens described in this section which are necessary to treat an emergency medical condition as defined in paragraphs (b)(1) and (c) or services for pregnant women described in paragraph (b)(2).

(b) Legalized aliens eligible only for emergency services and services for pregnant women. Aliens granted lawful temporary resident status, or lawful permanent resident status under sections 245A, 210 or 210A of the Immigration and Nationality Act, who are not

in one of the exempt groups described in §§ 435.406(a)(3) and 436.406(a)(3) and who meet all other requirements for Medicaid will be eligible for the following services -

(1) Emergency services required after the sudden onset of a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in:

(i) Placing the patient's health in serious jeopardy;

(ii) Serious impairment to bodily functions; or

(iii) Serious dysfunction of any bodily organ or part.

(2) Services for pregnant women which are included in the approved State plan. These services include routine prenatal care, labor and delivery, and routine post-partum care. States, at their option, may provide additional plan services for the treatment of conditions which may complicate the pregnancy or delivery.

(c) Effective January 1, 1987, aliens who are not lawfully admitted for permanent residence in the United States or permanently residing in the United States under the color of law must receive the services necessary to treat the condition defined in paragraph (1) of this section if -

(1) The alien has, after sudden onset, a medical condition (including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in:

(i) Placing the patient's health in serious jeopardy;

(ii) Serious impairment to bodily functions; or

(iii) Serious dysfunction of any bodily organ or part, and

(2) The alien otherwise meets the requirements in §§ 435.406(c) and 436.406(c) of this subpart.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in internal controls over compliance in its Codification of Statements on Auditing Standards, section 935, Compliance Audits, as follows:

.11 For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows: …

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a

reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Office of Management and Budget OMB Uniform Guidance, Compliance Supplement for 2017, *Part 4 – Agency Program Requirements, 4.93.778 Medicaid Cluster,* states in part:

General Audit Approach for Medicaid Payments

To be allowable, Medicaid costs for medical services must be (1) covered by the State plan and waivers; (2) reviewed by the State consistent with the State's documented procedures and system for determining medical necessity of claims; (3) properly coded; and (4) paid at the rate allowed by the State plan. Additionally, Medicaid costs must be net of beneficiary cost-sharing obligations and applicable credits (e.g., insurance, recoveries from other third parties who are responsible for covering the Medicaid costs, and drug rebates), paid to eligible providers, and only provided on behalf of eligible individuals.

Washington State MAGI-Based Eligibility Verification Plan, states in part:

Income:

Washington State Health Care Authority (WA HCA), the state Medicaid/CHIP agency responsible for the MAGI population, enrolls the individual based on the self-attested income. The state retrieves data from the Hub and SWICA and then runs a report within a week of enrollment to determine if there are any inconsistencies between the attested income and the information from the data sources which would affect eligibility. If there are, caseworkers will first try to resolve the inconsistency by looking at additional data sources, such as TALX, SNAP, TANF. If an inconsistency still remains, the state will call the individual for an explanation. If that still does not resolve the inconsistency the state will request paper documentation.

When an individual attests to income higher than the Medicaid/CHIP standard we will take the person's attestation and screen for APTC.

Social Security Number:

WA HCA uses the Hub to verify social security numbers. If verification cannot be obtained through the data match will need to require paper documentation

Citizenship:

WA HCA uses the Hub to verify citizenship. If verification cannot be obtained through the data match will need to require paper documentation

Immigration Status:

WA HCA uses SAVE through the Hub's VLP service to verify immigration status at SAVE steps 1 and 2. WA HCA then uses its web-based connection to SAVE for step 3. If verification cannot be obtained through the data match will need to require paper documentation

2019-051 The Health Care Authority did not have adequate internal controls over and did not comply with suspension and debarment requirements for Medicaid medical fee-for-service providers.

Federal Awarding Agency:	U.S. Department of Health and Human Services	
Pass-Through Entity:	None	
CFDA Number and Title:	93.775	State Medicaid Fraud Control Units
	93.777	State Survey and Certification of Health Care Providers and Suppliers (Title XVIII) Medicare
	93.778	Medical Assistance Program (Medicaid; Title XIX)
Federal Award Number:	1905WA5MAP; 1905WA5ADM; 1905WAIMPL; 1905WAINCT	
Applicable Compliance Component:	Suspension and Debarment	
Known Questioned Cost Amount:	None	

Background

Medicaid is a jointly funded state and federal partnership providing coverage for about 1.8 million eligible low-income Washington residents who otherwise might go without medical care. Medicaid is Washington's largest public assistance program and accounts for about one-third of the State's federal expenditures. The program spent about $13.6 billion in federal and state funds during fiscal year 2019.

Federal regulations prohibit grant recipients from contracting with or making subawards to parties suspended or debarred from doing business with the federal government. The grantee must verify that all contractors receiving $25,000 or more in federal funds, or any subrecipients, have not been suspended or debarred or otherwise excluded. This verification may be accomplished by obtaining a written certification from the contractor or subrecipient or inserting a clause into the contract where the contractor or subrecipient states it is not suspended or debarred. Alternatively, the grantee may search the federal System for Award Management (SAM). This requirement must be met before entering into the contract.

The Medicaid program has additional requirements to ensure Medicaid providers are not suspended or debarred. Federal regulations require state Medicaid agencies to determine the exclusion status of providers and any person with an ownership or control interest or who is an agent or managing employee of the provider through routine checks of the List of Excluded Individuals/Entities (LEIE) and Excluded Parties List System (EPLS). In November 2012, the EPLS system was replaced with the SAM database.

The regulation requires state Medicaid agencies to perform LEIE and EPLS/SAM checks upon enrollment and re-enrollment of providers. For all enrolled providers, owners and managing employees, LEIE and EPLS/SAM checks must be completed at least monthly.

Over 106,000 Medicaid providers were active in Washington during fiscal year 2019. The Health Care Authority (Authority), which administers the state's Medicaid program, spent about $1.52 billion for fee-for-service claims billed by medical providers.

In the prior two audits, we reported the Authority did not have adequate internal controls over and did not comply with suspension and debarment requirements for Medicaid medical fee-for-service providers. The prior finding numbers were 2018-046 and 2017-037.

Description of Condition

We found the Authority did not have adequate internal controls over and did not comply with suspension and debarment requirements for Medicaid medical fee-for-service providers.

The Authority did not complete monthly EPLS/SAM database checks of medical fee-for-service providers for any months during our audit period. The EPLS/SAM database only has the ability to look up a single individual person or entity. This limitation, combined with the large number of providers, means that the Authority cannot complete EPLS/SAM checks individually for all providers monthly.

To resolve the issue, the Authority implemented the Automated Provider Screening (APS) process to conduct EPLS/SAM database checks for medical providers participating in the Medicaid program in October 2018. However, the Authority did not have an adequate follow-up process to review the data match results.

The Authority is working with the U.S. Department of Treasury to use the Do Not Pay database, including EPLS/SAM exclusion data, for the Authority's data match process.

We consider this internal control deficiency to be a material weakness.

Cause of Condition

The Authority said that limited staff resources was the reason it did not complete follow-up on the data match results. The Authority has not been able to use the Do Not Pay database because the Authority has not finalized a data sharing agreement with the U.S. Department of Treasury.

Effect of Condition

The Authority was not in compliance with monthly EPLS check requirements.

Not conducting required monthly database checks in a timely manner increases the risk that the Authority would not detect and prevent suspended or debarred providers from receiving federal Medicaid funds. Payments to providers who are suspended or debarred would be unallowable, and the Authority could be required to repay the grantor for any such payments.

Recommendation

We recommend the Authority establish adequate internal controls to ensure it completes required EPLS/SAM checks at least monthly.

Authority's Response

As noted by the State Auditor's Office, the Authority conducts LEIE and EPLS database checks during the provider enrollment process for new enrollees and during re-validation.

The EPLS database checks are currently not conducted on a monthly basis by the Authority as there is a price associated with the SAM/EPLS database checks for an upload of more than one individual provider at a time. The Authority has not had adequate staffing nor the budget to pay to have these checks conducted on a monthly basis due to the volume of its providers.

The Authority's work to utilize the U.S. Department of Treasury's Do Not Pay database system has stalled on the Federal side. The Authority is exploring other opportunities which will provide the capability to upload the high volume of providers into SAM/EPLS and conduct the required checks on a monthly basis.

Under the Authority's Apple Health contract, Managed Care Organizations (MCOs) are delegated to conduct the LEIE and SAM/EPLS database checks on network providers, which account for the majority of contracted providers. Per the contract requirements, MCOs report, to the Authority, any provider who appears in any of the databases and terminates the provider as necessary. The MCOs have been compliant with the aforementioned contract requirements which reduces the Authority's risk.

Although there is a current gap in the Authority's ability to conduct the SAM/EPLS database checks on a monthly basis, there were no improper payments identified.

Auditor's Remarks

We thank the Authority for its cooperation and assistance throughout the audit. We will review the status of the Authority's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

(a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and

conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

(b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.

(d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.516 Audit findings, states in part:

(a) *Audit findings reported*. The auditor must report the following as audit findings in a schedule of findings and questioned costs:

(1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.

(2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in internal controls over compliance in its Codification of Statements on Auditing Standards, section 935, Compliance Audits, as follows:

.11 For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows: …

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a

reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

Title 2, U.S. Code of Federal Regulation, part 180, states in part:

Subpart B- Covered Transactions

A covered transactions is a nonprocurement or procurement transactions that is subject to the prohibitions of this part. It may be a transaction at –

(a) The primary tier, between a Federal agency and a person (see appendix to this part); or
(b) A lower tier, between a participant in a covered transaction and another person.

Subpart C- Responsibilities of participants Regarding Transactions Doing Business With Other persons.

§1800.300 what must I do before I enter into a covered transaction with another person at the lower tier.

When you enter into a covered transaction with another person at the next lower tier, you must verify that the person with whom you intend to do business is not excluded or disqualified. You do this by:

(a) Checking SAM Exclusions; or
(b) Collecting a certification from that person; or
(c) Adding a clause or condition to the covered transaction with that person.

Title 42 U.S. Code of Federal Regulations section 455 Subpart E – Provider Screening and Enrollment, states in part:

Section 455.436 Federal database checks

The State Medicaid agency must do all of the following:

(a) Confirm the identity and determine the exclusion status of providers and any person with an ownership or control interest or who is an agent or managing employee

(b) Check the Social Security Administration's Death Master File, the National Plan and Provider Enumeration System (NPPES), the List of Excluded Individuals/Entities (LEIE), the Excluded parties List System (EPLS) and any such other databases as the Secretary may prescribe.

(c) (1) Consult appropriate databases to confirm identity upon enrollment and reenrollment; and

(2) Check the LEIE and EPLS no less frequently than monthly.

2019-052 The Health Care Authority did not have adequate internal controls over and did not comply with requirements to ensure reports of potential fraud obtained through the Medicaid Service Verification process were investigated.

Federal Awarding Agency:	U.S. Department of Health and Human Services
Pass-Through Entity:	None
CFDA Number and Title:	93.775 State Medicaid Fraud Control Units 93.777 State Survey and Certification of Health Care Providers and Suppliers (Title XVIII) Medicare 93.778 Medical Assistance Program (Medicaid; Title XIX)
Federal Award Number:	1905WA5MAP; 1905WA5ADM; 1905WAIMPL; 1905WAINCT
Applicable Compliance Component:	Special Tests and Provisions – Utilization Control and Program Integrity
Known Questioned Cost Amount:	None

Background

Medicaid is a jointly funded state and federal partnership providing coverage for about 1.8 million eligible low-income Washington residents who otherwise might go without medical care. Medicaid is Washington's largest public assistance program and accounts for about one-third of the State's federal expenditures. The program spent about $13.6 billion in federal and state funds during fiscal year 2019.

For states, such as Washington, that use an automated claims processing system (ProviderOne), federal regulations require a specific method to be in place to verify with Medicaid clients that they received services billed by providers. The intent is to improve program integrity and identify potential fraud and abuse in the Medicaid program.

The specific verification method involves sending individual written notices, within 45 days of payment, to all or a sample group of Medicaid clients whose claims were processed through ProviderOne. Medical, nursing home, and social service claims are subject to the Medicaid service verification process. In fiscal year 2019, the Medicaid program spent over 4.6 billion for these types of claims.

If the verification process identifies a report of potential Medicaid fraud, the Authority must conduct preliminary investigations to determine if sufficient evidence exists to warrant a full investigation. If the Authority identifies a credible suspicion of fraud or abuse, it must forward the information to the Attorney General's Office, Medicaid Fraud Control Unit, for investigation.

In state fiscal year 2019, the Authority mailed Medicaid medical, nursing home, and social service verification surveys to randomly selected clients every month. The Authority selected clients to receive the survey based on payments made through ProviderOne.

In prior audits, we reported the Authority did not ensure it included eligible nursing home claims in the Medicaid service verification process. The prior finding numbers were 2018-043 and 2017-034. The Authority fully resolved the prior condition reported.

Description of Condition

We found the Authority did not have adequate internal controls over and did not comply with requirements to ensure reports of potential fraud obtained through the Medicaid service verification process were investigated.

The Authority did not establish an effective process to ensure it complied with federal requirements.

We consider this control deficiency to be a material weakness.

The condition related to preliminary investigation referrals was not reported in the prior audit.

Cause of Condition

The Authority's Section of Program Integrity, which is responsible for the Authority's Medicaid service verification process, recently underwent a major reorganization. Staff assigned to the program were new to their positions. In addition, the Authority could not conduct preliminary investigations due to limited Fraud investigation staff.

Effect of Condition

We used a non-statistical sampling method and randomly selected five monthly reports from a total population of 12 monthly reports. For all five monthly reports tested, we found referrals for preliminary investigations were not completed when Medicaid service verifications indicated the client did not receive a billed service or was asked to pay for the service.

Recommendation

We recommend the Authority establish a process to ensure it performs preliminary investigations, as required, when allegations of Medicaid fraud or abuse are received.

Authority's Response

The Authority agrees with the audit finding, and will improve internal controls to ensure compliance with federal requirements.

Auditor's Remarks

We thank the Authority for its cooperation and assistance throughout the audit. We will review the status of the Authority's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

> Section 200.303 Internal controls, states in part:
> The non-Federal entity must:
>
> (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
>
> (b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.
>
> (d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.
>
> Section 200.516 Audit findings, states in part:
>
> (a) *Audit findings reported*. The auditor must report the following as audit findings in a schedule of findings and questioned costs:
>
> (1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.
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> (2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in internal controls over compliance in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, as follows:

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Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

Title 42, U.S. Code of Federal Regulations, Chapter IV, Subpart C—Mechanized Claims Processing and Information Retrieval Systems, section 433.110 Basis, purpose and applicability, states in part:

(a) This subpart implements the following sections of the Act:

(1) Section 1903(a)(3) of the Act, which provides for FFP in State expenditures for the design, development, or installation of mechanized claims processing and information retrieval systems and for the operation of certain systems. Additional HHS regulations and CMS procedures for implementing these regulations are in 45 CFR part 75, 45 CFR part 95, subpart F, and part 11, State Medicaid Manual; and

(2) Section 1903(r) of the Act, which imposes certain standards and conditions on mechanized claims processing and information retrieval systems (including

eligibility determination systems) in order for these systems to be eligible for Federal funding under section 1903(a) of the Act.

Title 42, U.S. Code of Federal Regulations, Section 433.116 FFP for operation of mechanized claims processing and information retrieval systems, states in part:

(a) Subject to paragraph (j) of this section, FFP is available at 75 percent of expenditures for operation of a mechanized claims processing and information retrieval system approved by CMS, from the first day of the calendar quarter after the date the system met the conditions of initial approval, as established by CMS (including a retroactive adjustment of FFP if necessary to provide the 75 percent rate beginning on the first day of that calendar quarter). Subject to 45 CFR 95.611(a), the State shall obtain prior written approval from CMS when it plans to acquire ADP equipment or services, when it anticipates the total acquisition costs will exceed thresholds, and meets other conditions of the subpart.
(b) CMS will approve enhanced FFP for system operations if the conditions specified in paragraphs (c) through (i) of this section are met.
(c) The conditions of §433.112(b)(1) through (22) must be met at the time of approval.
(d) The system must have been operating continuously during the period for which FFP is claimed.
(e) The system must provide individual notices, within 45 days of the payment of claims, to all or a sample group of the persons who received services under the plan.
(f) The notice required by paragraph (e) of this section—
  (1) Must specify—
    (i) The service furnished;
    (ii) The name of the provider furnishing the service;
    (iii) The date on which the service was furnished; and
    (iv) The amount of the payment made under the plan for the service; and
  (2) Must not specify confidential services (as defined by the State) and must not be sent if the only service furnished was confidential.
(g) The system must provide both patient and provider profiles for program management and utilization review purposes.
(h) If the State has a Medicaid fraud control unit certified under section 1903(q) of the Act and §455.300 of this chapter, the Medicaid agency must have procedures to assure that information on probable fraud or abuse that is obtained from, or developed by, the system is made available to that unit. (See §455.21 of this chapter for State plan requirements.)

Title 42, U.S. Code of Federal Regulations, Section 455.1 Basis and scope, states in part:

This part sets forth requirements for a State fraud detection and investigation program, and for disclosure of information on ownership and control.

(a) Under the authority of sections 1902(a)(4), 1903(i)(2), and 1909 of the Social Security Act, Subpart A provides State plan requirements for the identification, investigation, and referral of suspected fraud and abuse cases. In addition, the subpart requires that the State—

(1) Report fraud and abuse information to the Department; and
(2) Have a method to verify whether services reimbursed by Medicaid were actually furnished to beneficiaries.

Title 42, U.S. Code of Federal Regulations, Section 455.14 Preliminary investigation states:

If the agency receives a complaint of Medicaid fraud or abuse from any source or identifies any questionable practices, it must conduct a preliminary investigation to determine whether there is sufficient basis to warrant a full investigation.

Title 42, U.S. Code of Federal Regulations, Section 455.20 Beneficiary verification procedure states:

(a) The agency must have a method for verifying with beneficiaries whether services billed by providers were received.
(b) In States receiving Federal matching funds for a mechanized claims processing and information retrieval system under part 433, subpart C, of this subchapter, the agency must provide prompt written notice as required by §433.116 (e) and (f).

Health Care Authority, Office of Program Integrity (OPI) Procedure No. 2.1.2 states:

Medical Service Verification (MSV) Procedure
Procedure:

I. Selection and Issuance of MSVs.
   A. Each month, using an automated random selection process, ProviderOne will issue 400 MSV forms to Washington Apple Health fee-for-service medical, nursing home and social service clients.
   B. MSV mailings will:
      1. Exclude clients receiving confidential services
      2. Include a self-addressed stamped envelope for client to return to HCA;
      3. Include a Language Assistance Sheet; and
      4. Identify the specific service recipient
   C. ProviderOne will create a report of all MSVs mailed.
      1. Report will be sent to PI Intake Coordinator and DSHS
      2. PI Intake Coordinator will upload the report into the PI Intake Database

II. Receipt of MSVs
   A. Each returned MSV will be scanned into the ProviderOne system, batched by the date received and submitted to the Intake Coordinator
   B. All social service MSVs will be forwarded to DSHS, per Service Level Agreement (SLA), for processing.
   C. The Intake Coordinator will log all returned medical and nursing home MSVs into the PI Intake Database, whether services are designated as received or not.
   D. The Intake Coordinator will refer all leads from medical and nursing home MSVs with potential fraud, waste or abuse to the appropriate Utilization Analyst for further research and analysis.

III. The Utilization Analyst will:

A. Review the work of the Intake Coordinator, conduct further research and determine if a preliminary investigation is warranted.

B. Refer lead back to Intake Coordinator to close the MSV without action if a preliminary investigation is not required; or

C. Open a case in the Optum Case Tracking Module for assignment and conduct the preliminary investigation.

D. Follow the procedure for preliminary investigation and refer to CMT or for full investigation if indicated.

IV. Quality Control and Reporting

2019-053 The Health Care Authority, Section of Program Integrity, Audit and Investigations Unit, did not establish adequate internal controls over and did not comply with requirements to identify and refer suspected fraud cases for investigation.

Federal Awarding Agency:	U.S. Department of Health and Human Services	
Pass-Through Entity:	None	
CFDA Number and Title:	93.775	State Medicaid Fraud Control Units
	93.777	State Survey and Certification of Health Care Providers and Suppliers (Title XVIII) Medicare
	93.778	Medical Assistance Program (Medicaid; Title XIX)
Federal Award Number:	1905WA5MAP; 1905WA5ADM; 1905WAIMPL; 1905WAINCT	
Applicable Compliance Component:	Special Tests and Provisions - Utilization Control and Program Integrity	
Known Questioned Cost Amount:	None	

Background

Medicaid is a jointly funded state and federal partnership providing coverage for about 1.8 million eligible low-income Washington residents who otherwise might go without medical care. Medicaid is Washington's largest public assistance program and accounts for about one-third of the State's federal expenditures. The program spent about $13.6 billion in federal and state funds during fiscal year 2019.

Federal regulations require states to develop methods and criteria for identifying and investigating suspected fraud cases within the Medicaid program. In addition, the state Medicaid agency must develop procedures, in cooperation with State legal authorities, for referring suspected fraud cases to law enforcement officials, including the State Medicaid Fraud Control Unit.

The Section of Program Integrity (Section) is the main office within the Health Care Authority (Authority) that performs program integrity reviews of Medicaid operations. The Section's mission is to identify, prevent and recover improper payments to providers and its contractors, and identify noncompliance with state and federal regulations as well as with contractual requirements.

This mission is carried out through:

- Data mining and analysis of payment transactions to identify potential fraud
- Conducting audits and reviews of health care providers, contractors, and subcontractors to ensure compliance with applicable laws and regulations
- Preventing future improper payments by recommending process improvements through amended program policies and Medicaid payment system edits

- Providing educational outreach to Medicaid providers, managed-care organizations, health care associations, and other Medicaid contractors to identify, report and prevent fraud

The Section's Audit and Investigations Unit is responsible for conducting medical and hospital audits to detect and prevent fraud, waste and abuse, and identify any associated improper payments. Medical audits are comprised of three types of audits: self-initiated, focused, and desk audit. Hospital audits are data-driven audits that primarily focus on review of payment coding. If suspected credible allegations of fraud are found, the Office refers the case to the Medicaid Fraud Control Unit.

During fiscal year 2019, the Audit and Investigations Unit performed 86 medical audits and 29 hospital audits.

In the prior audit, we reported the Authority's Section of Program Integrity, Data Analytics and Review Unit, did not establish adequate internal controls over and did not comply with requirements to identify and refer suspected fraud cases for investigation. The prior finding number was 2018-047. The Data Analytics and Review Unit operates under different policies and procedures than the Audit and Investigations Unit.

Description of Condition

The Authority's Section of Program Integrity, Audit and Investigations Unit, did not establish adequate internal controls over and did not comply with requirements to identify and refer suspected fraud cases for investigation.

Federal law requires all state Medicaid agencies to establish methods and criteria for investigating suspected cases of fraud and procedures for referring suspected fraud to law enforcement officials. The Audit and Investigations Unit did not have any such policies and procedures pertaining to its audits. Because of this, we could not determine whether the Audit and Investigations Unit conducted its audits in accordance with established policies and procedures.

We consider this control deficiency to be a material weakness.

Cause of Condition

The Section of Program Integrity had outdated policies and procedures for the Audit and Investigations Unit. These policies and procedures pertained to audits that estimated results, which are no longer performed by the Authority. The Section failed to update its policies and procedures to reflect its current audit practices due to management's decision upon the Audit and Investigations Unit's reorganization in 2017, and again during 2019.

The Audit and Investigations Unit did not set standards for documentation regarding audit case work. Additionally, management did not document reviews of audits and investigations to ensure all work performed by the auditors was accurate, complete, and adequately documented.

Effect of Condition

By not establishing policies and procedures to identify and investigate suspected fraud, the Authority did not meet federal program integrity requirements.

Because it did not require secondary reviews of provider audits, the Authority had no assurance that credible cases of fraud were properly identified and referred to the Medicaid Fraud Control Unit. Failure to identify suspected fraud cases increases the risk of undetected improper payments within the Medicaid program.

Recommendations

We recommend the Authority:

- Develop and implement policies and procedures for the Audit and Investigations Unit
- Require and document secondary reviews of each audit for accuracy and completeness
- Monitor audits to ensure they are performed and documented in accordance with Audit and Investigations Unit policies and procedures

Authority's Response

The Authority agrees with the audit finding, and will improve internal controls to ensure compliance with federal requirements.

Auditor's Remarks

We thank the Authority for its cooperation and assistance throughout the audit. We will review the status of the Authority's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

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(a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

(b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.

(d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.516 Audit findings, states in part:

(a) *Audit findings reported*. The auditor must report the following as audit findings in a schedule of findings and questioned costs:

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Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

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Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

Title 42 U.S. Code of Federal Regulations Part 455, Program Integrity: Medicaid, Subpart A – Medicaid Agency Fraud Detection and Investigation Program, states in part:

455.13. Methods for identification, investigation, and referral.

The Medicaid agency must have –

(a) Methods and criteria for identifying suspected fraud cases;
(b) Methods for investigating these cases that –
    (1) Do not infringe on the legal rights of persons involved; and
    (2) Afford due process of law; and
(c) Procedures, developed in cooperation with State legal authorities, for referring suspected fraud cases to law enforcement officials.

455.14. Preliminary investigation.

If the agency receives a complaint of Medicaid fraud or abuse from any source or identifies any questionable practices, it must conduct a preliminary investigation to determine whether there is sufficient basis to warrant a full investigation.

455.15. Full investigation.

If the findings of a preliminary investigation give the agency reason to believe that an incident of fraud or abuse has occurred in the Medicaid program, the agency must take the following action, as appropriate:

(a) If a provider is suspected of fraud or abuse, the agency must –
    (1) In States with a State Medicaid fraud control unit certified under subpart C of part 1002 of this title, refer the case to the unit under the terms of its agreement with the unit entered into under § 1002.309 of this title;
(b) If there is reason to believe that a beneficiary has defrauded the Medicaid program, the agency must refer the case to an appropriate law enforcement agency.
(c) If there is reason to believe that a beneficiary has abused the Medicaid program, the agency must conduct a full investigation of the abuse.

455.16. Resolution of full investigation.

A full investigation must continue until –

(a) Appropriate legal action is initiated;
(b) The case is closed or dropped because of insufficient evidence to support the allegations of fraud or abuse; or
(c) The matter is resolved between the agency and the provider or beneficiary. This resolution may include but is not limited to –
    (1) Sending a warning letter to the provider or beneficiary, giving notice that continuation of the activity in question will result in further action;
    (2) Suspending or terminating the provider from participation in the Medicaid program;
    (3) Seeking recovery of payments made to the provider; or
    (4) Imposing other sanctions provided under the State plan.

Title 42 U.S. Code of Federal Regulations Part 456, Utilization Control, Subpart A – General Provisions, states in part:

456.1. Basis and purpose of part.
(b) The requirements in this part are based on the following sections of the Act. Table 1 shows the relationship between these sections of the Act and the requirements in this part.
    (1) *Methods and procedures to safeguard against utilization of care and services.* Section 1902(a)(30) requires that the State plan provide methods and procedures to safeguard against unnecessary utilization of care and services.

456.2. State plan requirements.
(a) A State plan must provide that the requirements of this part are met.
(b) These requirements may be met by the agency by:
    (1) Assuming direct responsibility for assuring that the requirements of this part are met;

456.3. Statewide surveillance and utilization control program.
The Medicaid agency must implement a statewide surveillance and utilization control program that –
(a) Safeguards against unnecessary or inappropriate use of Medicaid services and against excess payments;
(b) Assesses the quality of those services;
(c) Provides for the control of the utilization of all services provided under the plan in accordance with subpart B of this part; and
(d) Provides for the control of the utilization of inpatient services in accordance with subparts C through I of this part.

456.4. Responsibility for monitoring the utilization control program.
(a) The agency must –
    (1) Monitor the statewide utilization control program;
    (2) Take all necessary corrective action to ensure the effectiveness of the program;
    (3) Establish methods and procedures to implement this section;
    (4) Keep copies of these methods and procedures on file; and

(5) Give copies of these methods and procedures to all staff involved in carrying out the utilization control program.

456.5. Evaluation criteria.

The agency must establish and use written criteria for evaluating the appropriateness and quality of Medicaid services.

Title 42 U.S. Code of Federal Regulations Part 456, Utilization Control, Subpart B – Utilization Control: All Medicaid Services, states in part:

456.23 – Post-payment review process.

The agency must have a post-payment review process that –

(a) Allows State personnel to develop and review –
  (1) Beneficiary utilization profiles;
  (2) Provider service profiles; and
  (3) Exceptions criteria; and
(b) Identifies exceptions so that the agency can correct misutilization practices of beneficiaries and providers.

2019-054 **The Department of Social and Health Services, Developmental Disabilities Administration, did not have adequate internal controls over and did not comply with requirements to ensure Medicaid payments to supported living providers were allowable and adequately supported.**

Federal Awarding Agency:	U.S. Department of Health and Human Services
Pass-Through Entity:	None
CFDA Number and Title:	93.775 State Medicaid Fraud Control Units
	93.777 State Survey and Certification of Health Care Providers and Suppliers (Title XVIII) Medicare
	93.778 Medical Assistance Program (Medicaid; Title XIX)
Federal Award Number:	1905WA5MAP; 1905WA5ADM; 1905WAIMPL; 1905WAINCT
Applicable Compliance Component:	Activities Allowed/Unallowed Allowable Costs/Cost Principles
Questioned Cost Amount:	$114,435,961

Background

Medicaid is a jointly funded state and federal partnership providing coverage for about 1.8 million eligible low-income Washington residents who otherwise might go without medical care. Medicaid is Washington's largest public assistance program and accounts for about one-third of the State's federal expenditures. The program spent about $13.6 billion in federal and State funds during fiscal year 2019.

The Department of Social and Health Services' (Department) Developmental Disabilities Administration administers the Home and Community Based Services (HCBS) program for people with developmental disabilities. HCBS is a waiver program that permits states to provide an array of community-based services to help Medicaid clients live in the community and avoid institutionalization. States have broad discretion to design waiver programs, but those programs must be approved by the Centers for Medicare and Medicaid Services (CMS).

Supported living services support Medicaid clients to live in their own homes, generally with one to three other people, and receive instruction and support delivered by contracted service agencies (providers). Supported living clients pay their own rent, food and other personal expenses. Supported living is an option under the HCBS Core and Community Protection waivers. In fiscal year 2019, the state Medicaid program paid about $502 million in federal and state funds to supported living agencies that provided care to about 4,000 Medicaid clients.

For the first half of the audit period (July 1 to December 31, 2018), the Department used a client assessment process that calculated the number of support hours each client needed to live successfully in the community. Beginning January 1, 2019, the Department implemented a new assessment process that assigned a tiered rate based on a client's support needs, instead of a rate

based on hours. Because the Department significantly changed its payment methodology halfway through the fiscal year, we planned our audit to assess both processes.

Client assessments and rate setting

July 1 to December 31, 2018

The Department used an assessment to evaluate the level of support clients need to live in the community. The assessment predicted a level of support as if the client lives alone. However, because some support services can be shared with housemates, the Department looked for opportunities to help providers support clients in a cost-effective manner, termed economies of scale.

Through a rate-setting process, Department resource managers worked with providers to determine how the assessed level of support would be delivered and the number of daily direct service hours that would be provided. A State rule required providers to obtain Department approval of schedules to provide 24-hour support when household configurations changed or when additional staffing was requested or needed by a client. Once determined, a daily rate was loaded into the Department's payment system, and providers accessed the system to claim payment for each day of service that was provided.

January 1 to June 30, 2019

Beginning January 1, 2019, the Department implemented a tiered payment rate. One of the reasons for the change to the rate methodology is to allow service providers more flexibility in delivering services to clients. The Department uses the same assessment tool to evaluate the level of support clients need to live in the community. However, instead of calculating and assessing a level of support in terms of hours, the Department has established a model that assigns clients to a daily rate in one of nine tiers.

Daily rates are still loaded into the Department's payment system, and providers claim payment for each day they provide services to clients.

Cost reports

July 1 to December 31, 2018

Providers prepared and submitted a cost report at the end of the calendar year. The Department used cost report information to:

- Provide program cost data to regional managers and residential providers;
- Establish rates or allocate appropriated funds;
- Determine settlements with supported living providers;
- Provide information to the Legislature and the Department for budget development and policy decisions; and
- Provide accountability and transparency for the use of public funds.

The cost report consisted of 16 different schedules of provider information. The Department established a template, accompanied by detailed instructions that all providers must use when preparing cost reports. Providers were required to attest to the accuracy of the reported information.

In its approved Core and Community Protection waiver, the Department stated that cost reports are desk audited to determine accuracy and the reasonableness of reported costs. The Department also established a policy stated it will analyze the cost reports and financial statements of each provider to determine if the submitted information is correct and complete, and that the information conformed with generally accepted accounting principles and applicable policies rules and regulations.

From July 1, 2018, to December 31, 2018, the Department paid $279,483,817 to supported living providers.

January 1 to June 30, 2019

The Department still requires that supported living providers prepare and submit a cost report at the end of each calendar year. The Department has established a revised template with detailed instructions. Providers must attest to the accuracy of the reported information. The Department said it will use the 2019 cost reports information to:

- Provide program cost data to regional managers and residential providers;
- Determine settlements with supported living providers;
- Provide information to the Legislature and the Department for budget development and policy decisions; and
- Provide accountability and transparency for the use of public funds.

This information will not be submitted by providers until March 31, 2020.

In its newly approved Core and Community Protection waiver, the Department states it reconciles purchased support services with provided support services for the past calendar year. Cost reports are desk audited to determine the accuracy and reasonableness of the reported costs. The Department also updated its internal policy requiring providers to maintain a system to show instruction and support service (ISS) funds have been used only to provide ISS.

From January 1, 2019 to June 30, 2019, the Department paid $222,997,501 to supported living providers.

Settlements

July 1 to December 31, 2018

After reviewing cost reports, the Department established settlements when providers were paid for more direct service hours than they provided in a calendar year (Settlement A) or when providers received more reimbursement (in dollars) for direct support costs than they actually incurred during the year (Settlement B). Settlements were based on a provider's attestation of total hours provided or the total direct support dollars reimbursed, during the year. The Department's policy required that providers refund the greater amount of Settlement A or B.

Once settlements were assessed, they were forwarded to the Department's collection arm, the Office of Financial Recovery (OFR), which recorded an overpayment and sought repayment from providers.

January 1 to June 30, 2019

The Department amended its policy, but will continue to review cost reports after each calendar year. Because it no longer assesses a client's level of support in terms of hours, settlements will occur when the Department paid for more direct support than providers spent to provide those services. Settlements will no longer be calculated in terms of hours (formerly Settlement A). If settlements are assessed, they will still be forwarded to OFR for collection.

Provider documentation requirements

July 1 to December 31, 2018

According to Department policy, providers were required to maintain detailed payroll records, by employee, of the hours and costs reported on their cost reports. The Department could request job descriptions for employees to verify the duties of positions. Paid hours and payroll costs for direct hours to clients had to be verifiable in provider records. This included employee timesheets and schedules for actual hours worked. In its cost report instructions, the Department stated the detailed payroll information did not need to be submitted with cost reports. The Department established a template that providers could use to organize the information, but providers were allowed to use their own payroll records.

When a provider used its own payroll records, the Department's instructions required that the information clearly show the distinction between direct and non-direct hours and wages for the provider's employees and that each employee be assigned to one of seven different job classification categories. Providers were required to produce detailed payroll records if requested by the Department for auditing purposes.

January 1 to June 30, 2019

Providers still must maintain supporting documentation that allows the Department to verify the cost of services provided to clients. The Department's revised policy states that payroll costs charged for ISS services must be verifiable in the provider's records. Providers must retain detailed monthly or quarterly payroll and supporting records that support the amounts on their cost reports.

Prior audit findings

In prior audits, we reported the Department did not have adequate internal controls over and did not comply with requirements to ensure payments to supported living providers were allowable. The prior finding numbers were: 2018-058, 2017-044, 2016-041, 2016-045, 2015-049, 2015-052, 2014-041, 2014-042, 2013-036, 2013-038 and 12-39.

Description of Condition

The Department's Developmental Disabilities Administration did not have adequate internal controls over and did not comply with requirements to ensure Medicaid payments to supported living providers were allowable and adequately supported.

July 1 to December 31, 2018

Cost reports and settlements

After obtaining cost reports from providers for the 2018 calendar year, the Department did not establish adequate procedures to verify if the direct hours reported as worked, or the cost to provide those hours, were accurate and conformed with generally accepted accounting principles.

In calendar year 2019, the Department paid 129 different agencies who provided supported living services. We used a statistically valid sampling method to randomly select 69 of 127 cost reports the Department obtained from providers for the 2018 calendar year. We also selected two providers who, at the time of audit, had not submitted their cost reports. We then independently requested payroll records from the providers to perform our own reconciliation. All but one provider submitted cost reports to the Department and responded to our request for records.

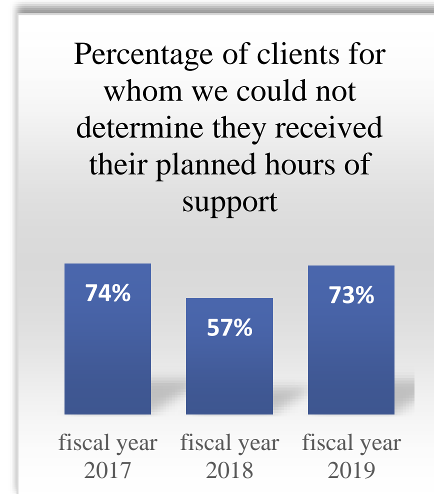
During our examination of the records, we found:

- Twenty instances (28 percent) when payroll records submitted by providers did not fully support the number of direct service hours that were reported on their cost reports
- Thirty-nine instances (55 percent) when providers did not properly categorize their employees as required by the Department's instructions
- Thirty-eight instances (54 percent) when providers were paid for more direct service hours than they reported on their cost reports. Before making this

conclusion, we reviewed and considered the information the Department forwarded to OFR to be collected.

Employee timesheets

The Department pays providers for a client's assessed level of support hours. We used a statistical sampling method to randomly select and examine 67 monthly payments from a population of 28,039 monthly payments made for client support hours. We requested employee timesheets and work schedules from providers for the selected months and reconciled employee direct support hours provided to clients to the hours the providers said they planned to provide to clients during the month. In 49 instances (73 percent), we could not determine that providers delivered a client's planned level of hourly support.



Specifically, we identified 73,936 support hours that providers reported to the Department they planned to provide to clients based on their residential staffing plans. Of those hours, we verified providers delivered 65,004[1] support hours.

For 8,932 hours (12 percent), we could not determine if the support hours were provided because either employees were not scheduled to work or supporting documentation was lacking.

For one of the households in our sample, the provider responded to our request for timesheets, but because of poor record keeping, we could not determine if any hours of support were delivered to sampled clients.

For four (6 percent) of the households in our sample, the provider responded to our request for documents, but because the Residential Staffing Plan was not provided, we could not determine if the hours of support delivered to the sampled client were the required amount.

January 1 to June 30, 2019

Because cost reports are prepared on a calendar year basis, the Department had not collected the reports for 2019 by the end of the audit period. Therefore, we could not assess the effectiveness of the Department's review process since the new, tiered rate payment system was implemented. We will evaluate this process in the next audit.

Instead, we randomly selected monthly payments, totaling $789,502, for 67 clients paid to providers for supported living services. We requested documentation from the Department

[1] Does not include hours reported by the agencies that exceeded their contracted amount.

to show evidence that the funds paid for direct client services were spent only on direct client services by the supported living providers.

The Department provided evidence showing client service plans and rates had been reviewed and approved by Department staff. The Department also provided client progress notes, goals and objectives and other corresponding data to support services provided to clients. However, it provided no evidence to support the funds paid to supported living providers for direct client services were used only to provide instruction and support services.

The Department did not establish a process to review payments made to supported living providers during the first six months of calendar year 2019.

We consider these internal control deficiencies to be a material weakness.

Cause of Condition

July 1 to December 31, 2018

Cost reports and settlements

The Department said it did not dedicate resources to verify the accuracy of the information submitted by providers for calendar year 2017 cost reports. For the calendar year 2018 cost reports, the Department said it performed procedures in the late spring and early summer of 2019 to verify the costs that some providers reported in their cost reports. We did not evaluate this activity because it was completed outside the audit period. The Department also said it performed no monitoring to confirm if providers complied with cost report instructions.

During the audit period, the Department issued guidance to providers to request an exception to credit the cost of overtime on their cost reports when calculating Settlement A (hours paid minus hours provided). This practice was not described in its Core and Community Protection waiver with CMS.

Employee timesheets

The Department did not perform procedures to determine if a client received their assessed level of support hours, or reconcile the payments to provider timesheets. Rather, it relied on the cost settlement process to determine if a provider delivered the total number of contracted hours to all clients in their agency during the calendar year.

January 1 to June 30, 2019

The Department plans to rely on the 2019 calendar year cost reporting process to obtain assurance about payments it made during the second half of the audit period. The 2019 cost reports are not due until March 31, 2020.

Effect of Condition and Questioned Costs

July 1 to December 31, 2018

Cost reports and settlements

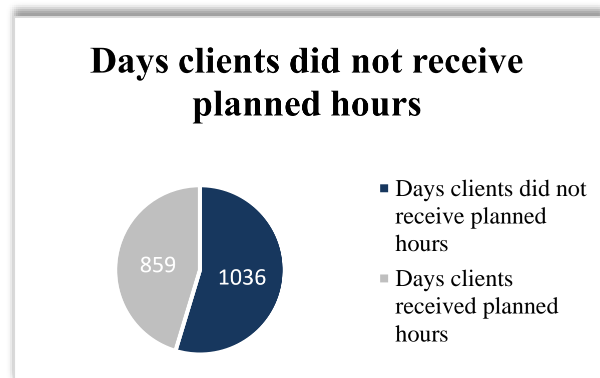
We are questioning:

- $52,809 for the one provider who did not submit a cost report to the Department. The federal share of these questioned costs is $26,405.
- $2,062,850 that was paid to the 20 providers whose detailed payroll records did not support the hours reported on their cost reports. The federal share of these questioned costs is $1,031,425.
- $3,623,450 for the 38 providers who were paid for more direct service hours than they reported on their cost reports. The federal share of these questioned costs is $1,811,725. These amounts include the Department's exception for overtime consideration.

We are also questioning:

Employee timesheets

When reconciling household schedules to employee timesheets, we identified 1,036 of a total of 1,895 days when clients did not receive the number of hours that providers reported to the Department they planned to provide to clients. We also identified 177 days of a total of 1,895 days when employee timesheets did not show that households that were assessed to receive 24 hours of support were provided 24 hours of support.



We are questioning $134,941 when we could not determine clients received their planned hours of support. The federal share of these questioned costs is $67,471.

Duplicate payments

We are questioning $369 for a duplicate payment made to a supported living provider and identified during the audit. The federal share of these questioned costs is $185.

January 1 to June 30, 2019

Without establishing an adequate payment review process, the Department had no assurance that program funds were used only for allowable purposes and payments were adequately supported.

Because of the lack of supporting documentation to show payments made to supported living providers for direct client services were only spent on ISS, we are questioning all $222,997,501 that was paid to supported living providers from January 1 to June 30, 2019. The federal share of these payments is $111,498,751.

Summary of questioned costs

The table below summarizes, by audit area, the known questioned costs and likely improper payments:

Audit area	Known questioned costs (state and federal)	Known questioned costs – federal portion only	Likely improper payments (state and federal)	Likely improper payments – federal portion only
Cost reports	$5,739,110	$2,869,555	$10,352,989	$5,176,495
Timesheets (7/1/18 – 12/31/18)	$134,941	$67,470	$54,012,991	$27,006,496
Tiered rates (1/1/19 – 6/30/19)	$222,997,501	$111,498,750	$222,997,501	$111,498,751
Duplicate payments	$369	$185	$369	$185
Totals	**$228,871,921**	**$114,435,961**	**$287,363,850**	**$143,681,926**

Note: Numbers in columns may not add up to totals due to rounding.

We question costs when we find an agency has not complied with grant regulations or when it does not have adequate documentation to support its expenditures.

Our sampling methodology meets statistical sampling criteria under generally accepted auditing standards in AU-C 530.05. It is important to note that the sampling technique we used is intended to support our audit conclusions by determining if expenditures complied with program requirements in all material respects. Accordingly, we used an acceptance sampling formula designed to provide a high level of assurance, with a 95 percent confidence of whether exceptions exceeded our materiality threshold. Our audit report and finding reflects this conclusion. However, the likely improper payment projections are a point estimate and only represent our "best estimate of total questioned costs" as required by 2 CFR 200.516(3). To ensure a representative sample, we stratified the population by dollar amount.

Recommendations

We recommend the Department:

- Implement an adequate payment review process that occurs more frequently than once a year to ensure federal funds paid to providers are used only for allowable purposes and are adequately supported
- Verify supported living providers comply with cost report preparation instructions
- Consult with its grantor about whether the questioned costs identified in the audit should be repaid

Department's Response

The Department does not concur with the finding.

Tiered Rate Methodology (January 1, 2019 to June 30, 2019)

The Department strongly disagrees with the SAO's methodology and the corresponding findings made in relation to the second half of the fiscal year, January 1 to June 30, 2019. The Department disagrees with the disallowance of all tiered rate reimbursements. The methodology upon which it is based, appears to be arbitrary and capricious since it does not consider the Department's internal controls. These controls include the rate assessment process, the budget process, and the review of the cost reports that takes place at the end of the each calendar year.

The Centers for Medicare and Medicaid Services (CMS) requires a periodic review of rate methodology. Since the Department's hours-based methodology was established over 10 years ago, the Department reviewed various rate methodologies suggested by CMS, including tiered rates. The Department's goals were to improve efficiency without losing oversight or monitoring of costs. The tiered rate methodology:

- *Provides increased flexibility for providers to deliver services;*
- *Gives the providers the ability to increase their focus on positive client outcomes;*
- *Improves the cost reporting process; and*
- *Reduces unnecessary administrative burdens*

The Department met with CMS several times and shared the proposed tiered rate methodology. Additionally, the Department amended the federal waiver describing the tiered rates, and the reimbursement methodology including the cost reporting and payment review process. The Department met CMS requirements for federal financial participation. The tiered rates and amended federal waiver were approved by CMS prior to the January 1, 2019 implementation.

The Department will use the information from the new tiered rate 2019 cost reports to:

- *Provide accountability and transparency for the use of public funds;*
- *Determine settlements with supported living providers;*
- *Provide program cost data to regional managers and residential providers; and*

- *Provide information to the Legislature and the Department for budget development and policy decisions.*

Because the Department will continue to process cost reports submitted by each provider, Policy 6.04 (Billing, Payment and Cost Reporting) was amended to reflect the tiered rate methodology.

When SAO conducts their audit, it is based on the fiscal year, thus requiring the review of two different calendar years:

- *Fiscal Year 2019 audit – July 2018 through June 2019*
- *Cost Report for Calendar Year 2018 – January through December*
    - *July through December 2018 is tested by the auditors*
    - *Cost reports for 2018 are reviewed by the auditors*
- *Cost Report for Calendar Year 2019 – January through December*
    - *January through June 2019 is tested by the auditors*
    - *Cost reports for 2019 have not been submitted and therefore they cannot be tested by the auditors*

Cost reports for calendar year 2019 are not due to the Department until March 31, 2020. At that time the Department will:

- *Review cost reports for accountability and accuracy.*
- *Determine if settlements are needed. Settlements will occur in cases where the provider underspent the Instruction and Support Services (ISS) portion of the daily rate. Because of the change to tiered rate, settlements will no longer be calculated in terms of hours (formerly known as Settlement A). If settlements are assessed, they will be forwarded to the Department's Office of Financial Recovery (OFR) for collection.*

The cost report and settlement process serves as a check on payments in relation to services that were provided. The Department's cost report and settlement process is described in the federal waiver, and has been approved by CMS as a method for determining costs. Settlements are a national standard used in most all cost reporting processes.

The Department does not believe SAO factored our fiscal process into their review of the first six months of calendar year 2019. The Legislature approved the calendar year cost report process and has established strict fiscal requirements to ensure payments are made accurately. This involves routine review of expenditures by budget, rates, resource administrators and DDA Central Office teams. The Department performed extensive testing prior to the tiered rate process being put in place in January 2019, and continues to perform fiscal testing. These fiscal reviews are the Department's internal controls that we believe SAO did not consider.

Of the $114,435,961 in questioned costs identified in this audit, $111,498,751 is based upon services from January through June 2019. Because the cost reports are based off a calendar year, and the review process does not start until after December 2019, this portion of the questioned costs was based off an incomplete fiscal review process. The Department's cost report timelines were shared with CMS as part of the tiered rate methodology, which they approved.

Additionally, the Department provided evidence showing:

- *Client service plans had been reviewed and approved by Department staff and clients or their legal representative*
- *Individual per diem rates met the Department's approval process*
- *Clients' Individual Instruction and Support Plans (ISSPs), progress notes, goals and objectives were developed and implemented by the provider.*
- *Support services were provided to clients per their assessed needs.*

The Department would like to note that the type of documentary evidence provided to the SAO (as above) was deemed sufficient in the most recently completed Payment Error Rate Measurement (PERM) audit. In 2018 CMS conducted the PERM audit for services provided in 2016 and 2017. This audit measures the accuracy of program payments and included the claims paid to supported living providers. CMS sent letters to supported living providers asking them to provide documentary evidence to prove that claimed services were in fact provided. Acceptable documentary evidence included:

- *Daily progress notes*
- *Attendance logs*
- *Worksheets*
- *Service treatment plans and goals*
- *Individual Service Plans*

Department providers who provided documentary evidence timely did not have any findings in this 2018 audit.

The Department's oversight takes a holistic approach with various teams working together to ensure the clients receive the services and supports they need. Residential Care Services (RCS) and Developmental Disability staff monitor client services for safety and quality. Evidence of services not being provided does not go unrecognized and is investigated. In addition, the Management Services Division and the Developmental Disability Central Office review rates through the Residential Rates for Developmental Disabilities database (RRDD).

In regards to the material weakness of our internal controls, it would be appreciated if SAO could provide guidance as to what they feel is needed when an audit takes place six months prior to the Department's approved internal control procedures.

Hours Based Methodology (July 1, 2018 to December 31, 2018)

The Department partially concurs with the findings for this part of the audit.

Calendar year 2018 cost reports were due March 31, 2019. The Department completed an internal audit of the cost reports comparing them to payroll records for calendar year 2018. SAO stated they did not evaluate this activity because it was completed outside the audit period. These internal audits of the calendar year 2018 cost reports, including the ISS payroll sample, were completed by June 30, 2019.

There were thirty-eight instances in which providers were paid for more direct service hours than they reported on their cost reports. The Department has the authority to reimburse the service

provider for services delivered. The Department can grant an exception to the payment rate per DDA policy 6.04 that states:

> *"When submitting a cost report that includes a settlement, a service provider that has had extraordinary ISS costs during the year may request to apply those extraordinary costs toward the settlement. The service provider making the request may submit narrative justification and a breakdown of associated costs to enable DDA to analyze the request."*

The reference to "extraordinary cost" includes overtime costs. The hours purchased at the higher benchmark may be adjusted for the total hours purchased. Overtime costs are necessary to adequately support clients to meet their health and safety needs.

The Department will continue to use its authority to consider provider circumstances, such as overtime, and grant exceptions as necessary when calculating the settlement.

If the grantor contacts the Department regarding questioned costs that should be repaid, the Department will confirm these costs and will take appropriate action.

Auditor's Remarks

Tiered Rate Methodology (January 1, 2019 to June 30, 2019)

The methodology used during the audit was not arbitrary or capricious. It was based upon the Department's compliance with federal requirements over Activities Allowed/Unallowed and Allowable Costs/Cost Principles. We considered the Department's asserted internal controls during the audit and found them to be inadequate to meet federal requirements.

At the beginning of the audit, we requested the Department provide in writing, the key internal controls it has in place to ensure compliance with federal requirements. The Department asserts it performed extensive testing prior to the tiered rate process being put in place in January 2019, and continues to perform fiscal testing. During the audit, we were not provided any information about what these fiscal reviews entailed. Additionally, such reviews are not described in the Department's approved waiver with CMS, state law or Department policy.

As stated in the Condition section of the finding, we requested documentation from the Department to show evidence that the funds paid for direct client services were spent only on direct client services by the supported living providers. The Department provided evidence showing client service plans and rates had been reviewed and approved by Department staff. The Department also provided client progress notes, goals and objectives and other corresponding data to support services provided to clients. However, it provided no evidence to support the funds paid to supported living providers for direct client services were used only to provide instruction and support services. This is the basis for the costs being questioned.

At the beginning of the audit, we requested the Department provide any external audits or reviews of the Supported Living program. No audits or reviews were provided.

Internal control is a perpetual process, effected by those charged with governance, management, and other employees, designed to provide reasonable assurance regarding the achievement of the entity's objectives relating to operations, reporting, and compliance. In our judgment, a review of an annual cost report does not provide the Department with reasonable assurance that federal Medicaid funds paid for ISS services were only spent for ISS services.

The Department said it implemented a new verification process in calendar year 2019. We will follow-up with the Department in the next audit and will assess the effectiveness of this new process.

Hours Based Methodology (July 1, 2018 to December 31, 2018)
The Department did not conduct an internal audit of the 2018 cost reports. Internal auditing is an independent, objective assurance and consulting activity. The Department asserted rate analysts compared the cost reports to payroll records. The documentation provided by the Department showed this activity was not completed by June 30, 2019.

The Department's cost report uses Settlement B as its method to reconcile the **cost** of providing client services to the total paid to the agency. Settlement A is used to reconcile the total **hours**, not the cost. The Department co-mingled hours and cost in Settlement A, which is not defined it its approved CMS waiver or its policies.

In the next audit, the Department will have fully implemented its new tiered rate payment system. We are committed to working with the Department to resolve these matters by making more specific recommendations about how it can improve its system of internal control.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.53 Improper Payments states:

(a) *Improper payment* means any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; and
(b) *Improper payment* includes any payment to an ineligible party, any payment for an ineligible good or service, any duplicate payment, any payment for a good or service not received (except for such payments where authorized by law), any payment that does not account for credit for applicable discounts, and any payment where insufficient or lack of documentation prevents a reviewer from discerning whether a payment was proper.

Section 200.403 Factors affecting Allowability of costs.

Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under Federal awards.

(a) Be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles.

(b) Conform to any limitations or exclusions set forth in these principles or in the Federal award as to types or amount of cost items.
(c) Be consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the non-Federal entity.
(d) Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the sample purpose in like circumstances has been allocated to the Federal award as an indirect cost.
(e) Be determined in accordance with generally accepted accounting principles (GAAP), except, for state and local governments and Indian tribes only, as otherwise provided for in this part.
(f) Not be included as a cost or used to meet cost sharing or matching requirements of any other federally-financed program in either the current or a prior period. See also §200.306 Cost sharing or matching paragraph (b).
(g) Be adequately documented. See also §§200.300 Statutory and national policy requirements through 200.309 Period of performance of this part.

Section 200.410 Collection of unallowable costs.

Payments made for costs determined to be unallowable by either the Federal awarding agency, cognizant agency for indirect costs, or pass-through entity, either as direct or indirect costs, must be refunded (including interest) to the Federal Government in accordance with instructions from the Federal agency that determined the costs are unallowable unless Federal statute or regulation directs otherwise. See also Subpart D—Post Federal Award Requirements of this part, §§200.300 Statutory and national policy requirements through 200.309 Period of performance.

Section 200.303 Internal controls.

The non-Federal entity must:

(a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
(b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.

Section 200.516 Audit reporting, states in part:

(a) *Audit findings reported.* The auditor must report the following as audit findings in a schedule of findings and questioned costs:
    (1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit

finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.

(2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.

(3) Known questioned costs that are greater than $25,000 for a type of compliance requirement for a major program. Known questioned costs are those specifically identified by the auditor. In evaluating the effect of questioned costs on the opinion on compliance, the auditor considers the best estimate of total costs questioned (likely questioned costs), not just the questioned costs specifically identified (known questioned costs). The auditor must also report known questioned costs when likely questioned costs are greater than $25,000 for a type of compliance requirement for a major program. In reporting questioned costs, the auditor must include information to provide proper perspective for judging the prevalence and consequences of the questioned costs.

Title 42 U.S. Code of Federal Regulations Part 433, State Fiscal Administration, Subpart F – Refunding of Federal Share of Medicaid Overpayments to Providers states in part:

Section 433.300 Basis.
This subpart implements -

(a) Section 1903(d)(2)(A) of the Act, which directs that quarterly Federal payments to the States under title XIX (Medicaid) of the Act are to be reduced or increased to make adjustment for prior overpayments or underpayments that the Secretary determines have been made.

(b) Section 1903(d)(2)(C) and (D) of the Act, which provides that a State has 1 year from discovery of an overpayment for Medicaid services to recover or attempt to recover the overpayment from the provider before adjustment in the Federal Medicaid payment to the State is made; and that adjustment will be made at the end of the 1-year period, whether or not recovery is made, unless the State is unable to recover from a provider because the overpayment is a debt that has been discharged in bankruptcy or is otherwise uncollectable.

Section 433.316 When discovery of overpayment occurs and its significance.

(a) *General rule*. The date on which an overpayment is discovered is the beginning date of the 1-year period allowed for a State to recover or seek to recover an overpayment before a refund of the Federal share of an overpayment must be made to CMS.

(b) *Requirements for notification.* Unless a State official or fiscal agent of the State chooses to initiate a formal recoupment action against a provider without first giving written notification of its intent, a State Medicaid agency official or other State official must notify the provider in writing of any overpayment it discovers in accordance with State

agency policies and procedures and must take reasonable actions to attempt to recover the overpayment in accordance with State law and procedures.

(c) *Overpayments resulting from situations other than fraud.* An overpayment resulting from a situation other than fraud is discovered on the earliest of - -

(1) The date on which any Medicaid agency official or other State official first notifies a provider in writing of an overpayment and specifies a dollar amount that is subject to recovery;

(2) The date on which a provider initially acknowledges a specific overpaid amount in writing to the medicaid agency; or

(3) The date on which any State official or fiscal agent of the State initiates a formal action to recoup a specific overpaid amount from a provider without having first notified the provider in writing.

(d) Overpayments resulting from fraud.

(1) An overpayment that results from fraud is discovered on the date of the final written notice (as defined in § 433.304 of this subchapter) of the State's overpayment determination.

(2) When the State is unable to recover a debt which represents an overpayment (or any portion thereof) resulting from fraud within 1 year of discovery because no final determination of the amount of the overpayment has been made under an administrative or judicial process (as applicable), including as a result of a judgment being under appeal, no adjustment shall be made in the Federal payment to such State on account of such overpayment (or any portion thereof) until 30 days after the date on which a final judgment (including, if applicable, a final determination on an appeal) is made.

(3) The Medicaid agency may treat an overpayment made to a Medicaid provider as resulting from fraud under subsection (d) of this section only if it has referred case to the Medicaid fraud control unit, or appropriate law enforcement agency in States with no certified Medicaid fraud control unit, as required by § 455.15, § 455.21, or § 455.23 of this chapter, and the Medicaid fraud control unit or appropriate law enforcement agency has provided the Medicaid agency with written notification of acceptance of the case; or if the Medicaid fraud control unit or appropriate law enforcement agency has filed a civil or criminal action against a provider and has notified the State Medicaid agency.

(e) *Overpayments identified through Federal reviews.* If a Federal review at any time indicates that a State has failed to identify an overpayment or a State has identified an overpayment but has failed to either send written notice of the overpayment to the provider that specified a dollar amount subject to recovery or initiate a formal recoupment from the provider without having first notified the provider in writing, CMS will consider the overpayment as discovered on the date that the Federal official first notifies the State in writing of the overpayment and specifies a dollar amount subject to recovery.

(f) *Effect of changes in overpayment amount*. Any adjustment in the amount of an overpayment during the 1-year period following discovery (made in accordance with the approved State plan, Federal law and regulations governing Medicaid, and the appeals resolution process specified in State administrative policies and procedures) has the following effect on the 1-year recovery period:

(1) A downward adjustment in the amount of an overpayment subject to recovery that occurs after discovery does not change the original 1-year recovery period for the outstanding balance.

(2) An upward adjustment in the amount of an overpayment subject to recovery that occurs during the 1-year period following discovery does not change the 1-year recovery period for the original overpayment amount. A new 1-year period begins for the incremental amount only, beginning with the date of the State's written notification to the provider regarding the upward adjustment.

(g) Effect of partial collection by State. A partial collection of an overpayment amount by the State from a provider during the 1-year period following discovery does not change the 1-year recovery period for the balance of the original overpayment amount due to CMS.

(h) Effect of administrative or judicial appeals. Any appeal rights extended to a provider do not extend the date of discovery.

Office of Management and Budget OMB Uniform Guidance, Compliance Supplement for 2017, *Part 4 – Agency Program Requirements, 4.93.778 Medicaid Cluster*, states in part:

General Audit Approach for Medicaid Payments

To be allowable, Medicaid costs for medical services must be (1) covered by the State plan and waivers; (2) reviewed by the State consistent with the State's documented procedures and system for determining medical necessity of claims; (3) properly coded; and (4) paid at the rate allowed by the State plan. Additionally, Medicaid costs must be net of beneficiary cost-sharing obligations and applicable credits (e.g., insurance, recoveries from other third parties who are responsible for covering the Medicaid costs, and drug rebates), paid to eligible providers, and only provided on behalf of eligible individuals.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in internal controls over compliance in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits:

.11 For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows: …

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

Developmental Disabilities Administration Policy 6.02 – Rates, Billing, and Payment for Supported Living, Group Training Homes, and Group Homes, states in part:

DD. Provision of Services

2. The service provider must maintain a system that shows instruction and support service funds have been used to provide instruction and support services. All instruction and support services staff compensation and employer paid taxes and benefits within each calendar year will be reconciled to the contracted rate through the cost reporting system on an annual basis. See DDA Policy 6.04.

Developmental Disabilities Administration Policy 6.04 – Billing, Payment, and Cost Reporting for Supported Living, Group Training Homes, and Group Homes, states in part:

Policy

A. A service provider must annually submit a cost report, and supporting documentation upon request, to DDA. The DDA Rates Unit must be able to verify the cost of services provided and determine if a settlement is due.

Procedures

I. Cost Report Submission

c. Service providers must provide to DSHS upon request job descriptions for employees who are allocated in the cost report working both ISS and non-ISS duties. Payroll costs charged to ISS for cost reporting purposes

must be verifiable in the service provider’s records. The amount of ISS payroll costs reported for any individual employee or owner of a service provider must not exceed 3,120 ISS staff payroll hours per year.

2019-055 The Department of Social and Health Services, Aging and Long-Term Support Administration, made improper Medicaid payments to individual providers when clients were hospitalized or admitted to long-term care facilities.

Federal Awarding Agency:	U.S. Department of Health and Human Services
Pass-Through Entity:	None
CFDA Number and Title:	93.775 State Medicaid Fraud Control Units 93.777 State Survey and Certification of Health Care Providers and Suppliers (Title XVIII) Medicare 93.778 Medical Assistance Program (Medicaid; Title XIX)
Federal Award Number:	1905WA5MAP; 1905WA5ADM; 1905WAIMPL; 1905WAINCT
Applicable Compliance Component:	Allowable Costs/Cost Principles
Questioned Cost Amount:	$394,288 ($303,408 – Personal care and transportation services) ($ 90,880– Associated costs)

Background

Medicaid is a jointly funded state and federal partnership providing coverage for about 1.8 million eligible low-income Washington residents who otherwise might go without medical care. Medicaid is Washington's largest public assistance program and accounts for about one-third of the State's federal expenditures. The program spent about $13.6 billion in federal and State funds during fiscal year 2019.

The Aging and Long-Term Support Administration within the Department of Social and Health Services (Department) offers personal care services to support Medicaid clients in community settings through the Community First Choice program. The Department uses an assessment to evaluate a client's support needs and to calculate the number of personal care hours the client needs to successfully live in the community. Individual providers contract with the Department to provide personal care services to clients.

In fiscal year 2019, the state Medicaid program paid about $779 million to Aging and Long-Term Support Administration's contracted Community First Choice individual providers who provided personal care and transportation services.

Individual providers are paid an hourly rate for providing personal care and a mileage rate for providing transportation services to their clients. Individual providers use the Department's Individual ProviderOne system to invoice the Department for their hourly service and mileage claims. At times, a Medicaid client may be hospitalized or temporarily admitted to a long-term care facility, which the Health Care Authority (Authority) is responsible to pay for. In those cases,

individual providers may not bill for services because Medicaid pays the hospital or care facility for the client's care while admitted to the facility.

Since fiscal year 2016, we have found the Department made improper Medicaid payments to individual providers when clients were hospitalized or in a long-term care facility. In 2016, we issued finding number 2016-048. In fiscal year 2017, we did not issue a finding because we could not determine whether the duplicate expenditures were individual provider billing errors or hospital or long-term care facility billing errors. In fiscal year 2018, we issued finding number 2018-050.

Description of Condition

We found the Department had established adequate internal controls to ensure it was in material compliance with allowable costs over payments to individual providers.

However, we found the Department made unallowable payments to some individual providers who claimed payment for personal care and transportation services while their client was either hospitalized or admitted to a long-term care facility.

Because the questioned costs identified by the audit exceeded $25,000, federal regulations require the auditor to issue a finding.

Cause of Condition

The Department did not have a process or a system edit in place to prevent unallowable claims due to the timing of hospital billings, which is often months after individual providers have claimed payment for personal care and transportation services. Thus the Department can only detect these duplicate payments after both payments have been made.

As of March 2019, the Department has implemented a system to detect these payments after potential unallowable claims were made. Since then, claims made the month prior are reviewed and the overpayment process is initiated which includes having the authorization lines adjusted and the overpayment logged for processing when IPOne functionality is fully established.

Additionally, during March 2019, the backlog of 2018 payments began to be reviewed and those unallowable claims are expected to be resolved in 2020.

Effect of Condition and Questioned Costs

We are questioning $303,408, which is the federal portion of the unallowable payments for personal care and transportation services.

When unallowable payments are identified, federal regulations suggest auditors consider if associated costs, such as benefits, were also paid. The Department pays payroll tax and health care, training and retirement fringe benefits on behalf of Community First Choice providers that are considered associated costs.

We are also questioning at least $90,880, which is the federal portion of the unallowable payments related to associated costs. The Department contracts with a vendor that manages IPOne. During the audit period, the system could not make overpayment adjustments, and until the issue is resolved, the Department will not know the exact amount of associated costs to refund the grantor. In addition, the system was unable to process State Unemployment Tax Act (SUTA) taxes and they were not paid until after the close of the audit period. .

Description	Total known questioned costs	Known questioned costs – federal portion only
Personal care and transportation claims	$542,606	$303,408
Associated costs	$162,186	$ 90,880
Total	**$704,792**	**$394,288**

The statistical sample used for testing in parts of the fiscal year 2019 Medicaid audit was used to test compliance with other activities allowed requirements. Because some unallowable payments we examined violated multiple areas of activities allowed, some of the questioned costs reported here might also be reported in finding numbers 2019-056, 2019-057, 2019-058 and 2019-059.

We question costs when we find an agency has not complied with grant regulations or when it does not have adequate documentation to support its expenditures.

Recommendations

We recommend the Department:

- Identify all associated costs related to the unallowable payments for personal care services
- Consult with the U.S. Department of Health and Human Services to discuss whether the questioned costs identified in the audit should be repaid

Department's Response

The Department concurs with this finding.

Unfortunately, due to claiming requirements in two payment systems, having an automated process is not possible. Further, hospitals and long-term care (LTC) facilities typically have a delay in submitting claims in ProviderOne, sometimes several months after services were delivered. Individual Providers generally submit claims in IPOne shortly after services were provided, making it impossible to have an automated system to prevent personal care providers from claiming unallowable costs. Thus, the Department can only detect duplicate payments after both payments have been made. Effective March 4, 2019, the process to detect payments after the unallowable claims was implemented.

Effective January 29, 2020, functionality was implemented in IPOne to allow the Department to process overpayments.

In an effort to prevent future unallowable payments, the Department will be sending a notice to all Individual Providers in March 2020 reminding them that they are prohibited from claiming in-home personal care hours while a client is either hospitalized or admitted into a LTC facility.

The Department will return the questioned costs to the Department of Health and Human Services for the unallowable claims.

Auditor's Remarks

We thank the Department for its cooperation and assistance throughout the audit. We will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes reporting requirements for audit findings.

Section 200.53 Improper Payments states:

(a) *Improper payment* means any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; and

(b) *Improper payment* includes any payment to an ineligible party, any payment for an ineligible good or service, any duplicate payment, any payment for a good or service not received (except for such payments where authorized by law), any payment that does not account for credit for applicable discounts, and any payment where insufficient or lack of documentation prevents a reviewer from discerning whether a payment was proper.

Section 200.403 Factors affecting Allowability of costs.

Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under Federal awards.

(a) Be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles.

(b) Conform to any limitations or exclusions set forth in these principles or in the Federal award as to types or amount of cost items.

(c) Be consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the non-Federal entity.

(d) Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the sample purpose in like circumstances has been allocated to the Federal award as an indirect cost.

(e) Be determined in accordance with generally accepted accounting principles (GAAP), except, for state and local governments and Indian tribes only, as otherwise provided for in this part.

(f) Not be included as a cost or used to meet cost sharing or matching requirements of any other federally-financed program in either the current or a prior period. See also §200.306 Cost sharing or matching paragraph (b).

(g) Be adequately documented. See also §§200.300 Statutory and national policy requirements through 200.309 Period of performance of this part.

Section 200.410 Collection of unallowable costs.

Payments made for costs determined to be unallowable by either the Federal awarding agency, cognizant agency for indirect costs, or pass-through entity, either as direct or indirect costs, must be refunded (including interest) to the Federal Government in accordance with instructions from the Federal agency that determined the costs are unallowable unless Federal statute or regulation directs otherwise. See also Subpart D—Post Federal Award Requirements of this part, §§200.300 Statutory and national policy requirements through 200.309 Period of performance.

Section 200.516 Audit reporting, states in part:

(a) *Audit findings reported.* The auditor must report the following as audit findings in a schedule of findings and questioned costs:

(3) Known questioned costs that are greater than $25,000 for a type of compliance requirement for a major program. Known questioned costs are those specifically identified by the auditor. In evaluating the effect of questioned costs on the opinion on compliance, the auditor considers the best estimate of total costs questioned (likely questioned costs), not just the questioned costs specifically identified (known questioned costs). The auditor must also report known questioned costs when likely questioned costs are greater than $25,000 for a type of compliance requirement for a major program. In reporting questioned costs, the auditor must include information to provide proper perspective for judging the prevalence and consequences of the questioned costs.

Title 42 U.S. Code of Federal Regulations Part 433, State Fiscal Administration, Subpart F – Refunding of Federal Share of Medicaid Overpayments to Providers states in part:

Section 433.300 Basis.

This subpart implements -

(a) Section 1903(d)(2)(A) of the Act, which directs that quarterly Federal payments to the States under title XIX (Medicaid) of the Act are to be reduced or increased to make adjustment for prior overpayments or underpayments that the Secretary determines have been made.

(b) Section 1903(d)(2)(C) and (D) of the Act, which provides that a State has 1 year from discovery of an overpayment for Medicaid services to recover or attempt to recover the overpayment from the provider before adjustment in the Federal Medicaid payment to the State is made; and that adjustment will be made at the end of the 1-year period, whether or not recovery is made, unless the State is unable to recover from a provider because the overpayment is a debt that has been discharged in bankruptcy or is otherwise uncollectable.

Section 433.316 When discovery of overpayment occurs and its significance.

(a) *General rule*. The date on which an overpayment is discovered is the beginning date of the 1-year period allowed for a State to recover or seek to recover an overpayment before a refund of the Federal share of an overpayment must be made to CMS.

(b) *Requirements for notification.* Unless a State official or fiscal agent of the State chooses to initiate a formal recoupment action against a provider without first giving written notification of its intent, a State Medicaid agency official or other State official must notify the provider in writing of any overpayment it discovers in accordance with State agency policies and procedures and must take reasonable actions to attempt to recover the overpayment in accordance with State law and procedures.

(c) *Overpayments resulting from situations other than fraud.* An overpayment resulting from a situation other than fraud is discovered on the earliest of - -

(1) The date on which any Medicaid agency official or other State official first notifies a provider in writing of an overpayment and specifies a dollar amount that is subject to recovery;

(2) The date on which a provider initially acknowledges a specific overpaid amount in writing to the medicaid agency; or

(3) The date on which any State official or fiscal agent of the State initiates a formal action to recoup a specific overpaid amount from a provider without having first notified the provider in writing.

(d) Overpayments resulting from fraud.

(1) An overpayment that results from fraud is discovered on the date of the final written notice (as defined in § 433.304 of this subchapter) of the State's overpayment determination.

(2) When the State is unable to recover a debt which represents an overpayment (or any portion thereof) resulting from fraud within 1 year of discovery because no final determination of the amount of the overpayment has been made under an administrative or judicial process (as applicable), including as a result of a judgment being under appeal, no adjustment shall be made in the Federal payment to such State on account of such overpayment (or any portion thereof) until 30 days after the date on which a final judgment (including, if applicable, a final determination on an appeal) is made.

(3) The Medicaid agency may treat an overpayment made to a Medicaid provider as resulting from fraud under subsection (d) of this section only if it has referred case to the Medicaid fraud control unit, or appropriate law enforcement agency in States with no certified Medicaid fraud control unit, as required by § 455.15, § 455.21, or § 455.23 of this chapter, and the Medicaid fraud control unit or appropriate law enforcement agency has provided the Medicaid agency with written notification of acceptance of the case; or if the Medicaid fraud control unit or appropriate law enforcement agency has filed a civil or criminal action against a provider and has notified the State Medicaid agency.

(e) *Overpayments identified through Federal reviews.* If a Federal review at any time indicates that a State has failed to identify an overpayment or a State has identified an overpayment but has failed to either send written notice of the overpayment to

the provider that specified a dollar amount subject to recovery or initiate a formal recoupment from the provider without having first notified the provider in writing, CMS will consider the overpayment as discovered on the date that the Federal official first notifies the State in writing of the overpayment and specifies a dollar amount subject to recovery.

(f) *Effect of changes in overpayment amount*. Any adjustment in the amount of an overpayment during the 1-year period following discovery (made in accordance with the approved State plan, Federal law and regulations governing Medicaid, and the appeals resolution process specified in State administrative policies and procedures) has the following effect on the 1-year recovery period:

(1) A downward adjustment in the amount of an overpayment subject to recovery that occurs after discovery does not change the original 1-year recovery period for the outstanding balance.

(2) An upward adjustment in the amount of an overpayment subject to recovery that occurs during the 1-year period following discovery does not change the 1-year recovery period for the original overpayment amount. A new 1-year period begins for the incremental amount only, beginning with the date of the State's written notification to the provider regarding the upward adjustment.

(g) Effect of partial collection by State. A partial collection of an overpayment amount by the State from a provider during the 1-year period following discovery does not change the 1-year recovery period for the balance of the original overpayment amount due to CMS.

(h) Effect of administrative or judicial appeals. Any appeal rights extended to a provider do not extend the date of discovery.

Office of Management and Budget OMB Uniform Guidance, Compliance Supplement for 2019, *Part 4 – Agency Program Requirements, 4.93.778 Medicaid Cluster*, states in part:

General Audit Approach for Medicaid Payments

To be allowable, Medicaid costs for medical services must be (1) covered by the State plan and waivers; (2) reviewed by the State consistent with the State's documented procedures and system for determining medical necessity of claims; (3) properly coded; and (4) paid at the rate allowed by the State plan. Additionally, Medicaid costs must be net of beneficiary cost-sharing obligations and applicable credits (e.g., insurance, recoveries from other third parties who are responsible for covering the Medicaid costs, and drug rebates), paid to eligible providers, and only provided on behalf of eligible individuals.

2019-056 The Department of Social and Health Services, Developmental Disabilities Administration, made improper Medicaid payments to individual providers when clients were hospitalized or admitted to long-term care facilities.

Federal Awarding Agency:	U.S. Department of Health and Human Services
Pass-Through Entity:	None
CFDA Number and Title:	93.775 State Medicaid Fraud Control Units 93.777 State Survey and Certification of Health Care Providers and Suppliers (Title XVIII) Medicare 93.778 Medical Assistance Program (Medicaid; Title XIX)
Federal Award Number:	1905WA5MAP; 1905WA5ADM; 1905WAIMPL; 1905WAINCT
Applicable Compliance Component:	Allowable Costs/Cost Principles
Questioned Cost Amount:	$37,127 ($29,228 – Personal care and transportation services) ($ 7,899 – Associated costs)

Background

Medicaid is a jointly funded state and federal partnership providing coverage for about 1.8 million eligible low-income Washington residents who otherwise might go without medical care. Medicaid is Washington's largest public assistance program and accounts for about one-third of the State's federal expenditures. The program spent about $13.6 billion in federal and state funds during fiscal year 2019.

The Developmental Disabilities Administration within the Department of Social and Health Services (Department) offers personal care services to support Medicaid clients in community settings through the Community First Choice program. The Department uses an assessment to evaluate a client's support needs and to calculate the number of personal care hours the client needs to successfully live in the community. Individual providers contract with the Department to provide personal care services to clients.

In fiscal year 2019, the state Medicaid program paid about $349 million to Developmental Disabilities Administration's contracted Community First Choice individual providers who provided personal care and transportation services.

Individual providers are paid an hourly rate for providing personal care and a mileage rate for providing transportation services to their clients. Individual providers use the Department's Individual ProviderOne (IPOne) system to invoice the Department for their hourly service and mileage claims. At times, a Medicaid client may be hospitalized or temporarily admitted to a long-term care facility. Individual providers may not bill for services provided to the client during

the period of their admission because Medicaid funding is used by the Health Care Authority (Authority) to pay the hospital or care facility for the client's care during this period.

In the fiscal year 2018 audit, we reported the Department made improper Medicaid payments to individual providers who claimed payment for personal care and transportation services when a Medicaid client was either hospitalized or admitted to a long-term care facility. The prior audit finding number was 2018-051.

Description of Condition

We found the Department established adequate internal controls to ensure payments to individual providers were materially allowable.

However, we found the Department's Developmental Disabilities Administration made unallowable payments to some individual providers who claimed payment for personal care and transportation services when a Medicaid client was either hospitalized or admitted to a long-term care facility.

Because the questioned costs identified by the audit exceeded $25,000, federal regulations require the auditor to issue a finding.

Cause of Condition

While the Department did not have a system edit in place to prevent unallowable claims, the Department did have a process in place to detect the payments after the unallowable claims were made.

A Regional Payment Specialist routinely reviews an Overlapping Authorized services report to detect the unallowable claims. However, due to the timing of hospital billings, which is often months after individual providers have claimed payment for personal care and transportation services, the Department can only detect these duplicate payments after both payments have been made.

Effect of Condition and Questioned Costs

We are questioning at least $29,228, which is the federal portion of the unallowable payments for personal care and transportation services.

When unallowable payments are identified, federal regulations suggest auditors consider if associated costs, such as benefits, were also paid. The Department pays payroll tax and health care, training and retirement fringe benefits on behalf of Community First Choice providers that are considered associated costs.

We are also questioning at least $7,899, which is the federal portion of the unallowable payments related to associated costs. The Department contracts with a vendor that manages IPOne. During the audit period, the system could not make overpayment adjustments, and until the issue is resolved, the Department will not know the exact amount of associated costs to refund the grantor.

In addition, the system was unable to process State Unemployment Tax Act (SUTA) taxes and they were not paid until after the close of the audit period.

Description	Total known questioned costs	Known questioned costs – federal portion only
Personal care and transportation claims	$52,262	$29,228
Associated costs	$14,105	$7,899
Totals	**$66,367**	**$37,127**

The statistical sample used for testing in parts of the fiscal year 2019 Medicaid audit was used to test compliance with other activities allowed requirements. Because some unallowable payments we examined violated multiple areas of activities allowed, some of the questioned costs reported here might also be reported in finding numbers 2019-055, 2019-057, 2019-058 and 2019-059.

We question costs when we find an agency has not complied with grant regulations or when it does not have adequate documentation to support its expenditures.

Recommendations

We recommend the Department:

- Identify all associated costs related to the unallowable payments for personal care services
- Consult with the U.S. Department of Health and Human Services to discuss whether the questioned costs identified in the audit and associated costs should be repaid

Agency's Response

The Department concurs with the finding.

Unfortunately, due to claiming requirements in two payment systems, having an automated process is not possible. Further, hospitals and long-term care (LTC) facilities typically have a delay in submitting claims in ProviderOne, sometimes several months after services were delivered. Individual Providers generally submit claims in IPOne shortly after services were provided, making it impossible to have an automated system to prevent personal care providers from claiming unallowable costs. Thus, the Department can only detect duplicate payments after both payments have been made.

To address the unallowable payments the Department will enhance training and monitoring procedures for identifying unallowable payments.

The Department will return the questioned costs to the Department of Health and Human Services for the unallowable claims.

Auditor's Remarks

We thank the Department for its cooperation and assistance throughout the audit. We will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes reporting requirements for audit findings.

Section 200.53 Improper Payments states:

(a) *Improper payment* means any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; and

(b) *Improper payment* includes any payment to an ineligible party, any payment for an ineligible good or service, any duplicate payment, any payment for a good or service not received (except for such payments where authorized by law), any payment that does not account for credit for applicable discounts, and any payment where insufficient or lack of documentation prevents a reviewer from discerning whether a payment was proper.

Section 200.403 Factors affecting Allowability of costs.

Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under Federal awards.

(a) Be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles.

(b) Conform to any limitations or exclusions set forth in these principles or in the Federal award as to types or amount of cost items.

(c) Be consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the non-Federal entity.

(d) Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the sample purpose in like circumstances has been allocated to the Federal award as an indirect cost.

(e) Be determined in accordance with generally accepted accounting principles (GAAP), except, for state and local governments and Indian tribes only, as otherwise provided for in this part.

(f) Not be included as a cost or used to meet cost sharing or matching requirements of any other federally-financed program in either the current or a prior period. See also §200.306 Cost sharing or matching paragraph (b).

(g) Be adequately documented. See also §§200.300 Statutory and national policy requirements through 200.309 Period of performance of this part.

Section 200.410 Collection of unallowable costs.

Payments made for costs determined to be unallowable by either the Federal awarding agency, cognizant agency for indirect costs, or pass-through entity, either as direct or indirect costs, must be refunded (including interest) to the Federal Government in accordance with instructions from the Federal agency that determined the costs are unallowable unless Federal statute or regulation directs otherwise. See also Subpart D—Post Federal Award Requirements of this part, §§200.300 Statutory and national policy requirements through 200.309 Period of performance.

Section 200.516 Audit reporting, states in part:

(a) *Audit findings reported*. The auditor must report the following as audit findings in a schedule of findings and questioned costs:

(3) Known questioned costs that are greater than $25,000 for a type of compliance requirement for a major program. Known questioned costs are those specifically identified by the auditor. In evaluating the effect of questioned costs on the opinion on compliance, the auditor considers the best estimate of total costs questioned (likely questioned costs), not just the questioned costs specifically identified (known questioned costs). The auditor must also report known questioned costs when likely questioned costs are greater than $25,000 for a type of compliance requirement for a major program. In reporting questioned costs, the auditor must include information to provide proper perspective for judging the prevalence and consequences of the questioned costs.

Title 42 U.S. Code of Federal Regulations Part 433, State Fiscal Administration, Subpart F – Refunding of Federal Share of Medicaid Overpayments to Providers states in part:

Section 433.300 Basis.
This subpart implements -

(a) Section 1903(d)(2)(A) of the Act, which directs that quarterly Federal payments to the States under title XIX (Medicaid) of the Act are to be reduced or increased to make adjustment for prior overpayments or underpayments that the Secretary determines have been made.

(b) Section 1903(d)(2)(C) and (D) of the Act, which provides that a State has 1 year from discovery of an overpayment for Medicaid services to recover or attempt to recover the overpayment from the provider before adjustment in the Federal Medicaid payment to the State is made; and that adjustment will be made at the end of the 1-year period, whether or not recovery is made, unless the State is unable to recover from a provider because the overpayment is a debt that has been discharged in bankruptcy or is otherwise uncollectable.

Section 433.316 When discovery of overpayment occurs and its significance.

(a) *General rule*. The date on which an overpayment is discovered is the beginning date of the 1-year period allowed for a State to recover or seek to recover an overpayment before a refund of the Federal share of an overpayment must be made to CMS.

(b) *Requirements for notification.* Unless a State official or fiscal agent of the State chooses to initiate a formal recoupment action against a provider without first giving written notification of its intent, a State Medicaid agency official or other State official must notify the provider in writing of any overpayment it discovers in accordance with State agency policies and procedures and must take reasonable actions to attempt to recover the overpayment in accordance with State law and procedures.

(c) *Overpayments resulting from situations other than fraud.* An overpayment resulting from a situation other than fraud is discovered on the earliest of - -

(1) The date on which any Medicaid agency official or other State official first notifies a provider in writing of an overpayment and specifies a dollar amount that is subject to recovery;

(2) The date on which a provider initially acknowledges a specific overpaid amount in writing to the medicaid agency; or

(3) The date on which any State official or fiscal agent of the State initiates a formal action to recoup a specific overpaid amount from a provider without having first notified the provider in writing.

(d) Overpayments resulting from fraud.

(1) An overpayment that results from fraud is discovered on the date of the final written notice (as defined in § 433.304 of this subchapter) of the State's overpayment determination.

(2) When the State is unable to recover a debt which represents an overpayment (or any portion thereof) resulting from fraud within 1 year of discovery because no final determination of the amount of the overpayment has been made under an administrative or judicial process (as applicable), including as a result of a judgment being under appeal, no adjustment shall be made in the Federal payment to such State on account of such overpayment (or any portion thereof) until 30 days after the date on which a final judgment (including, if applicable, a final determination on an appeal) is made.

(3) The Medicaid agency may treat an overpayment made to a Medicaid provider as resulting from fraud under subsection (d) of this section only if it has referred case to the Medicaid fraud control unit, or appropriate law enforcement agency in States with no certified Medicaid fraud control unit, as required by § 455.15, § 455.21, or § 455.23 of this chapter, and the Medicaid fraud control unit or appropriate law enforcement agency has provided the Medicaid agency with written notification of acceptance of the case; or if the Medicaid fraud control unit or appropriate law enforcement agency has filed a civil or criminal action against a provider and has notified the State Medicaid agency.

(e) *Overpayments identified through Federal reviews.* If a Federal review at any time indicates that a State has failed to identify an overpayment or a State has identified an overpayment but has failed to either send written notice of the overpayment to the provider that specified a dollar amount subject to recovery or initiate a formal recoupment from the provider without having first notified the provider in writing, CMS will consider the overpayment as discovered on the date that the Federal official first notifies the State in writing of the overpayment and specifies a dollar amount subject to recovery.

(f) *Effect of changes in overpayment amount*. Any adjustment in the amount of an overpayment during the 1-year period following discovery (made in accordance with the approved State plan, Federal law and regulations governing Medicaid, and the appeals resolution process specified in State administrative policies and procedures) has the following effect on the 1-year recovery period:

(1) A downward adjustment in the amount of an overpayment subject to recovery that occurs after discovery does not change the original 1-year recovery period for the outstanding balance.

(2) An upward adjustment in the amount of an overpayment subject to recovery that occurs during the 1-year period following discovery does not change the 1-year recovery period for the original overpayment amount. A new 1-year period begins for the incremental amount only, beginning with the date of the State's written notification to the provider regarding the upward adjustment.

(g) Effect of partial collection by State. A partial collection of an overpayment amount by the State from a provider during the 1-year period following discovery does not change the 1-year recovery period for the balance of the original overpayment amount due to CMS.

(h) Effect of administrative or judicial appeals. Any appeal rights extended to a provider do not extend the date of discovery.

Office of Management and Budget OMB Uniform Guidance, Compliance Supplement for 2017, *Part 4 – Agency Program Requirements, 4.93.778 Medicaid Cluster*, states in part:

General Audit Approach for Medicaid Payments

To be allowable, Medicaid costs for medical services must be (1) covered by the State plan and waivers; (2) reviewed by the State consistent with the State's documented procedures and system for determining medical necessity of claims; (3) properly coded; and (4) paid at the rate allowed by the State plan. Additionally, Medicaid costs must be net of beneficiary cost-sharing obligations and applicable credits (e.g., insurance, recoveries from other third parties who are responsible for covering the Medicaid costs, and drug rebates), paid to eligible providers, and only provided on behalf of eligible individuals.

2019-057 The Department of Social and Health Services, Aging and Long-Term Support Administration, did not have adequate internal controls over and did not comply with requirements to ensure Medicaid Community First Choice client service plans were properly approved.

Federal Awarding Agency:	U.S. Department of Health and Human Services	
Pass-Through Entity:	None	
CFDA Number and Title:	93.775	State Medicaid Fraud Control Units
	93.777	State Survey and Certification of Health Care Providers and Suppliers (Title XVIII) Medicare
	93.778	Medical Assistance Program (Medicaid; Title XIX)
Federal Award Number:	1905WA5MAP; 1905WA5ADM; 1905WAIMPL; 1905WAINCT	
Applicable Compliance Component:	Activities Allowed / Unallowed Allowable Costs/Cost Principles	
Known Questioned Cost Amount:	$2,191,213 ($1,952,564 - personal care services) ($ 238,649 - associated costs)	

Background

Medicaid is a jointly funded state and federal partnership providing coverage for about 1.8 million eligible low-income Washington residents who otherwise might go without medical care. Medicaid is Washington's largest public assistance program and accounts for about one-third of the State's federal expenditures. The program spent about $13.6 billion in federal and state funds during fiscal year 2019.

The Aging and Long-Term Support Administration in the Department of Social and Health Services (Department) offers personal care and other services to support Medicaid clients in community settings through the Community First Choice program. Clients who choose to receive services in their own home have two options for the delivery of their personal care services. One option is to have the services provided by a home care aide who is recruited, trained, employed and supervised by a home care agency. The other option is for the client to recruit, hire and supervise their own provider. This type of employee is referred to as an individual provider.

The Department uses an assessment to evaluate a client's support needs and to calculate the number of personal care hours the client is eligible to receive. During the assessment process, a person-centered service plan is developed and is required by federal regulation. Among other requirements, the service plan must:

- Reflect the individual's strengths and preferences
- Reflect clinical and support needs
- Include identified goals and desired outcomes

- Reflect the services and supports that will help the individual to achieve identified goals
- Reflect risk factors and measures in place to minimize them
- Be distributed to the client and other people involved in the plan

For Community First Choice services to be allowable, the federal regulation also requires the plan be finalized and agreed to in writing by the individual and signed by all individuals and providers responsible for its implementation.

During the program's development at the federal level, stakeholders said it could be logistically complicated for all providers to sign the plan and asked if signatures for plan agreement could be obtained through formats other than the service plan.

Federal regulators said they expect that any provider responsible for implementing services or supports authorized in the service plan should receive and sign the individual's service plan, because this would be necessary to not only understand the level of Community First Choice services and supports needed by an individual, but also the individual's strengths, preferences, goals and desired outcomes related to the provision of the services and supports.

The state plan says the person-centered service plan will be agreed to in writing by the participant and those responsible for implementing the plan. State rules require the client (or a legal representative) to give consent for services and approve their plan of care, and allow the Department to terminate services if the plan is not signed and the service summary returned to the Department within 60 days of the client's assessment completion date. In fiscal year 2019, the state Medicaid program paid over $1.2 billion to providers on behalf of Community First Choice clients.

In the prior two audits, we reported the Department's Aging and Long-Term Support Administration did not have adequate internal controls in place to ensure client service plans were properly approved. The prior finding numbers were 2018-059 and 2017-045.

Description of Condition

The Department's Aging and Long-Term Support Administration did not have adequate internal controls over and did not comply with requirements to ensure Medicaid Community First Choice client service plans were properly approved.

Department management did not establish adequate monitoring procedures to ensure client service plans were properly signed by Department staff and clients within 60 days of service authorization. The Department did not design its business practice to obtain provider signatures on client service plans. The Department updated its policy regarding signatures at the end of June 2019 to require provider signatures and incorporated the requirement into its policy manual in October 2019.

We consider these internal control deficiencies to be a material weakness.

Cause of Condition

Until the end of June 2019, Department managers said they did not require provider signatures on the service plans. For clients who received their services from individual providers, the Department asserted that when the provider signed their contract, they were agreeing to carry out their responsibilities related to the client's service plan and believed this process satisfied the federal requirement related to plan signatures. The Department said it sent copies of the plan to individual providers, but they were not required to acknowledge they received or reviewed the plan.

Effect of Condition and Questioned Costs

We used a statistical sampling method to randomly select 86 Community First Choice clients from a total population of 49,028 who received services from an individual provider or home care agency during the audit period. We expanded our audit scope from the previous audit to include all assessments completed by the Department. We examined the client files for evidence that the service plans had been finalized and agreed to in writing as required by federal and state regulation. For most clients, there were multiple assessments during the audit period that had to be signed.

We found:

Department signatures – 87 signature issues involving 41 clients
- The Department did not sign 78 of the plans
- The Department signed nine plans after 60 days

Client signatures – 100 signature issues involving 46 clients
- The Department did not obtain client signatures on 83 of the plans
- The Department obtained signatures on 17 plans after 60 days

Provider signatures – 217 signature issues involving 72 clients
- The Department did not obtain provider signatures on 212 plans
- The Department obtained signatures on five plans after 60 days

We also performed follow-up testing on our 2018 audit finding that identified 59 instances when the Department either did not monitor to ensure the plans were received within 60 days or that plans had valid Department, client and/or provider signatures. For 58 of the previously reported instances, client service plans were still not complete for part or all of the current audit period.

Because some plans were not properly approved or the Department could not locate some plans with signatures, we determined the Department made $3,445,590 in unallowable payments to providers. We are questioning $1,952,564, which is the federal portion of the unallowable payments.

When unallowable payments are identified, federal regulations suggest auditors consider if associated costs, such as benefits, were also paid. For clients who receive their services from individual providers, the Department pays payroll-related benefits, which are considered associated costs, on behalf of Community First Choice providers. Examples of these costs include health insurance, retirement, payroll taxes and training.

We identified at least $422,154 in associated costs that we also consider to be unallowable. We are questioning at least $238,649, which is the federal portion of the unallowable payments related to associated costs. The Department contracts with a vendor that manages the individual provider payroll system, called IPOne. During the audit period, the system was unable to make overpayment adjustments and until the issue is resolved, the Department will not know the exact amount of associated costs to refund to the grantor. In addition, the system was unable to process State Unemployment Tax Act (SUTA) taxes and they were not paid until after the close of the audit period.

Including associated costs, the total amount we are questioning is $3,867,744. The federal share is $2,191,213.

Estimated improper payments

Because a statistical sampling method was used to select the payments we examined, we estimate the total improper payments to be $679,781,571. The federal share of this estimate is $390,026,415.

For the $679,781,571 in likely improper payments, we estimate the amount of likely associated improper payments to be $109,175,315. The federal share of this estimate is $62,708,718.

Description	Total known questioned costs	Known questioned costs – federal portion	Total likely improper payments	Likely improper payments – federal portion
Direct Costs	$3,445,590	$1,952,564	$679,781,571	$390,026,415
Associated Costs	$ 422,154	$ 238,649	$109,175,315	$ 62,708,718
Total Costs	$3,867,744	$2,191,213	$788,956,886	$452,735,133

The statistical sample used for testing was also used to test compliance with other activities allowed requirements. Because some unallowable payments we examined violated multiple areas of activities allowed some of the questioned costs reported here might also be reported in finding numbers 2019-055, 2019-056, 2019-058, and 2019-059.

Our sampling methodology meets statistical sampling criteria under generally accepted auditing standards in AU-C 530.05. It is important to note that the sampling technique we used is intended to support our audit conclusions by determining if expenditures complied with program requirements in all material respects. Accordingly, we used an acceptance sampling formula designed to provide a very high level of assurance, with a 95 percent confidence of whether exceptions exceeded our materiality threshold. Our audit report and finding reflects this conclusion. However, the likely improper payment projections are a point estimate and only represent our "best estimate of total questioned costs" as required by 2 CFR 200.516(3). To ensure a representative sample, we stratified the population by dollar amount.

Recommendations

We recommend the Department's Aging and Long-Term Support Administration:

- Obtain provider signatures on person-centered service plans
- Provide additional training to staff on the federal regulation and the state plan that requires client service plans to be agreed to in writing
- Continue monitoring activities to ensure staff follow federal and state requirements
- Identify all associated costs related to the unallowable payments for personal care services provided by individual providers
- Consult with the U.S. Department of Health and Human Services to determine if the questioned costs identified by the audit should be repaid

Department's Response

The Department partially concurs with the finding.

The Department agrees person-centered service plans should be signed by the Department, client, and provider responsible for its implementation. However, the Department disagrees that a lack of required signatures should result in questioned costs as the client remains eligible for the services and the provider remains qualified to deliver services. The Centers for Medicare & Medicaid Services (CMS) has also informed the state that services should not be terminated if required signatures cannot be obtained.

The Department does not concur with SAO's assertion that the seventeen service plans signed by a client, the nine signed by the Department, and the five signed by a provider after 60 days should result in exceptions. There is no timeline or deadline in state or federal rules that require signatures to be obtained within 60 days. The 60-day timeline in WAC 388-106-0047 outlines an administrative option that could be utilized by the Department to terminate services when deemed necessary. The administrative option of termination is not backed by any state or federal law, and should not result in exceptions, or infringe on the Department's ability to operate and manage the Community First Choice (CFC) program.

The Department also notes that the SAO significantly broadened the scope of the FY19 audit by including Interim assessments; in the FY18 audit, Interim assessments were excluded from the SAO's review. In FY19, exceptions for missing signatures on Interim assessments accounted for 27% of exceptions assigned in the audit and 22% of the exceptions in the follow-up testing on the FY18 audit findings. This means that almost a quarter of all exceptions, and approximately $547,803 in questioned costs, are included in the FY19 audit scope that were not included in FY18.

Following the FY18 audit, the Department met with the SAO to discuss its plan to remediate exceptions found in the audit. During the meeting, the Department informed SAO it planned to remediate exceptions identified in the FY18 audit by obtaining required signatures on a client's current person-centered service plan. The Department noted it would likely cause confusion, and possibly interfere with the delivery of services to vulnerable clients, should the Department attempt to obtain required signatures on outdated service plans.

SAO acknowledged this strategy made sense and informed the Department it would not be able to remediate exceptions from the FY18 audit, as the SAO would consider any signatures obtained

after 60 days to be permanently out of compliance with federal rules. SAO never indicated that they would assign exceptions and questioned costs to every assessment that occurred between the FY18 audit and the current assessment that did not have required service plan signatures. The Department does not agree that follow-up testing on the FY18 audit findings is valid since testing of these plans already occurred in the FY18 audit. The Department made a good faith effort in attempting to remediate exceptions from FY18, but the SAO's approach essentially recreates the FY18 audit on outdated service plans with no ability for the Department to demonstrate compliance.

Auditor's Remarks

We agree the Federal regulation does not set a timeframe by which the Department must obtain signatures. However, without establishing a reasonable timeframe to obtain signatures from those responsible for implementing services or supports authorized in the plan, the Department is unable to ensure that those individuals not only understand the level of CFC services and supports needed by an individual, but also the individual's strengths, preferences, goals and desired outcomes related to the provision of services and supports.

Obtaining signatures well-past the development of the client's person-centered service plan, or not at all, does not allow those responsible for implementing the plan to meet an individual's needs identified through the assessment process. In our judgment, the 60-day period, previously established by the Department, is a reasonable amount of time for the Department to obtain the required signatures so the plans are adequately implemented.

During the prior audit, the Department said interim assessments should not be included in the testing population because they were only created if the client reported a change in available informal supports, to correct coding, or as a result of a Quality Assurance or Supervisory review. However, during the current audit, we learned that an interim assessment could be created to add a provider. In those instances, new providers should receive and confirm receipt of the plan. This is why we included interim assessments in the testing population for the fiscal year 2019 audit.

The Department shared its plan to remediate the exceptions from the prior audit. In the finding, we did not include a recommendation for the Department to remediate those exceptions. We agree that obtaining signatures on plans well-past the assessment year is not effective and believe signatures should be obtained within a reasonable amount of time following an individual's person-centered service planning process.

Federal regulations state that improper payments occur when insufficient or lack of documentation prevents a reviewer from discerning whether a payment was proper. Our audit methodology was to select payments the Department made during the audit period and request supporting documentation in effect on the date of service. All exceptions identified during the audit were related to payments made during fiscal year 2019, even though the date of service for some of the payments reached as far back as 2015. We would expect to obtain supporting documentation from the Department for the payments it made during the audit period, regardless of the date of service.

We reaffirm our finding and will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.53 Improper Payments states:

(a) *Improper payment* means any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; and

(b) *Improper payment* includes any payment to an ineligible party, any payment for an ineligible good or service, any duplicate payment, any payment for a good or service not received (except for such payments where authorized by law), any payment that does not account for credit for applicable discounts, and any payment where insufficient or lack of documentation prevents a reviewer from discerning whether a payment was proper.

Section 200.303 Internal controls.

The non-Federal entity must:

(a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

(b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.

(d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.403 Factors affecting Allowability of costs.

Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under Federal awards.

(a) Be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles.

(b) Conform to any limitations or exclusions set forth in these principles or in the Federal award as to types or amount of cost items.

(c) Be consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the non-Federal entity.

(d) Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the sample purpose in like circumstances has been allocated to the Federal award as an indirect cost.
(e) Be determined in accordance with generally accepted accounting principles (GAAP), except, for state and local governments and Indian tribes only, as otherwise provided for in this part.
(f) Not be included as a cost or used to meet cost sharing or matching requirements of any other federally-financed program in either the current or a prior period. See also §200.306 Cost sharing or matching paragraph (b).
(g) Be adequately documented. See also §§200.300 Statutory and national policy requirements through 200.309 Period of performance of this part.

Section 200.410 Collection of unallowable costs.

Payments made for costs determined to be unallowable by either the Federal awarding agency, cognizant agency for indirect costs, or pass-through entity, either as direct or indirect costs, must be refunded (including interest) to the Federal Government in accordance with instructions from the Federal agency that determined the costs are unallowable unless Federal statute or regulation directs otherwise. See also Subpart D—Post Federal Award Requirements of this part, §§200.300 Statutory and national policy requirements through 200.309 Period of performance.

Section 200.516 Audit findings, states in part:

(a) *Audit findings reported*. The auditor must report the following as audit findings in a schedule of findings and questioned costs:
  (1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.
  (2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.
  (3) Known questioned costs that are greater than $25,000 for a type of compliance requirement for a major program. Known questioned costs are those specifically identified by the auditor. In evaluating the effect of questioned costs on the opinion on compliance, the auditor considers the best estimate of total costs questioned (likely questioned costs), not just the questioned costs specifically identified (known questioned costs). The auditor must also report known questioned costs when likely questioned costs are greater than $25,000 for a type of compliance requirement for a major program. In reporting questioned costs, the auditor must include information to provide proper

perspective for judging the prevalence and consequences of the questioned costs.

Title 42 U.S. Code of Federal Regulations Part 433, State Fiscal Administration, Subpart F – Refunding of Federal Share of Medicaid Overpayments to Providers

Section 433.300 Basis.

This subpart implements -

(a) Section 1903(d)(2)(A) of the Act, which directs that quarterly Federal payments to the States under title XIX (Medicaid) of the Act are to be reduced or increased to make adjustment for prior overpayments or underpayments that the Secretary determines have been made.

(b) Section 1903(d)(2)(C) and (D) of the Act, which provides that a State has 1 year from discovery of an overpayment for Medicaid services to recover or attempt to recover the overpayment from the provider before adjustment in the Federal Medicaid payment to the State is made; and that adjustment will be made at the end of the 1-year period, whether or not recovery is made, unless the State is unable to recover from a provider because the overpayment is a debt that has been discharged in bankruptcy or is otherwise uncollectable.

Section 433.316 When discovery of overpayment occurs and its significance.

(a) *General rule.* The date on which an overpayment is discovered is the beginning date of the 1-year period allowed for a State to recover or seek to recover an overpayment before a refund of the Federal share of an overpayment must be made to CMS.

(b) *Requirements for notification.* Unless a State official or fiscal agent of the State chooses to initiate a formal recoupment action against a provider without first giving written notification of its intent, a State Medicaid agency official or other State official must notify the provider in writing of any overpayment it discovers in accordance with State agency policies and procedures and must take reasonable actions to attempt to recover the overpayment in accordance with State law and procedures.

(c) *Overpayments resulting from situations other than fraud.* An overpayment resulting from a situation other than fraud is discovered on the earliest of - -

(1) The date on which any Medicaid agency official or other State official first notifies a provider in writing of an overpayment and specifies a dollar amount that is subject to recovery;

(2) The date on which a provider initially acknowledges a specific overpaid amount in writing to the medicaid agency; or

(3) The date on which any State official or fiscal agent of the State initiates a formal action to recoup a specific overpaid amount from a provider without having first notified the provider in writing.

(d) *Overpayments resulting from fraud.*

(1) An overpayment that results from fraud is discovered on the date of the final written notice (as defined in § 433.304 of this subchapter) of the State's overpayment determination.

(2) When the State is unable to recover a debt which represents an overpayment (or any portion thereof) resulting from fraud within 1 year of discovery because no final determination of the amount of the overpayment has been made under an administrative or judicial process (as applicable), including as a result of a judgment being under appeal, no adjustment shall be made in the Federal payment to such State on account of such overpayment (or any portion thereof) until 30 days after the date on which a final judgment (including, if applicable, a final determination on an appeal) is made.

(3) The Medicaid agency may treat an overpayment made to a Medicaid provider as resulting from fraud under subsection (d) of this section only if it has referred a provider's case to the Medicaid fraud control unit, or appropriate law enforcement agency in States with no certified Medicaid fraud control unit, as required by § 455.15, § 455.21, or § 455.23 of this chapter, and the Medicaid fraud control unit or appropriate law enforcement agency has provided the Medicaid agency with written notification of acceptance of the case; or if the Medicaid fraud control unit or appropriate law enforcement agency has filed a civil or criminal action against a provider and has notified the State Medicaid agency.

(e) *Overpayments identified through Federal reviews.* If a Federal review at any time indicates that a State has failed to identify an overpayment or a State has identified an overpayment but has failed to either send written notice of the overpayment to the provider that specified a dollar amount subject to recovery or initiate a formal recoupment from the provider without having first notified the provider in writing, CMS will consider the overpayment as discovered on the date that the Federal official first notifies the State in writing of the overpayment and specifies a dollar amount subject to recovery.

(f) *Effect of changes in overpayment amount.* Any adjustment in the amount of an overpayment during the 1-year period following discovery (made in accordance with the approved State plan, Federal law and regulations governing Medicaid, and the appeals resolution process specified in State administrative policies and procedures) has the following effect on the 1-year recovery period:

(1) A downward adjustment in the amount of an overpayment subject to recovery that occurs after discovery does not change the original 1-year recovery period for the outstanding balance.

(2) An upward adjustment in the amount of an overpayment subject to recovery that occurs during the 1-year period following discovery does not change the 1-year recovery period for the original overpayment amount. A new 1-year period begins for the incremental amount only, beginning with the date of the State's written notification to the provider regarding the upward adjustment.

(g) *Effect of partial collection by State.* A partial collection of an overpayment amount by the State from a provider during the 1-year period following discovery does not change the 1-year recovery period for the balance of the original overpayment amount due to CMS.

(h) *Effect of administrative or judicial appeals.* Any appeal rights extended to a provider do not extend the date of discovery.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in internal controls over compliance in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, as follows:

> .11 For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows: …
>
> **Material weakness in internal control over compliance.** A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:
>
> **Reasonably possible.** The chance of the future event or events occurring is more than remote but less than likely.
>
> **Probable.** The future event or events are likely to occur.
>
> **Significant deficiency in internal control over compliance.** A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.
>
> **Material noncompliance.** In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

Title 42, Code of Federal Regulations, Section 441 Services: Requirements and Limits Applicable to Specific Services, states in part:

> Section 441.540 Person-centered service plan.
>
> (b) The person-centered service plan. The person-centered service plan must reflect the services and supports that are important for the individual to meet the needs identified through an assessment of functional need, as well as what is important to the individual with regard to preferences for the delivery of such services and supports. Commensurate with the level of need of the individual, and the scope of services and supports available under Community First Choice, the plan must:
>
> (9) Be finalized and agreed to in writing by the individual and signed by all individuals and providers responsible for its implementation.
>
> (c) Reviewing the person-centered service plan. The person-centered service plan must be reviewed, and revised upon reassessment of functional need, at least every 12 months, when the individual's circumstances or needs change significantly, and at the request of the individual.
>
> Section 441.720 Independent assessment, states in part:
>
> (a) Requirements. For each individual determined to be eligible for the State plan HCBS benefit, the State must provide for an independent assessment of needs,

which may include the results of a standardized functional needs assessment, in order to establish a service plan. In applying the requirements of section 1915(i)(1)(F) of the Act, the State must:

(1) Perform a face-to-face assessment of the individual by an agent who is independent and qualified as defined in § 441.730, and with a person-centered process that meets the requirements of § 441.725(a) and is guided by best practice and research on effective strategies that result in improved health and quality of life outcomes.
   (i) For the purposes of this section, a face-to-face assessment may include assessments performed by telemedicine, or other information technology medium, if the following conditions are met:
      (C) The individual provides informed consent for this type of assessment.

(3) Examine the individual's relevant history including the findings from the independent evaluation of eligibility, medical records, an objective evaluation of functional ability, and any other records or information needed to develop the person-centered service plan as required in § 441.725.

(b) Reassessments. The independent assessment of need must be conducted at least every 12 months and as needed when the individual's support needs or circumstances change significantly, in order to revise the service plan.

Medicaid Program; Community First Choice Option, 77 Fed. Reg. 88 (May 7, 2012). *Federal Register: The Daily Journal of the United States,* Web. 7 May 2012

> Comment: Another commenter indicated that the requirement for all individuals and providers to sign the plan may be onerous and logistically complicated as consumers can change providers frequently for a variety of reasons, and consumers should be able to obtain agreement from providers through formats other than the service plan.
> Response: After consideration of these comments we have revised the final regulation to indicate that the plan be finalized and agreed to in writing by the individual and signed by all individuals and providers responsible for its implementation…we expect that any provider that is responsible for implementing services or supports authorized in the service plan should receive and sign the individual’s service plan, as this would be necessary to not only understand the level of CFC services and supports needed by an individual, but also the individual’s strengths, preferences, goals and desired outcomes related to the provision of the services and supports.

Washington Administrative Code WAC 388-106-0045 (effective July 1, 2018 through December 1, 2018) When will the department authorize my long-term care services? states in part:

> The department will authorize long-term care services when you:
> (1) Are assessed using CARE;
> (2) Are found financially and functionally eligible for services including, if applicable, the determination of the amount of participation toward the cost of your care and/or the amount of room and board that you must pay;
> (3) Have given written consent for services and approved your plan of care;

Washington Administrative Code WAC 388-106-0045 (effective December 2, 2018) When will the department authorize my long-term care services? states in part:

> The department will authorize long-term care services when you:
> (1) Are assessed using CARE;
> (2) Are found financially and functionally eligible for services including, if applicable, the determination of the amount of participation toward the cost of your care and/or the amount of room and board that you must pay;
> (3) Have given consent for services and approved your plan of care;

Washington Administrative Code WAC 388-106-0047 (effective July 1, 2018 through December 1, 2018) When can the department terminate or deny long-term care services to me? states in part:

> (3) The department will terminate long-term care services if you do not sign and return your service summary document within sixty days of your assessment completion date.

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> (3) The department may terminate long-term care services if you do not sign and return your service summary document within sixty days of your assessment completion date.

Washington State Medicaid State Plan-Community First choice State Plan Option, states in part:

> X. Person-Centered Service Plan Development Process
> a. Indicate how the service plan development process ensures that the person-centered service plan addresses the individual's goals, needs (including health care needs), and preferences, by offering choices regarding the services and supports they receive and from whom.
>
> The person-centered service plan will be developed and implemented in accordance with 42 CFR 441.550 (b).
>
> The person-centered service plan will be understandable to the participant, will indicate the individual and/or entity responsible for monitoring the plan, and will be agreed to in writing by the participant and those responsible for implementing the plan.

2019-058 The Department of Social and Health Services, Developmental Disabilities Administration, did not have adequate internal controls over and did not comply with requirements to ensure Medicaid Community First Choice client service plans were properly approved.

Federal Awarding Agency:	U.S. Department of Health and Human Services
Pass-Through Entity:	None
CFDA Number and Title:	93.775 State Medicaid Fraud Control Units 93.777 State Survey and Certification of Health Care Providers and Suppliers (Title XVIII) Medicare 93.778 Medical Assistance Program (Medicaid; Title XIX)
Federal Award Number:	1905WA5MAP; 1905WA5ADM; 1905WAIMPL; 1905WAINCT
Applicable Compliance Component:	Activities Allowed / Unallowed Allowable Costs/Cost Principles
Known Questioned Cost Amount:	$2,169,725 ($1,802,173 - personal care services) ($367,552 - associated costs)

Background

Medicaid is a jointly funded state and federal partnership providing coverage for about 1.8 million eligible low-income Washington residents who otherwise might go without medical care. Medicaid is Washington's largest public assistance program and accounts for about one-third of the State's federal expenditures. The program spent about $13.6 billion in federal and state funds during fiscal year 2019.

The Developmental Disabilities Administration in the Department of Social and Health Services (Department) offers personal care and other services to support Medicaid clients in community settings through the Community First Choice program. Clients who choose to receive services in their own home have two options for the delivery of their personal care services. One option is to have the services provided by a home care aide who is recruited, trained, employed and supervised by a home care agency. The other option is for the client to recruit, hire and supervise their own provider. This type of employee is referred to as an individual provider.

The Department uses an assessment to evaluate a client's support needs and to calculate the number of personal care hours the client is eligible to receive. During the assessment process, a person-centered service plan is developed and is required by federal regulation. Among others, the service plan must:

- Reflect the individual's strengths and preferences
- Reflect clinical and support needs
- Include identified goals and desired outcomes
- Reflect the services and supports that will help the individual to achieve identified goals

- Reflect risk factors and measures in place to minimize them
- Be distributed to the client and other people involved in the plan

For Community First Choice services to be allowable, the federal regulation also requires the plan to be finalized and agreed to in writing by the individual and signed by all individuals and providers responsible for its implementation.

During the program's development at the federal level, stakeholders said it could be logistically complicated for all providers to sign the plan and asked if signatures for plan agreement could be obtained through formats other than the service plan.

Federal regulators said they expect that any provider responsible for implementing services or supports authorized in the service plan should receive and sign the individual's service plan. This is because doing so would be necessary to not only understand the level of Community First Choice services and supports needed by an individual, but also the individual's strengths, preferences, goals and desired outcomes related to the provision of the services and supports.

The state plan says the person-centered service plan will be agreed to in writing by the participant and those responsible for implementing the plan. State rules require the client (or a legal representative) to give consent for services and approve their plan of care, and allow the Department to terminate services if the plan is not signed and the service summary returned to the Department within 60 days of the client's assessment completion date. The Department changed its rule that stated it "will" terminate services to "may" terminate services in December 2018. In fiscal year 2019, the state Medicaid program paid about $1.2 billion to providers on behalf of Community First Choice clients.

In the prior two audits, we reported the Department's Developmental Disabilities Administration did not have adequate internal controls in place to ensure client service plans were properly approved. The prior finding numbers were 2018-060 and 2017-046.

Description of Condition

The Department's Developmental Disabilities Administration did not have adequate internal controls over and did not comply with requirements to ensure Medicaid Community First Choice client service plans were properly approved.

Department management did not establish adequate monitoring procedures to ensure client service plans were properly signed by Department staff and clients within 60 days of service authorization. The Department's business practice was not designed to obtain provider signatures on client service plans. The Department updated its policy regarding signatures during July 2019 to require provider signatures and incorporated the requirement into its policy manual in October 2019.

We consider these internal control deficiencies to be a material weakness.

Cause of Condition

Department managers said they did not require provider signatures on the service plans. For clients who received their services from individual providers, the Department asserted that when the individual provider signed their contract, they were agreeing to carry out their responsibilities related to the client's service plan and believed this process satisfied the federal requirement related to plan signatures. The Department said it sent copies of the plan to individual providers, but they were not required to acknowledge they received or reviewed the plan.

For clients who receive their services from home care agencies, the Department asserts that by contract, home care agencies are required to get worker signatures and it has delegated the monitoring of the contracts to Area Agencies on Aging.

Effect of Condition and Questioned Costs

We used a statistical sampling method to randomly select 86 Community First Choice clients, from a total population of 14,806 that received services from an individual provider or home care agency during the audit period. We examined the client files for evidence that the service plans had been finalized and agreed to in writing as required by federal and state regulation. For most clients, there were multiple assessments during the audit period that had to be signed.

Specifically, we found:

Department signatures – 12 signature issues involving 6 clients

- The Department did not sign seven of the plans
- The Department signed five plans after 60 days

Client signatures – 32 signature issues involving 14 clients

- The Department did not obtain client signatures on 14 of the plans
- The Department obtained signatures after 60 days on 18 plans

Provider signatures – 192 signature issues involving 62 clients

- The Department did not obtain provider signatures on 184 of the plans
- The Department obtained signatures after 60 days on eight plans

We also performed follow-up testing on our 2018 audit finding that identified 66 instances when the Department either did not monitor to ensure the plans were received within 60 days or that plans had valid Department, client and/or provider signatures. For 60 of the previously reported instances, client service plans still were not complete for part or all of the current audit period.

Because some plans were not properly approved or the Department could not locate some plans with signatures, we determined the Department made $3,215,813 in unallowable payments to providers. We are questioning $1,802,173, which is the federal portion of the unallowable payments.

When unallowable payments are identified, federal regulations suggest auditors consider if associated costs, such as benefits, were also paid. For clients who receive their services from

individual providers, the Department pays payroll-related benefits, which are considered associated costs, on behalf of Community First Choice providers. Examples of these costs include health insurance, retirement, payroll taxes and training.

We identified at least $654,814 in associated costs that we also consider to be unallowable. We are questioning at least $367,552, which is the federal portion of the unallowable payments related to associated costs. The Department contracts with a vendor that manages the individual provider payroll system, called IPOne. During the audit period, the system could not make overpayment adjustments. Until the issue is resolved, the Department will not know the exact amount of associated costs to refund to the grantor. In addition, the system could not process State Unemployment Tax Act (SUTA) taxes, and the Department did not pay them until after the close of the audit.

Including associated costs, the total amount we are questioning is $3,870,628. The federal share is $2,169,725.

Estimated improper payments

Because a statistical sampling method was used to select the payments we examined, we estimate the total improper payments to be $189,874,071. The federal share of this estimate is $106,238,410.

For the $189,974,071 in likely improper payments, we estimate the amount of likely associated improper payments to be $32,969,973. The federal share of this estimate is $18,464,041.

Description	Total known questioned costs	Known questioned costs – federal portion	Total likely improper payments	Likely improper payments – federal portion
Direct Costs	$3,215,813	$1,802,173	$156,904,098	$ 87,774,369
Associated Costs	$ 654,814	$ 367,552	$ 32,969,973	$ 18,464,041
Total Costs	$3,870,627	$2,169,725	$189,874,071	$106,238,410

The statistical sample used for testing was also used to test compliance with other activities allowed requirements. Because some unallowable payments we examined violated multiple areas of activities allowed some of the questioned costs reported here might also be reported in finding numbers 2019-055, 2019-056, 2019-057, and 2019-059.

Our sampling methodology meets statistical sampling criteria under generally accepted auditing standards in AU-C 530.05. It is important to note that the sampling technique we used is intended to support our audit conclusions by determining if expenditures complied with program requirements in all material respects. Accordingly, we used an acceptance sampling formula designed to provide a very high level of assurance, with a 95 percent confidence of whether exceptions exceeded our materiality threshold. Our audit report and finding reflects this conclusion. However, the likely improper payment projections are a point estimate and only represent our “best estimate of total questioned costs” as required by 2 CFR 200.516(3). To ensure a representative sample, we stratified the population by dollar amount.

Recommendations

We recommend the Department's Developmental Disabilities Administration:

- Require provider signatures on person-centered service plans
- Provide additional training to staff on the federal regulation and state plan that requires client service plans to be agreed to in writing
- Continue monitoring activities to ensure staff follow federal and state requirements
- Identify all associated costs related to the unallowable payments for personal care services provided by individual providers
- Consult with the U.S. Department of Health and Human Services to determine if the questioned costs identified by the audit should be repaid

Department's Response

The Department partially concurs with the finding.

The Department agrees it must comply with federal regulations regarding obtaining signatures on clients' person-centered service plans. The Department does not agree improper payments can be assigned when a person-centered service plan is not signed by an individual responsible for its implementation. Centers for Medicare and Medicaid Services (CMS) has provided guidance to the Department stating that the federal rules covering eligibility for services are separate from the rules on person-centered service planning. In all the cases reviewed by the State Auditor's Office (SAO), the Department made payments to qualified providers for covered services delivered to eligible beneficiaries. The lack of a signed person-centered service plan does not make a client ineligible for services or a provider unqualified to provide services and therefore should not result in an improper payment.

The Department also disagrees that any signatures received after 60 days should result in exceptions. Federal regulations require signatures, but not within a specified amount of time. Federal Register, Vol 77, No 88, Monday, May 7 2012, page 26865 "While we do not specify the timeframe by which States must obtain the signature of the providers responsible for implementation of the plan, we expect that any provider that is responsible for implementing services or supports authorized in the service plan should receive and sign the individual's service plan,…". Additionally, CMS did provide guidance that in some cases it may be difficult to obtain signatures and gave direction on steps the Department can take to comply with the rules while still continuing services without the required signatures. Based on this guidance, effective 12/1/18, the Department changed its regulations for the Community First Choice Program to no longer require the termination of services should a client not return a signed person-centered service plan within 60 days of the completion of their assessment.

The Department does not agree that follow-up testing on the 2018 audit finding is valid since testing of these plans already occurred in the 2018 audit. Plans from FY 2018 are no longer current and the Department does not agree that once the plan period has ended it should expend its resources obtaining signatures.

The Department has quality assurance processes in place to monitor for compliance in obtaining required signatures on person-centered service plans. The DDA Quality Compliance

Coordination team reviews all required signatures from a statewide sample. The review looks for signatures and documented attempts to obtain signatures. The review occurs in an established cycle and looks for statewide proficiency in obtaining required signatures. If the annual review finds that the proficiency has fallen below 86%, a quality improvement plan is implemented to improve statewide performance. In addition to monitoring by the Quality Compliance Coordination team, Case Manager Supervisors monitor compliance of all case managers. The Department has undertaken significant steps to improve options for compliance for individuals whose signatures are required, including electronic options.

Auditor's Remarks

We agree the Federal regulation cited by the Department in its response does not set a timeframe by which the Department must obtain signatures. However, without establishing a reasonable timeframe to obtain signatures from those responsible for implementing services or supports authorized in the plan, the Department is unable to ensure that those individuals not only understand the level of CFC services and supports needed by an individual, but also the individual's strengths, preferences, goals and desired outcomes related to the provision of services and supports.

Obtaining signatures well-past the development of the client's person-centered service plan, or not at all, does not allow those responsible for implementing the plan to meet an individual's needs identified through the assessment process. In our judgment, the 60-day period previously established by the Department is a reasonable amount of time for the Department to obtain the required signatures so the plans are adequately implemented.

Federal regulations state that improper payments occur when insufficient or lack of documentation prevents a reviewer from discerning whether a payment was proper. Our audit methodology was to select payments the Department made during the audit period and request supporting documentation in effect on the date of service. All exceptions identified during the audit were related to payments made during fiscal year 2019, even though the date of service for some of the payments reached as far back as 2015. We would expect to obtain supporting documentation from the Department for the payments it made during the audit period, regardless of the date of service.

We reaffirm our finding and will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.53 Improper Payments states:

(a) *Improper payment* means any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; and

(b) *Improper payment* includes any payment to an ineligible party, any payment for an ineligible good or service, any duplicate payment, any payment for a good or service not received (except for such payments where authorized by law), any payment that does not account for credit for applicable discounts, and any payment where insufficient or lack of documentation prevents a reviewer from discerning whether a payment was proper.

Section 200.303 Internal controls.

The non-Federal entity must:

(a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

(b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.

(d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.403 Factors affecting Allowability of costs.

Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under Federal awards.

(a) Be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles.

(b) Conform to any limitations or exclusions set forth in these principles or in the Federal award as to types or amount of cost items.

(c) Be consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the non-Federal entity.

(d) Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the sample purpose in like circumstances has been allocated to the Federal award as an indirect cost.

(e) Be determined in accordance with generally accepted accounting principles (GAAP), except, for state and local governments and Indian tribes only, as otherwise provided for in this part.

(f) Not be included as a cost or used to meet cost sharing or matching requirements of any other federally-financed program in either the current or a prior period. See also §200.306 Cost sharing or matching paragraph (b).

(g) Be adequately documented. See also §§200.300 Statutory and national policy requirements through 200.309 Period of performance of this part.

Section 200.410 Collection of unallowable costs.

Payments made for costs determined to be unallowable by either the Federal awarding agency, cognizant agency for indirect costs, or pass-through entity, either as direct or

indirect costs, must be refunded (including interest) to the Federal Government in accordance with instructions from the Federal agency that determined the costs are unallowable unless Federal statute or regulation directs otherwise. See also Subpart D—Post Federal Award Requirements of this part, §§200.300 Statutory and national policy requirements through 200.309 Period of performance.

Section 200.516 Audit findings, states in part:

(a) *Audit findings reported*. The auditor must report the following as audit findings in a schedule of findings and questioned costs:

(1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.

(2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.

(3) Known questioned costs that are greater than $25,000 for a type of compliance requirement for a major program. Known questioned costs are those specifically identified by the auditor. In evaluating the effect of questioned costs on the opinion on compliance, the auditor considers the best estimate of total costs questioned (likely questioned costs), not just the questioned costs specifically identified (known questioned costs). The auditor must also report known questioned costs when likely questioned costs are greater than $25,000 for a type of compliance requirement for a major program. In reporting questioned costs, the auditor must include information to provide proper perspective for judging the prevalence and consequences of the questioned costs.

Title 42 U.S. Code of Federal Regulations Part 433, State Fiscal Administration, Subpart F – Refunding of Federal Share of Medicaid Overpayments to Providers

Section 433.300 Basis.

This subpart implements -

(a) Section 1903(d)(2)(A) of the Act, which directs that quarterly Federal payments to the States under title XIX (Medicaid) of the Act are to be reduced or increased to make adjustment for prior overpayments or underpayments that the Secretary determines have been made.

(b) Section 1903(d)(2)(C) and (D) of the Act, which provides that a State has 1 year from discovery of an overpayment for Medicaid services to recover or attempt to recover the overpayment from the provider before adjustment in the Federal

Medicaid payment to the State is made; and that adjustment will be made at the end of the 1-year period, whether or not recovery is made, unless the State is unable to recover from a provider because the overpayment is a debt that has been discharged in bankruptcy or is otherwise uncollectable.

Section 433.316 When discovery of overpayment occurs and its significance.

(a) *General rule.* The date on which an overpayment is discovered is the beginning date of the 1-year period allowed for a State to recover or seek to recover an overpayment before a refund of the Federal share of an overpayment must be made to CMS.

(b) *Requirements for notification.* Unless a State official or fiscal agent of the State chooses to initiate a formal recoupment action against a provider without first giving written notification of its intent, a State Medicaid agency official or other State official must notify the provider in writing of any overpayment it discovers in accordance with State agency policies and procedures and must take reasonable actions to attempt to recover the overpayment in accordance with State law and procedures.

(c) *Overpayments resulting from situations other than fraud.* An overpayment resulting from a situation other than fraud is discovered on the earliest of - -

  (1) The date on which any Medicaid agency official or other State official first notifies a provider in writing of an overpayment and specifies a dollar amount that is subject to recovery;

  (2) The date on which a provider initially acknowledges a specific overpaid amount in writing to the medicaid agency; or

  (3) The date on which any State official or fiscal agent of the State initiates a formal action to recoup a specific overpaid amount from a provider without having first notified the provider in writing.

(d) *Overpayments resulting from fraud.*

  (1) An overpayment that results from fraud is discovered on the date of the final written notice (as defined in § 433.304 of this subchapter) of the State's overpayment determination.

  (2) When the State is unable to recover a debt which represents an overpayment (or any portion thereof) resulting from fraud within 1 year of discovery because no final determination of the amount of the overpayment has been made under an administrative or judicial process (as applicable), including as a result of a judgment being under appeal, no adjustment shall be made in the Federal payment to such State on account of such overpayment (or any portion thereof) until 30 days after the date on which a final judgment (including, if applicable, a final determination on an appeal) is made.

  (3) The Medicaid agency may treat an overpayment made to a Medicaid provider as resulting from fraud under subsection (d) of this section only if it has referred a provider's case to the Medicaid fraud control unit, or appropriate law enforcement agency in States with no certified Medicaid fraud control unit, as required by § 455.15, § 455.21, or § 455.23 of this chapter, and the Medicaid fraud control unit or appropriate law enforcement agency has provided the Medicaid agency with written notification of acceptance of the case; or if the

Medicaid fraud control unit or appropriate law enforcement agency has filed a civil or criminal action against a provider and has notified the State Medicaid agency.

(e) *Overpayments identified through Federal reviews.* If a Federal review at any time indicates that a State has failed to identify an overpayment or a State has identified an overpayment but has failed to either send written notice of the overpayment to the provider that specified a dollar amount subject to recovery or initiate a formal recoupment from the provider without having first notified the provider in writing, CMS will consider the overpayment as discovered on the date that the Federal official first notifies the State in writing of the overpayment and specifies a dollar amount subject to recovery.

(f) *Effect of changes in overpayment amount.* Any adjustment in the amount of an overpayment during the 1-year period following discovery (made in accordance with the approved State plan, Federal law and regulations governing Medicaid, and the appeals resolution process specified in State administrative policies and procedures) has the following effect on the 1-year recovery period:

(1) A downward adjustment in the amount of an overpayment subject to recovery that occurs after discovery does not change the original 1-year recovery period for the outstanding balance.

(2) An upward adjustment in the amount of an overpayment subject to recovery that occurs during the 1-year period following discovery does not change the 1-year recovery period for the original overpayment amount. A new 1-year period begins for the incremental amount only, beginning with the date of the State's written notification to the provider regarding the upward adjustment.

(g) *Effect of partial collection by State.* A partial collection of an overpayment amount by the State from a provider during the 1-year period following discovery does not change the 1-year recovery period for the balance of the original overpayment amount due to CMS.

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Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

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(b) The person-centered service plan. The person-centered service plan must reflect the services and supports that are important for the individual to meet the needs identified through an assessment of functional need, as well as what is important to the individual with regard to preferences for the delivery of such services and supports. Commensurate with the level of need of the individual, and the scope of services and supports available under Community First Choice, the plan must:

(9) Be finalized and agreed to in writing by the individual and signed by all individuals and providers responsible for its implementation.

(c) Reviewing the person-centered service plan. The person-centered service plan must be reviewed, and revised upon reassessment of functional need, at least every 12 months, when the individual's circumstances or needs change significantly, and at the request of the individual.

Section 441.720 Independent assessment, states in part:

(a) Requirements. For each individual determined to be eligible for the State plan HCBS benefit, the State must provide for an independent assessment of needs, which may include the results of a standardized functional needs assessment, in order to establish a service plan. In applying the requirements of section 1915(i)(1)(F) of the Act, the State must:

(1) Perform a face-to-face assessment of the individual by an agent who is independent and qualified as defined in § 441.730, and with a person-centered process that meets the requirements of § 441.725(a) and is guided by best practice and research on effective strategies that result in improved health and quality of life outcomes.

(i) For the purposes of this section, a face-to-face assessment may include assessments performed by telemedicine, or other information technology medium, if the following conditions are met:

(C) The individual provides informed consent for this type of assessment.

(3) Examine the individual's relevant history including the findings from the independent evaluation of eligibility, medical records, an objective evaluation

of functional ability, and any other records or information needed to develop the person-centered service plan as required in § 441.725.

(b) Reassessments. The independent assessment of need must be conducted at least every 12 months and as needed when the individual's support needs or circumstances change significantly, in order to revise the service plan.

Medicaid Program; Community First Choice Option, 77 Fed. Reg. 88 (May 7, 2012). *Federal Register: The Daily Journal of the United States,* Web. 7 May 2012

> Comment: Another commenter indicated that the requirement for all individuals and providers to sign the plan may be onerous and logistically complicated as consumers can change providers frequently for a variety of reasons, and consumers should be able to obtain agreement from providers through formats other than the service plan.
> Response: After consideration of these comments we have revised the final regulation to indicate that the plan be finalized and agreed to in writing by the individual and signed by all individuals and providers responsible for its implementation…we expect that any provider that is responsible for implementing services or supports authorized in the service plan should receive and sign the individual's service plan, as this would be necessary to not only understand the level of CFC services and supports needed by an individual, but also the individual's strengths, preferences, goals and desired outcomes related to the provision of the services and supports.

Washington Administrative Code WAC 388-106-0045 (effective July 1, 2018 through December 1, 2018) When will the department authorize my long-term care services? states in part:

> The department will authorize long-term care services when you:
> (1) Are assessed using CARE;
> (2) Are found financially and functionally eligible for services including, if applicable, the determination of the amount of participation toward the cost of your care and/or the amount of room and board that you must pay;
> (3) Have given written consent for services and approved your plan of care;

Washington Administrative Code WAC 388-106-0045 (effective December 2, 2018) When will the department authorize my long-term care services? states in part:

> The department will authorize long-term care services when you:
> (1) Are assessed using CARE;
> (2) Are found financially and functionally eligible for services including, if applicable, the determination of the amount of participation toward the cost of your care and/or the amount of room and board that you must pay;
> (3) Have given consent for services and approved your plan of care;

Washington Administrative Code WAC 388-106-0047 (effective July 1, 2018 through December 1, 2018) When can the department terminate or deny long-term care services to me? states in part:

(4) The department will terminate long-term care services if you do not sign and return your service summary document within sixty days of your assessment completion date.

Washington Administrative Code WAC 388-106-0047 (effective December 2, 2018) When can the department terminate or deny long-term care services to me? states in part:

(4) The department may terminate long-term care services if you do not sign and return your service summary document within sixty days of your assessment completion date.

Washington State Medicaid State Plan-Community First choice State Plan Option, states in part:

X. Person-Centered Service Plan Development Process
   a. Indicate how the service plan development process ensures that the person-centered service plan addresses the individual's goals, needs (including health care needs), and preferences, by offering choices regarding the services and supports they receive and from whom.

      The person-centered service plan will be developed and implemented in accordance with 42 CFR 441.550 (b).

      The person-centered service plan will be understandable to the participant, will indicate the individual and/or entity responsible for monitoring the plan, and will be agreed to in writing by the participant and those responsible for implementing the plan.

2019-059 The Department of Social and Health Services, Aging and Long-Term Support Administration, did not have adequate internal controls to ensure Medicaid Community First Choice individual providers had proper background checks.

Federal Awarding Agency:	U.S. Department of Health and Human Services	
Pass-Through Entity:	None	
CFDA Number and Title:	93.775	State Medicaid Fraud Control Units
	93.777	State Survey and Certification of Health Care Providers and Suppliers (Title XVIII) Medicare
	93.778	Medical Assistance Program (Medicaid; Title XIX)
Federal Award Number:	1905WA5MAP; 1905WA5ADM; 1905WAIMPL; 1905WAINCT	
Applicable Compliance Component:	Activities Allowed/Unallowed Allowable Costs/Cost Principles	
Known Questioned Cost Amount:	$42,603 ($32,616 - Personal care and transportation services) ($9,987 - Associated costs)	

Background

Medicaid is a jointly funded state and federal partnership providing coverage for about 1.8 million eligible low-income Washington residents who otherwise might go without medical care. Medicaid is Washington's largest public assistance program and accounts for about one-third of the State's federal expenditures. The program spent about $13.6 billion in federal and state funds during fiscal year 2019.

The Aging and Long-Term Care Administration at the Department of Social and Health Services (Department) offers personal care and other services to support Medicaid clients in community settings through the Community First Choice program. The Department uses an assessment to evaluate a client's support needs and to calculate the number of personal care hours the client is eligible to receive in the community. Individual providers contract with the Department to provide personal care services to clients through one of the 13 Area Agency on Aging (AAA) offices across the state. AAA offices work with providers and clients in their area to ensure providers are meeting eligibility requirements and clients are having their needs met.

In fiscal year 2019, the state Medicaid program paid about $1.3 billion on Community First Choice personal care services.

Medicaid is the primary funding source for long-term care providers. The Medicaid Home and Community Based Services program permits states to furnish long-term care services to Medicaid clients in home and community settings. These services are provided to clients in their home by individuals or agencies chosen by the Medicaid client or the client's legal representative. Payments

to individual providers contracted with the Aging and Long-Term Support Administration accounted for more than 9 percent of all Medicaid payments made in fiscal year 2019.

Individual providers are paid an hourly rate for providing personal care and a mileage rate for providing transportation services to their clients. Individual providers use the Department's Individual ProviderOne (IPOne) system to invoice the Department for their hourly services and mileage claims.

State law (RCW 43.43.837) requires that all individual providers must meet the basic qualifications to provide services to Medicaid clients, which include being at least 18 years old, passing background checks, and receiving required certifications and training. Individual providers must complete a Washington background check every two years and, effective January 8, 2012, all new contracted providers or applicants who have not lived in Washington for three consecutive years must complete a national fingerprint-based background check. Some clients choose to receive care from their parent or legal guardian. If the parent or legal guardian had a contract in place before January 7, 2012, a fingerprint background check is not required.

The Department's Secretary establishes a list of crimes that automatically disqualify people from having unsupervised access to vulnerable clients. This list was previously referred to as "the Secretary's List," but has been incorporated into regulation (Washington Administrative Code 388-113). People who commit a crime listed in State rule are automatically prohibited from "licensing, contracting, certification, or from having unsupervised access to children, vulnerable adults or to individuals with a developmental disability."

If a person is found to have committed a crime not listed in State rule, they are not automatically disqualified from having unsupervised access to vulnerable clients. The provider must receive a Character, Competence and Suitability review to assess and determine if the provider may have unsupervised access to clients.

The Department performs an annual quality review of AAA offices, which includes reviewing provider files to ensure they comply with provider eligibility requirements. A proficiency rate is issued for each of the questions that is answered as part of the review. Proficiency rates that fall below 86 percent require the AAA to submit a proficiency improvement plan (PIP) to respond to the deficiencies that were identified and how it plans to correct them. The Department reviews the plan to ensure it will correct the deficiencies before approving the plan.

In prior audits, we reported the Department made payments on behalf of individual providers without valid background checks. The prior finding numbers were 2018-056, 2017-049, 2016-040, 2015-040, 2014–049, 2013-40, 12-41 and 11-34.

Description of Condition

The Department of Social and Health Services, Aging and Long-Term Support Administration, did not have adequate internal controls to ensure Medicaid Community First Choice individual providers had proper background checks.

We examined the PIPs for eight of the AAA offices that had a proficiency rate below 86 percent. For one (12.5 percent) of the eight PIPs, we noted the AAA did not address how it would correct the background check deficiency.

We consider this internal control deficiency to be a material weakness.

Cause of Condition

The Department felt that in-person training and instruction to the noncompliant AAA office would be more effective in resolving the issues noted during the quality review than requiring the office to document a PIP. Most of the issues identified during the Department's quality review were related to contractual requirements in addition to background check procedures.

As a result, documentation noting how the AAA would correct the background check deficiency was not completed in accordance with Department policies.

Effect of Condition and Questioned Costs

Providers who do not meet the background check requirements are not eligible to provide services to Medicaid clients. Any payments made by the Department to ineligible providers are unallowable.

We used a statistical sampling method to randomly select and examine 132 out of 36,151 Community First Choice individual providers who provided in-home care services to in-home clients during fiscal year 2019 to ensure:

- A background check had been completed within the past two years
- No individuals with disqualifying crimes listed in State rule provided care to vulnerable adult clients at the time of the audit or during the month(s) when the Department paid them
- Providers who had committed crimes that were not listed as disqualifying in State rule passed a Character, Competence and Suitability review permitting them to work unsupervised with vulnerable adults
- The entire period when the provider had access to Medicaid clients was covered by a Washington background check and, if required, a national fingerprint background check

We found:

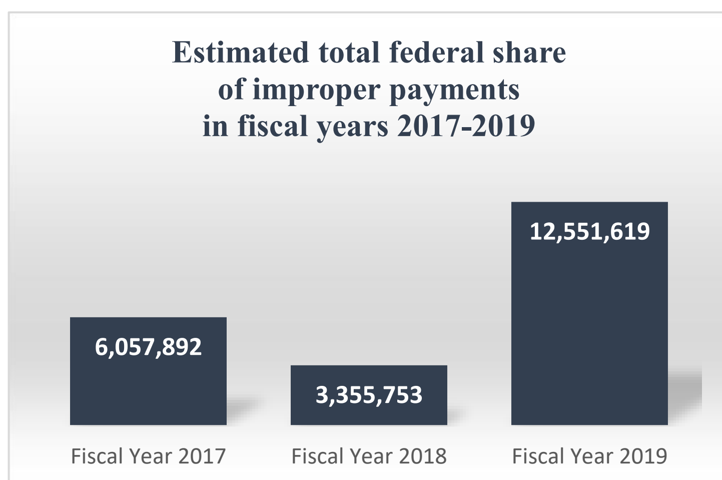
- Three instances when the Department did not perform a fingerprint background check of a provider. Although a Washington background check was conducted on these providers, State law required a fingerprint check also be completed
- Three instances when the Department did not promptly perform a Washington background check at the time of renewal of the provider's contract

		Direct service cost for 2019		Associated cost for 2019	
Description	**Number of exceptions**	**Total paid**	**Federal share**	**Total paid**	**Federal share**
Did not perform a fingerprint background check	3	$58,403	$32,616	$17,834	$9,987
Did not promptly perform a Washington background check at the time of renewal	3	$0	$0	$0	$0
Totals	**6**	**$58,403**	**$32,616**	**$17,834**	**$9,987**

We determined the Department made $58,403 in unallowable payments to providers for direct services to clients. We are questioning $32,616, which is the federal portion of the unallowable payments.

When unallowable payments are identified, federal regulations suggest auditors consider if associated costs, such as benefits, were also paid. The Department pays payroll-related benefits, which are considered associated costs, on behalf of Community First Choice providers. Examples of these costs include health insurance, retirement, payroll taxes and training.

For the $58,403 in payments determined unallowable, we identified $17,834 in associated costs that we also consider to be unallowable. We are questioning $9,987, which is the federal portion of the unallowable payments related to associated costs. The Department contracts with a vendor that manages IPOne. The system currently cannot make overpayment adjustments and until the issue is resolved, the Department will not know the exact amount of associated costs to refund the grantor. In addition, the system was unable to process State Unemployment Tax Act (SUTA) taxes and they were not paid until after the close of the audit period.



Because a statistical sampling method was used to select the Community First Choice individual providers that we examined, we estimate the amount of likely improper payments to be $22,456,363. The federal share of this estimate is $12,551,619.

The statistical sample used for testing was also used to test compliance with other activities-allowed requirements. Because some unallowable payments we examined

violated multiple areas of activities allowed, some of the questioned costs reported here might also be reported in finding numbers 2019-055, 2019-056, 2019-057, and 2019-058.

Projection to population	Known questioned costs	Likely improper payments
Federal expenditures	$42,603	$12,551,619
State expenditures	$33,634	$9,904,744
Total expenditures	**$76,237**	**$22,456,363**

We question costs when we find an agency has not complied with grant regulations or when it does not have adequate documentation to support its expenditures.

Our sampling methodology meets statistical sampling criteria under generally accepted auditing standards in AU-C 530.05. It is important to note that the sampling technique we used is intended to support our audit conclusions by determining if expenditures complied with program requirements in all material respects. Accordingly, we used an acceptance sampling formula designed to provide a very high level of assurance, with a 99 percent confidence of whether exceptions exceeded our materiality threshold. Our audit report and finding reflects this conclusion. However, the likely improper payment projections are a point estimate and only represent our "best estimate of total questioned costs" as required by 2 CFR 200.516(3). To ensure a representative sample, we stratified the population by dollar amount (if applicable).

Because this finding reports non-compliance with State law, the Office of Financial Management is required by RCW 43.09.312 (1) to submit the agency's response and plan for remediation to the Governor, the Joint Legislative Audit and Review Committee, and the relevant fiscal and policy committees of the Senate and House of Representatives.

Recommendations

We recommend the Department:

- Follow policies and procedures to ensure proficiency improvement plans are properly completed and approved
- Review internal controls and Department policies to ensure background check compliance for appropriateness
- Ensure that all provider background checks are completed, as required under State law and Department policy
- Confirm all associated costs related to the unallowable payments for personal care services identified during this audit
- Consult with the U.S. Department of Health and Human Services to discuss whether the questioned costs identified in the audit should be repaid

Department's Response

The Department partially concurs with this finding.

The Department concurs there were three instances when a fingerprint background check was not performed within the required timeframe. In all cases, fingerprint background checks were completed and no disqualifying crimes were found. Additionally, as SAO found a 98% compliance rate, the Department feels current policy assurances have been demonstrated to be effective.

The Department also concurs that there were three instances where a background check was not renewed after two years. The Department would like to note the Medicaid State Plan for Community First Choice (CFC) does not require Individual Providers to complete background checks every two years to remain qualified. Further, there is no Revised Code of Washington (RCW) or Washington Administrative Code (WAC) that states an individual provider becomes unqualified if a background check is not rerun within two years. In addition, the three individual providers did not have a disqualifying crime at any point during the audit period.

The Department does not concur with the SAO's conclusion that the one instance, where formal Proficiency Improvement Plan (PIP) documentation was missing, is a material weakness. In this instance, the Department held an in person consultation instead of the standard PIP process due to contractual compliance issues and significant staff turnover at this specific AAA.

The Department will identify associated costs related to unallowable payments for personal care services. The Department will then work with the U.S. Department of Health and Human Services to return questioned costs.

Auditor's Remarks

We determined a material weakness exists because the Department's key internal control was not materially effective. We reaffirm our finding and will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.53 Improper Payments states:

(a) *Improper payment* means any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; and

(b) *Improper payment* includes any payment to an ineligible party, any payment for an ineligible good or service, any duplicate payment, any payment for a good or service not received (except for such payments where authorized by law), any payment that does not account for credit for applicable discounts, and any payment

where insufficient or lack of documentation prevents a reviewer from discerning whether a payment was proper.

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

(a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States or the “Internal Control Integrated Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

(d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.403 Factors affecting Allowability of costs.

Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under Federal awards.

(a) Be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles.
(b) Conform to any limitations or exclusions set forth in these principles or in the Federal award as to types or amount of cost items.
(c) Be consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the non-Federal entity.
(d) Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the sample purpose in like circumstances has been allocated to the Federal award as an indirect cost.
(e) Be determined in accordance with generally accepted accounting principles (GAAP), except, for state and local governments and Indian tribes only, as otherwise provided for in this part.
(f) Not be included as a cost or used to meet cost sharing or matching requirements of any other federally-financed program in either the current or a prior period. See also §200.306 Cost sharing or matching paragraph (b).
(g) Be adequately documented. See also §§200.300 Statutory and national policy requirements through 200.309 Period of performance of this part.

Section 200.410 Collection of unallowable costs.

Payments made for costs determined to be unallowable by either the Federal awarding agency, cognizant agency for indirect costs, or pass-through entity, either as direct or indirect costs, must be refunded (including interest) to the Federal Government in accordance with instructions from the Federal agency that determined the costs are unallowable unless Federal statute or regulation directs otherwise. See also Subpart

D—Post Federal Award Requirements of this part, §§200.300 Statutory and national policy requirements through 200.309 Period of performance.

Section 200.516 Audit findings, states in part:

(a) *Audit findings reported*. The auditor must report the following as audit findings in a schedule of findings and questioned costs:

(1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.

(3) Known questioned costs that are greater than $25,000 for a type of compliance requirement for a major program. Known questioned costs are those specifically identified by the auditor. In evaluating the effect of questioned costs on the opinion on compliance, the auditor considers the best estimate of total costs questioned (likely questioned costs), not just the questioned costs specifically identified (known questioned costs). The auditor must also report known questioned costs when likely questioned costs are greater than $25,000 for a type of compliance requirement for a major program. In reporting questioned costs, the auditor must include information to provide proper perspective for judging the prevalence and consequences of the questioned costs.

(4) Known questioned costs that are greater than $25,000 for a Federal program which is not audited as a major program. Except for audit follow-up, the auditor is not required under this part to perform audit procedures for such a Federal program; therefor, the auditor will normally not find questioned costs for a program that is not audited as a major program. However, if the auditor does become aware of questioned costs for a Federal program that is not audited as a major program (e.g., as part of audit follow-up or other audit procedures) and the known questioned costs are greater than $25,000, then the auditor must report this as an audit finding.

(5) The circumstances concerning why the auditor's report on compliance for each major program is other than an unmodified opinion, unless such circumstances are otherwise reported audit findings in the schedule of findings and questioned costs for Federal awards.

(6) Known or likely fraud affecting a Federal program award, unless such fraud is otherwise reported as an audit finding in the schedule of findings and questioned costs for Federal awards. This paragraph does not require the auditor to report publicly information which could compromise investigative or legal proceedings or to make an additional reporting when the auditor confirms that the fraud was reported outside the auditor's report under the direct reporting requirements of GAGAS.

(7) Instances where the results of audit follow-up procedures disclosed that the summary schedule of prior audit findings prepared by the auditee in accordance

with §200.511. Audit findings follow-up, paragraph (b) materially misrepresents the status of any prior audit findings.

Title 42 U.S. Code of Federal Regulations Part 433, State Fiscal Administration, Subpart F – Refunding of Federal Share of Medicaid Overpayments to Providers

Section 433.300 Basis.

This subpart implements -

(a) Section 1903(d)(2)(A) of the Act, which directs that quarterly Federal payments to the States under title XIX (Medicaid) of the Act are to be reduced or increased to make adjustment for prior overpayments or underpayments that the Secretary determines have been made.

(b) Section 1903(d)(2)(C) and (D) of the Act, which provides that a State has 1 year from discovery of an overpayment for Medicaid services to recover or attempt to recover the overpayment from the provider before adjustment in the Federal Medicaid payment to the State is made; and that adjustment will be made at the end of the 1-year period, whether or not recovery is made, unless the State is unable to recover from a provider because the overpayment is a debt that has been discharged in bankruptcy or is otherwise uncollectable.

Section 433.316 When discovery of overpayment occurs and its significance.

(a) *General rule.* The date on which an overpayment is discovered is the beginning date of the 1-year period allowed for a State to recover or seek to recover an overpayment before a refund of the Federal share of an overpayment must be made to CMS.

(b) *Requirements for notification.* Unless a State official or fiscal agent of the State chooses to initiate a formal recoupment action against a provider without first giving written notification of its intent, a State Medicaid agency official or other State official must notify the provider in writing of any overpayment it discovers in accordance with State agency policies and procedures and must take reasonable actions to attempt to recover the overpayment in accordance with State law and procedures.

(c) *Overpayments resulting from situations other than fraud.* An overpayment resulting from a situation other than fraud is discovered on the earliest of - -

(1) The date on which any Medicaid agency official or other State official first notifies a provider in writing of an overpayment and specifies a dollar amount that is subject to recovery;

(2) The date on which a provider initially acknowledges a specific overpaid amount in writing to the Medicaid agency; or

(3) The date on which any State official or fiscal agent of the State initiates a formal action to recoup a specific overpaid amount from a provider without having first notified the provider in writing.

(d) *Overpayments resulting from fraud.*

(1) An overpayment that results from fraud is discovered on the date of the final written notice (as defined in § 433.304 of this subchapter) of the State's overpayment determination.

(2) When the State is unable to recover a debt which represents an overpayment (or any portion thereof) resulting from fraud within 1 year of discovery because no final determination of the amount of the overpayment has been made under an administrative or judicial process (as applicable), including as a result of a judgment being under appeal, no adjustment shall be made in the Federal payment to such State on account of such overpayment (or any portion thereof) until 30 days after the date on which a final judgment (including, if applicable, a final determination on an appeal) is made.

(3) The Medicaid agency may treat an overpayment made to a Medicaid provider as resulting from fraud under subsection (d) of this section only if it has referred a provider's case to the Medicaid fraud control unit, or appropriate law enforcement agency in States with no certified Medicaid fraud control unit, as required by § 455.15, § 455.21, or § 455.23 of this chapter, and the Medicaid fraud control unit or appropriate law enforcement agency has provided the Medicaid agency with written notification of acceptance of the case; or if the Medicaid fraud control unit or appropriate law enforcement agency has filed a civil or criminal action against a provider and has notified the State Medicaid agency.

(e) *Overpayments identified through Federal reviews.* If a Federal review at any time indicates that a State has failed to identify an overpayment or a State has identified an overpayment but has failed to either send written notice of the overpayment to the provider that specified a dollar amount subject to recovery or initiate a formal recoupment from the provider without having first notified the provider in writing, CMS will consider the overpayment as discovered on the date that the Federal official first notifies the State in writing of the overpayment and specifies a dollar amount subject to recovery.

(f) *Effect of changes in overpayment amount.* Any adjustment in the amount of an overpayment during the 1-year period following discovery (made in accordance with the approved State plan, Federal law and regulations governing Medicaid, and the appeals resolution process specified in State administrative policies and procedures) has the following effect on the 1-year recovery period:

(1) A downward adjustment in the amount of an overpayment subject to recovery that occurs after discovery does not change the original 1-year recovery period for the outstanding balance.

(2) An upward adjustment in the amount of an overpayment subject to recovery that occurs during the 1-year period following discovery does not change the 1-year recovery period for the original overpayment amount. A new 1-year period begins for the incremental amount only, beginning with the date of the State's written notification to the provider regarding the upward adjustment.

(g) *Effect of partial collection by State.* A partial collection of an overpayment amount by the State from a provider during the 1-year period following discovery does not change the 1-year recovery period for the balance of the original overpayment amount due to CMS.

(h) *Effect of administrative or judicial appeals.* Any appeal rights extended to a provider do not extend the date of discovery.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in internal controls over compliance in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, as follows:

> .11 For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows: …
>
> **Deficiency in internal control over compliance.** A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.
>
> **Material weakness in internal control over compliance.** A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:
>
> **Reasonably possible.** The chance of the future event or events occurring is more than remote but less than likely.
>
> **Probable.** The future event or events are likely to occur.
>
> **Significant deficiency in internal control over compliance.** A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Office of Management and Budget OMB Uniform Guidance, Compliance Supplement for 2017, *Part 4 – Agency Program Requirements, 4.93.778 Medicaid Cluster,* states in part:

> **General Audit Approach for Medicaid Payments**
>
> To be allowable, Medicaid costs for medical services must be (1) covered by the State plan and waivers; (2) reviewed by the State consistent with the State's documented procedures and system for determining medical necessity of claims; (3) properly coded; and (4) paid at the rate allowed by the State plan. Additionally, Medicaid costs must be net of beneficiary cost-sharing obligations and applicable credits (e.g., insurance, recoveries from other third parties who are responsible for covering the Medicaid costs, and drug rebates), paid to eligible providers, and only provided on behalf of eligible individuals.

Revised Code of Washington RCW 43.43.837, "Fingerprint-based background checks—Requirements for applicants and service providers—Shared background checks—Fees—Rules to establish financial responsibility," states in part:

(1) Except as provided in subsection (2) of this section, in order to determine the character, competence, and suitability of any applicant or service provider to have unsupervised access, the secretary may require a fingerprint-based background check through both the Washington state patrol and the federal bureau of investigation at any time, but shall require a fingerprint-based background check when the applicant or service provider has resided in the state less than three consecutive years before application, and:
   (a) Is an applicant or service provider providing services to children or people with developmental disabilities under RCW 74.15.030;
   (b) Is an individual residing in an applicant or service provider's home, facility, entity, agency, or business or who is authorized by the department to provide services to children or people with developmental disabilities under RCW 74.15.030; or
   (c) Is an applicant or service provider providing in-home services funded by:
      (i) Medicaid personal care under RCW 74.09.520;
      (ii) Community options program entry system waiver services under RCW 74.39A.030;
      (iii) Chore services under RCW 74.39A.110; or
      (iv) Other home and community long-term care programs, established pursuant to chapters 74.39 and 74.39A RCW, administered by the department.

(2) Long-term care workers, as defined in RCW 74.39A.009, who are hired after January 7, 2012, are subject to background checks under RCW 74.39A.056.

(3) To satisfy the shared background check requirements provided for in RCW 43.215.215 and 43.20A.710, the department of early learning and the department of social and health services shall share federal fingerprint-based background check results as permitted under the law. The purpose of this provision is to allow both departments to fulfill their joint background check responsibility of checking any individual who may have unsupervised access to vulnerable adults, children, or juveniles. Neither department may share the federal background check results with any other state agency or person.

(4) The secretary shall require a fingerprint-based background check through the Washington state patrol identification and criminal history section and the federal bureau of investigation when the department seeks to approve an applicant or service provider for a foster or adoptive placement of children in accordance with federal and state law.

(5) Any secure facility operated by the department under chapter 71.09 RCW shall require applicants and service providers to undergo a fingerprint-based background check through the Washington state patrol identification and criminal history section and the federal bureau of investigation.

(6) Service providers and service provider applicants who are required to complete a fingerprint-based background check may be hired for a one hundred twenty-day provisional period as allowed under law or program rules when:
   (a) A fingerprint-based background check is pending; and
   (b) The applicant or service provider is not disqualified based on the immediate result of the background check.

(7) Fees charged by the Washington state patrol and the federal bureau of investigation for fingerprint-based background checks shall be paid by the department for applicants or service providers providing:
   (a) Services to people with a developmental disability under RCW 74.15.030;
   (b) In-home services funded by Medicaid personal care under RCW 74.09.520;
   (c) Community options program entry system waiver services under RCW 74.39A.030;
   (d) Chore services under RCW 74.39A.110;
   (e) Services under other home and community long-term care programs, established pursuant to chapters 74.39 and 74.39A RCW, administered by the department;
   (f) Services in, or to residents of, a secure facility under RCW 71.09.115; and
   (g) Foster care as required under RCW 74.15.030.

(8) Service providers licensed under RCW 74.15.030 must pay fees charged by the Washington state patrol and the federal bureau of investigation for conducting fingerprint-based background checks.

(9) Children's administration service providers licensed under RCW 74.15.030 may not pass on the cost of the background check fees to their applicants unless the individual is determined to be disqualified due to the background information.

(10)The department shall develop rules identifying the financial responsibility of service providers, applicants, and the department for paying the fees charged by law enforcement to roll, print, or scan fingerprints-based for the purpose of a Washington state patrol or federal bureau of investigation fingerprint-based background check.

(11)For purposes of this section, unless the context plainly indicates otherwise:
   (a) Applicant" means a current or prospective department or service provider employee, volunteer, student, intern, researcher, contractor, or any other individual who will or may have unsupervised access because of the nature of the work or services he or she provides. "Applicant" includes but is not limited to any individual who will or may have unsupervised access and is:
      (i) Applying for a license or certification from the department;
      (ii) Seeking a contract with the department or a service provider;
      (iii) Applying for employment, promotion, reallocation, or transfer;
      (iv) An individual that a department client or guardian of a department client chooses to hire or engage to provide services to himself or herself or another vulnerable adult, juvenile, or child and who might be eligible to receive payment from the department for services rendered; or
      (v) A department applicant who will or may work in a department-covered position.
   (b) Authorized" means the department grants an applicant, home, or facility permission to:
      (i) Conduct licensing, certification, or contracting activities;
      (ii) Have unsupervised access to vulnerable adults, juveniles, and children;
      (iii) Receive payments from a department program; or
      (iv) Work or serve in a department-covered position.
   (c) Department" means the department of social and health services.
   (d) Secretary" means the secretary of the department of social and health services.
   (e) Secure facility" has the meaning provided in RCW 71.09.020.

(f) Service provider" means entities, facilities, agencies, businesses, or individuals who are licensed, certified, authorized, or regulated by, receive payment from, or have contracts or agreements with the department to provide services to vulnerable adults, juveniles, or children. "Service provider" includes individuals whom a department client or guardian of a department client may choose to hire or engage to provide services to himself or herself or another vulnerable adult, juvenile, or child and who might be eligible to receive payment from the department for services rendered. "Service provider" does not include those certified under *chapter 70.96A RCW.

Washington Administrative Code 388-71-0510 – "How does a person become an individual provider?" states:

In order to become an individual provider, a person must:

(1) Be eighteen years of age or older;
(2) Provide the social worker/case manager/designee with:
  (a) A valid Washington state driver's license or other valid picture identification; and either
  (b) A Social Security card; or
  (c) Proof of authorization to work in the United States.
(3) Complete the required DSHS form authorizing a background check;
(4) Disclose any criminal convictions and pending charges, and also disclose civil adjudication proceedings and negative actions as those terms are defined in WAC 388-71-0512;
(5) Effective January 8, 2012, be screened through Washington state's name and date of birth background check. Preliminary results may require a thumb print for identification purposes.
(6) Effective January 8, 2012, be screened through the Washington state and national fingerprint-based background check, as required by RCW 74.39A.056.
(7) Results of background checks are provided to the department and the employer or potential employer unless otherwise prohibited by law or regulation for the purpose of determining whether the person:
  (a) Is disqualified based on a disqualifying criminal conviction or a pending charge for a disqualifying crime as listed in WAC 388-113-0020, civil adjudication proceeding, or negative action as defined in WAC 388-71-0512 and 388-71-0540; or
  (b) Should or should not be employed as an individual provider based on his or her character, competence, and/or suitability.
(8) For those providers listed in RCW 43.43.837(1), a second Washington state and national fingerprint-based background check is required if they have lived out of the state of Washington since the first national fingerprint-based background check was completed.
(9) The department may require an individual provider to have a Washington state name and date of birth background check or a Washington state and national fingerprint-based background check, or both, at any time.

(10) Sign a home and community-based service provider contract/agreement to provide personal care services to a person under a Medicaid state plan or federal waiver such as COPES or other waiver programs.

The Aging and Long-Term Support Administration *Long Term Care Manual Chapter 11: Individual Providers,* states in part:

2.4 WHAT TO DO WITH THE BACKGROUND CHECK RESULTS

(g) Additional Information Needed

3. For the name and date of birth re-check, allow the IP 30-days from the date on the letter to obtain a non-disqualifying result letter from BCCU. Terminate payment if not received within 30-days. Note: the recheck result must not exceed the 2-year timeframe from the date on the last background check result.

2019-060 The Department of Social and Health Services, Aging and Long-Term Support Administration, did not have adequate internal controls to ensure Medicaid payments to home care agencies were allowable.

Federal Awarding Agency:	U.S. Department of Health and Human Services	
Pass-Through Entity:	None	
CFDA Number and Title:	93.775	State Medicaid Fraud Control Units
	93.777	State Survey and Certification of Health Care Providers and Suppliers (Title XVIII) Medicare
	93.778	Medical Assistance Program (Medicaid; Title XIX)
Federal Award Number:	1905WA5MAP; 1905WA5ADM; 1905WAIMPL; 1905WAINCT	
Applicable Compliance Component:	Activities Allowed / Unallowed Allowable Costs/Cost Principles	
Known Questioned Cost Amount:	None	

Background

Medicaid is a jointly funded state and federal partnership providing coverage for about 1.8 million eligible low-income Washington residents who otherwise might go without medical care. Medicaid is Washington's largest public assistance program and accounts for about one-third of the State's federal expenditures. The program spent about $13.6 billion in federal and State funds during fiscal year 2019.

The Department of Social and Health Services (Department) offers personal care, respite and other services to support Medicaid clients in community settings. The Department uses an assessment to evaluate a client's support needs and to calculate the number of personal care hours the client needs to successfully live in the community.

Clients have two options to choose from for the delivery of their personal care services. One option is for the client to recruit, hire and supervise their own provider. This type of employee is referred to as an individual provider. The other option is to have the services provided by a home care aide who is recruited, trained, employed and supervised by a home care agency.

Home care agencies are contracted with the Department through the state's 13 Area Agencies on Aging (AAA). The Department pays AAAs to monitor the home care agencies for contractual compliance in many areas, including home care agency payment verification. The Department performs monitoring of AAAs once every three years to ensure they comply with their contract terms. The Department conducts annual quality assurance and improvement reviews with the AAAs to confirm payment authorizations and rates were correct.
The Department pays home care agencies directly for client services and reports those payments on the state's Statement of Expenditures of Federal Awards (SEFA). The Department paid about

$387 million to home care agencies for personal care services provided to clients in fiscal year 2019.

In the prior audit, we reported the Department did not have adequate internal controls over and did not comply with requirements to ensure Medicaid payments to home care agencies were allowable. The prior finding number was 2018-054.

Description of Condition

The Department's Aging and Long-Term Support Administration (Administration) did not have adequate internal controls to ensure Medicaid payments to home care agencies were allowable.

The Administration has not implemented payment review procedures to gain reasonable assurance that payments to home care agency providers comply with the requirements of Activities Allowed/Unallowed and Allowable Costs/Cost Principles.

We consider this internal control deficiency to be a material weakness.

Cause of Condition

The Department did not perform its own independent review of payments to home care agency providers. Additionally, the Department's three-year monitoring of the AAAs or annual quality assurance and improvement reviews did not evaluate the extent of the supporting documentation that the AAAs reviewed.

Effect of Condition

By not establishing adequate monitoring procedures, the Department increases the risk that it will make improper payments to providers that it does not prevent or detect in a timely manner.

Recommendations

We recommend the Department implement monitoring procedures to ensure payments to home care agencies are adequately documented and supported.

Department's Response

The Department does not concur with this finding.

Area Agencies on Aging (AAA) monitor home care agencies for compliance with Electronic Time Keeping (ETK) requirements. The ALTSA State Unit on Aging (SUA) reviews a random sample of home care agencies (HCA) that the AAA monitors to ensure they reviewed compliance with the ETK requirements in the HCA Monitoring Tool.

We believe the monitoring by the AAA and SUA is adequate.

The FY2019 audit did not result in exceptions or a finding related to ETK compliance, which is further evidence that the internal controls implemented by the Department are adequate.

Auditor's Concluding Remarks

We acknowledge the Department monitors the AAAs. However, the Department makes payment directly to home care agencies and has not implemented a process to independently review those payments. We reaffirm our finding and will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes reporting requirements for audit findings.

Section 200.303 Internal controls.

The non-Federal entity must:

(a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

Section 200.516 Audit reporting, states in part:

(a) *Audit findings reported*. The auditor must report the following as audit findings in a schedule of findings and questioned costs:

(1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in internal controls over compliance in its Codification of Statements on Auditing Standards, section 935, Compliance Audits:

.11 For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows: …

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned

functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

2019-061 The Department of Social and Health Services, Aging and Long-Term Support Administration, did not have adequate internal controls over and did not comply with survey requirements for Medicaid intermediate care facilities.

Federal Awarding Agency:	U.S. Department of Health and Human Services
Pass-Through Entity:	None
CFDA Number and Title:	93.775 State Medicaid Fraud Control Units 93.777 State Survey and Certification of Health Care Providers and Suppliers (Title XVIII) Medicare 93.778 Medical Assistance Program (Medicaid; Title XIX)
Federal Award Number:	1905WA5MAP; 1905WA5ADM; 1905WAIMPL; 1905WAINCT
Applicable Compliance Component:	Special Tests and Provisions – Provider Health and Safety Standards
Known Questioned Cost Amount:	None

Background

Medicaid is a jointly funded state and federal partnership providing coverage for about 1.8 million eligible low-income Washington residents who otherwise might go without medical care. Medicaid is Washington's largest public assistance program and accounts for about one-third of the State's federal expenditures. The program spent about $13.6 billion in federal and state funds during fiscal year 2019.

Residential Care Services, under the Department of Social and Health Services, Aging and Long-Term Support Administration, is the State's Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID) survey agency. An ICF/IID is an institution with the primary purpose of providing health or rehabilitation services to people with intellectual disabilities or related conditions who receive care and services under Medicaid.

The Department must perform a federal certification survey of each ICF/IID. The certification survey is a resident-centered inspection that gathers information about the quality of service provided in a facility to determine compliance with the participation requirements. The survey focuses on the facility's administration and patient services, as well as the outcome of the facility's implementation of ICF/IID active treatment services. The survey also assesses compliance with federal health, safety and quality standards designed to ensure patients receive safe and quality care services.

The State must complete a standard survey for each ICF/IID facility within 15.9 months after the previous survey, and the statewide average for all ICF/IID facilities must not exceed 12.9 months for all ICF/IID facilities, as required by Centers for Medicare and Medicaid Services (CMS). If a survey uncovers deficiencies, the Department must mail a Statement of Deficiency to the facility

within 10 working days of the survey date. The facility must submit a Plan of Correction that the Department determines is acceptable within 60 calendar days of receipt or risk forfeiting its Medicaid certification. In addition to federal requirements, the Department has established its own policies and procedures requiring that it review a submitted Plan of Correction within five working days after receiving it. The Department initially created these policies and procedures for nursing home surveys. However, the Department extends the application of these policies and procedures to ICF/IID facilities.

In fiscal year 2019, the state Medicaid program spent about $17.7 million to survey and certify health care providers. The Department spent about $8.6 million certifying ICF/IID facilities during fiscal year 2019. The State had six ICF/IID facilities that were Medicare and/or Medicaid certified.

In prior audits, we reported the Department did not have adequate internal controls to ensure it conducted timely surveys and followed up on deficiencies. The prior finding numbers were 2018-052, 2017-042, 2016-037, 2015-045, and 2014-046.

Description of Condition

The Department did not have adequate internal controls over and did not comply with federal requirements for completing recertification surveys of ICF/IID facilities. In addition, the Department did not comply with federal and state requirements for completing recertification surveys timely.

The Department uses a tracking spreadsheet as an internal control to monitor and track the survey frequencies as well as the statewide average frequency to ensure it meets the mandated 15.9 month survey frequency, and the statewide average of 12.9 months between surveys for each facility.

We found the Department did not adequately monitor ICF/IID facilities to ensure that all recertification surveys were completed promptly. The Department did not monitor the tracking sheet and did not complete one survey within the required 15.9 months.

We consider this internal control deficiency to be a material weakness.

Cause of Condition

The Department did not complete one survey within the required 15.9 months because the facility received a Denial of Payments for New Admissions, effective for 11 months. The 15-month survey due date fell within this 11-month time frame. The Department was waiting for the facility to submit a letter of credible allegation indicating they had corrected the deficiencies that originally resulted in denial of payment.

Despite the outstanding deficiencies, management did not monitor its survey schedules to ensure compliance in meeting the survey timeline for both federal and state requirement.

Effect of Condition

We examined all six certification surveys completed during the audit period and found one instance (16.7 percent) when the Department failed to complete the certification survey within 15.9 months of the previous certification survey.

Without conducting recertification surveys, the State is at risk of paying facilities for services provided to Medicaid clients without assurance the facilities are complying with federal and state health standards and regulations. Clients residing in facilities that do not meet federal health and safety requirements for participating in the Medicaid program could be at increased risk of abuse, mistreatment, neglect or substandard care.

Recommendations

We recommend the Department:

- Establish adequate internal controls to ensure compliance with facility survey timeliness requirements
- Ensure it completes recertification surveys within 15.9 months

Department's Response

The Department does not concur with the finding.

The Department has an adequate internal control that is being used to track the frequency of recertification surveys to ensure the federal and state monthly averages are met. The Department adequately uses a tracking spreadsheet to monitor the frequency of intervals of facilities' recertification surveys.

The Department did not complete a recertification survey for one facility within the federally required 15.9 month survey intervals as the facility was under an alternate sanction of 11-month Denial of Payments for New Admissions effective on 9/13/2017. The 15.9-month due date for the facility's recertification survey fell within this 11-month time frame. During this 11-month time frame, the Department waited for the facility to submit a credible allegation of compliance indicating they had corrected the deficiencies that resulted to the alternate sanction. After receiving the facility's letter of credible allegation on 8/1/2018, the Department conducted a revisit survey on 8/6/2018, resulting in the facility achieving substantial compliance.

Subsequently thereafter, the Department completed the facility's recertification survey beginning on 8/8/2018.

This facility voluntarily terminated their participation from the Medicaid program on 1/1/2019.

Auditor's Remarks

Title 42 CFR, Section 442.109 and the CMS State Operations Manual (SOM), *Section 2141 – Recertification of ICFs/IID* require that ICF/IID facilities be subject to recertification survey at least every 15 months. Only six ICF/IID facilities were actively certified by the Department during

the audit period, therefore the Department was materially noncompliant with federal survey requirements for ICF/IID. We are required to report a material weakness in internal controls when material noncompliance is identified.

In addition, the Department is not prohibited from surveying ICF/IID facilities with Denial of Payment on New Admissions imposed under federal rule, and there are no federal criteria or other written guidance from CMS superseding the requirement to perform recertification surveys of each ICF/IID at least every 15 months.

We reaffirm our finding and will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

> Section 200.303 Internal controls, states in part:
>
> The non-Federal entity must:
>
> (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
>
> (b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.
>
> (d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings
>
> Section 200.516 Audit findings, states in part:
>
> (a) *Audit findings reported*. The auditor must report the following as audit findings in a schedule of findings and questioned costs:
>
> (1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.
>
> (2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of

> Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in internal controls over compliance in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, as follows:

> .11 For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows: …
>
> **Deficiency in internal control over compliance.** A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.
>
> **Material weakness in internal control over compliance.** A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:
>
> > **Reasonably possible.** The chance of the future event or events occurring is more than remote but less than likely.
> >
> > **Probable.** The future event or events are likely to occur.
>
> **Significant deficiency in internal control over compliance.** A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.
>
> **Material noncompliance.** In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

Title 42 U.S. Code of Federal Regulations, Part 442, Standards for Payment to Nursing Facilities and Intermediate Care Facilities for Individuals with Intellectual Disabilities, states in part:
Section 442.109 – Certification period for ICF/IIDs: General Provisions

(a) A survey agency may certify a facility that fully meets applicable requirements. The State Survey Agency must conduct a survey of each ICF/IID not later than 15 months after the last day of the previous survey.

Title 42 U.S. Code of Federal Regulations, Part 488, Survey, Certification, and Enforcement Procedures, states in part:

Section 488.28 – Providers or suppliers, other than Skilled Nursing Facilities (SNFs), Nursing Facilities (NFs), and Home Health Agencies (HHAs) with deficiencies

(a) If a provider or supplier is found to be deficient in one or more of the standards in the conditions of participation, conditions for coverage, or conditions for certification or requirements, it may participate in, or be covered under, the Medicare program only if the provider or supplier has submitted an acceptable plan of correction for achieving compliance within a reasonable period of time acceptable to CMS. In the case of an immediate jeopardy situation, CMS may require a shorter time period for achieving compliance.

(b) The existing deficiencies noted either individually or in combination neither jeopardize the health and safety of patients or are of such character as to seriously limit the provider's capacity to render adequate care.

(c) (1) If it is determined during a survey that a provider or supplier is not in compliance with one or more of the standards, it is granted a reasonable time to achieve compliance.
   (2) The amount of time depends upon the -
      (i) Nature of the deficiency; and
      (ii) State survey agency's judgment as to the capabilities of the facility to provide adequate and safe care.

(d) Ordinarily a provider or supplier is expected to take the steps needed to achieve compliance within 60 days of being notified of the deficiencies but the State survey agency may recommend that additional time be granted by the Secretary in individual situations, if in its judgment, it is not reasonable to expect compliance within 60 days, for example, a facility must obtain the approval of its governing body, or engage in competitive bidding.

The Centers for Medicare and Medicaid Services, State Operations Manual, Chapter 2 – The Certification Process, states in part:

2138G – Schedule for Recertification

(Rev. 91, Issued: 09-27-13, Effective: 09-27-13, Implementation: 09-27-13)

The SA completes a recertification survey an average of every 12 months and at least once every 15 months (see §2141).

2141 – Recertification – ICFs/IID

(Rev. 91, Issued: 09-27-13, Effective: 09-27-13, Implementation: 09-27-13)

- The regulation at §442.15 provides that provider agreements for ICF/IID's would remain in effect as long as the facility remains in compliance with the Conditions of Participation (COP's). Regulations at §442.109 through §442.111.

- Beginning on May 16, 2012, ICF/IID's are no longer subject to time-limited agreements. However, they are to be surveyed for re-certification an average of every 12 months and at least once every 15 months.
- If during a survey the survey agency finds a facility does not meet the standards for participation the facility may remain certified if the survey agency makes two determinations – The facility may maintain its certification if the survey agency finds Immediate Jeopardy doesn't exist, and if the facility provides an acceptable plan of correction.
- An ICF/IID may be decertified under procedures outlined in Section 3012 of the State Operations Manual. More specifically, a facility may be decertified if an immediate jeopardy finding remains unabated after 23 days or if it fails to regain compliance with conditions of participation after 90 days.

ICF/IID's will be subject to survey an average of every 12 months and at least every 15 months, the same period that is applied to Nursing Homes.

The Department of Social and Health Services, Residential Care Services Division *Standard Operating Procedure: Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID) – Plan of Correction, states in part:*

The Department will review the POC within five working days of receipt and will verify if the POC is acceptable.

Procedure

B. Off-site POC Review – the ICF program staff will:

1. Review the POC within five working days of receipt and confirm the POC for each deficiency includes:
   a. How the facility will correct the deficiency as it relates to the resident;
   b. How the facility will act to protect residents in similar situations;
   c. Measures the facility will take or the systems it will alter to ensure that the problem does not recur;
   d. How the facility plans to monitor its performance to make sure that solutions are sustained;
   e. Dates when the corrective action will be completed (no more than 45 days from the last day of inspection for an ICF/IID that carries an Assisted Living or Nursing Home license and 60 days for a state Residential Habilitation Center (RHC));
   f. The title of the person or persons responsible to ensure correction for each deficiency

2019-062 The Department of Social and Health Services, Aging and Long-Term Support and Developmental Disabilities Administrations, did not have adequate internal controls over and did not comply with requirements to ensure some Medicaid providers were revalidated every five years or that screening and fingerprint-based criminal background check requirements were met.

Federal Awarding Agency:	U.S. Department of Health and Human Services
Pass-Through Entity:	None
CFDA Number and Title:	93.775 State Medicaid Fraud Control Units
	93.777 State Survey and Certification of Health Care Providers and Suppliers (Title XVIII) Medicare
	93.778 Medical Assistance Program (Medicaid; Title XIX)
Federal Award Number:	1905WA5MAP; 1905WA5ADM; 1905WAIMPL; 1905WAINCT
Applicable Compliance Component:	Special Tests and Provisions – Provider Eligibility-Provider Revalidation
Known Questioned Cost Amount:	None

Background

Medicaid is a jointly funded state and federal partnership providing coverage for about 1.8 million eligible low-income Washington residents who otherwise might go without medical care. Medicaid is Washington's largest public assistance program and accounts for about one-third of the State's federal expenditures. The program spent about $13.6 billion in federal and state funds during fiscal year 2019.

Provider enrollment

In March 2011, a new federal regulation required state Medicaid agencies to revalidate the enrollment of all Medicaid providers at least every five years. The Centers for Medicare and Medicaid Services (CMS) notified states through an informational bulletin that the revalidation of all providers enrolled on or before March 25, 2011, must be completed by March 24, 2016. In January 2016, CMS issued updated guidance to states that extended the deadline for provider revalidation to September 25, 2016. The new deadline applied to all providers enrolled on or before September 25, 2011. After this deadline, all providers must be revalidated every five years from their initial enrollment date. As part of this updated guidance, CMS required states to notify all affected providers of the revalidation requirement by the original March 24, 2016, deadline.

The Department of Social and Health Services (Department) revalidates the enrollment of Medicaid providers through its contracting process. Individual provider contract terms are four years, and contracting requirements are screened by a contract specialist within the Department's

Aging and Long-Term Support (ALTSA) and Developmental Disabilities (DDA) Administrations. Contracts are also screened by Area Agencies on Aging (AAA) regional offices. A valid Washington state driver's license or other valid picture identification and either a Social Security card or proof of authorization to work in the United States must be checked during revalidation for individual providers. Nursing facility contract expiration dates are open ended, but the contract unit revalidates nursing facility enrollment every five years. Contracting requirements are screened by the Department's contract unit.

Federal law requires the State Medicaid agency to check the following during its revalidation process:

- Social Security Administration's Death Master File (DMF)
- National Plan and Provider Enumeration System (NPPES)
- List of Excluded Individuals/Entities (LEIE)
- Excluded Parties List System (EPLS) (now known as the System for Award Management (SAM))

The Department's contract unit performed daily federal database checks until the Automated Provider Screening Solutions (APS) was implemented in October 2018. The APS performs all necessary data matches for providers participating in the Medicaid program. When a provider's contract is revalidated, a contract file is created in the Agency Contracts Database (ACD). The check results are documented in the "Staff" section of the ACD system. Before signing a contract, a contract specialist checks the ACD system to ensure the federal database checks were performed.

Provider screening risk levels

The first step in revalidating a provider is to determine the provider's screening risk level. A provider can be designated as one of three risk levels: limited, moderate or high. Each risk level requires progressively greater scrutiny of the provider before it can be revalidated. CMS issued initial guidance on screening levels for specific provider types. For providers enrolled in both Medicare and Medicaid, state Medicaid agencies must assign providers to the same or higher risk category applicable under Medicare. In addition, certain provider behaviors require a provider to be moved to a higher screening risk level.

The following are the required screening procedures for each of the risk levels:

<u>Limited risk</u>

- Verify that provider meets applicable federal regulations or state requirements for provider type before making an enrollment determination
- Conduct license verifications, including for licenses in states other than where the provider is enrolling
- Conduct database checks to ensure providers continue to meet the enrollment criteria for their provider type

<u>Moderate risk</u>

- Perform the "limited risk" screening requirements
- Conduct onsite visits

High risk

- Perform the "limited risk" and "moderate risk" screening requirements
- Conduct a fingerprint-based criminal background check

State Medicaid agencies must adjust the categorical risk level of a particular provider from "limited" or "moderate" to "high" when any of the following situations occur:

- A Medicaid agency imposes a payment suspension on a provider based on credible allegation of fraud, waste or abuse. The provider's risk remains "high" for 10 years after the date the payment suspension was issued.
- A provider that, upon applying for enrollment or revalidation, is found to have an existing state Medicaid Plan overpayment which is $1,500 or greater and more than 30 days old.
- The provider has been excluded by the Office of Inspector General or another state's Medicaid program in the previous 10 years.
- A Medicaid agency or CMS, in the previous six months, lifted a temporary moratorium for the particular provider type and a provider that was prevented from enrolling based on the moratorium applies for enrollment as a provider at any time within six months from the date the moratorium was lifted.

Fingerprint-based criminal background check

In revalidating a provider's enrollment, the state Medicaid agency must conduct a fingerprint-based criminal background check when the agency has designated a provider as high-risk. Anyone with at least a 5 percent direct or indirect ownership interest in a business that provides Medicaid services is also subject to the fingerprint-check requirement. The deadline to fully-implement a fingerprint-based criminal background check process was June 1, 2016, and the State Medicaid agency was required to ensure it had processes in place to complete the following tasks related to fingerprint-based criminal background checks:

- Notify each provider in the high risk category about the fingerprint-based criminal background check requirement
- Collect and use fingerprints to verify whether the provider or any person with a 5 percent or more or indirect ownership interest in the provider has a criminal history in the state or, if it chooses, at the national level
- Take any necessary termination action based on the criminal history data and updated enrollment records to reflect fingerprint-based criminal background check status
- Indicate in the enrollment record for a provider in the high-risk category whether and when the provider passed, failed, or failed to respond to the requirement for fingerprint-based criminal background checks

On August 1, 2017, CMS extended the deadline to implement a fingerprint-based criminal background check process to July 1, 2018.

The Department paid Medicaid providers about $3.1 billion for fee-for-service claims in fiscal year 2019. The two highest paid provider types were individual providers and nursing facilities. In fiscal year 2019, the Department paid about $906 million to more than 54,000 individual providers and about $697 million to 239 nursing facilities.

In the prior audit, we reported the Department did not have adequate internal controls over and did not comply with requirements to ensure Medicaid social service and nursing facility providers were revalidated every five years and screening requirements were met. The prior finding number was 2018-057.

Description of Condition

The Department did not have adequate internal controls over and did not comply with requirements to ensure Medicaid social service and nursing facility providers were revalidated every five years or that screening and fingerprint-based criminal background check requirements were met.

Provider enrollment

We found the Department did not ensure federally required database checks were performed before completing enrollment revalidation of individual providers and nursing facilities.

We also found that the Department did not ensure all nursing facilities were revalidated by the deadline. The Department began revalidating nursing facilities in November 2017.

Provider screening levels

The Department did not establish a process to adjust provider screening risk levels during the period.

Fingerprint-based criminal background check

The Department did not implement a fingerprint-based criminal background check process for all providers categorized as high risk.

We consider these internal control deficiencies to be a material weakness.

This condition was reported in the prior audit.

Cause of Condition

DMF checks were not consistently performed until the Department implemented a daily check process in November 2016. The Department was not aware that NPPES checks for nursing facilities should be performed when a nursing facility was revalidated.

The Department did not implement the risk adjustment process and a fingerprint-based criminal background check for high-risk providers during our audit period or revalidation of nursing facilities until November 2017 because it was not aware of the new revalidation rules.

Effect of Condition

Using a statistical sampling method, we randomly selected 65 individual providers that were paid by ALTSA during the audit period from a population of 36,956 providers. We identified 65 contracts of the selected providers.

Additionally, we randomly selected 65 individual providers that were paid by DDA during the audit period from a population of 18,013 providers. We identified 65 active contracts for the selected providers.

We also randomly selected 58 nursing facilities that were paid during the audit period from a population of 239 facilities. We identified 58 active contracts for the selected facilities.

We reviewed the selected contracts to determine if the Department took proper steps when conducting provider revalidations. We found:

- Database checks were not completed for 25 ALTSA individual provider contracts
- Database checks were not completed for 32 DDA individual provider contracts
- Database checks were not completed for 45 nursing facility contracts
- 37 nursing facilities were not revalidated by the deadline

Provider Type	LEIE check not properly completed	EPLS check not properly completed	DMF check not properly completed	NPPES check not properly completed	Contracts signed before federal database checks	Totals
ALTSA providers	1	1	21	N/A[1]	11	25[2]
DDA providers	0	0	32	N/A[1]	1	32[2]
Nursing facilities	0	0	10	45	0	45[2]

1. *NPPES check is not required for individual providers because National Provider Identifier (NPI) is not required for individual providers.*
2. *Some contracts had multiple issues.*

We also reviewed Department records to determine if it obtained proof of authorization to work in the U.S. and a copy of picture identification cards from individual providers before revalidating their contracts.

We found:

- One instance when ALTSA records did not contain evidence showing an individual provider was authorized to work in the U.S.
- Three instances when ALTSA records did not contain evidence showing individual providers had valid picture identification

- One instance when DDA records did not contain evidence showing individual provider had valid picture identification

By not complying with provider revalidation, screening and fingerprint-based criminal background check requirements, the Department faces a higher risk of not detecting when Medicaid providers are ineligible to provide services or be paid with Medicaid funds.

Recommendations

We recommend the Department:

- Implement adequate internal controls to ensure provider revalidations are properly completed by established deadlines
- Ensure federal database checks are completed at the time of provider revalidation
- Verify and properly document that individual providers are authorized to work in the U.S. and have a valid picture identification card at the time of revalidation
- Implement a process to adjust providers' screening risk levels
- Implement a process to conduct fingerprint-based criminal background checks for high-risk providers

Department's Response

The Department concurs with this finding.

In November 2017, the Department developed a process to screen and track each nursing facility contract to ensure validation and revalidation occurs within the five-year requirement. It was not until September of 2018 that the nursing facility screenings were completed due to delayed response, and the return of required forms, by the nursing facilities. Currently, all nursing facilities have been screened as required.

Effective October 8, 2018, the Department implemented the new Automated Provider Screening process in the Agency Contracts Database (ACD). The new process includes an internal control that prevents a new or renewal Medicaid contract to be approved or signed unless the screening process has been successfully completed in ACD.

No exceptions were identified in the FY2019 audit after the implementation of the Automated Provider Screening in October 2018. Once all of the existing contracts have been renewed, which requires them to subjected to the Automated Provider Screening process, the Department expects the Finding will be resolved.

As stated in the FY2018 Corrective Action Plan, the Provider Risk Level assignment, due to overpayments or a Medicaid fraud referral, was reviewed by the Department for workload impact and costs associated with adding monitoring of risk levels to on-going contracting efforts. The Department will develop a policy related to Provider Risk Level assignment and monitoring.

Auditor's Remarks

We thank the Department for its cooperation and assistance throughout the audit. We will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

(a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

(b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.

(d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.516 Audit findings, states in part:

(a) *Audit findings reported*. The auditor must report the following as audit findings in a schedule of findings and questioned costs:

(1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.

(2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in internal controls over compliance in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, as follows:

> .11 For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows: …
>
> **Deficiency in internal control over compliance.** A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.
>
> **Material weakness in internal control over compliance.** A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:
>
> **Reasonably possible.** The chance of the future event or events occurring is more than remote but less than likely.
>
> **Probable.** The future event or events are likely to occur.
>
> **Significant deficiency in internal control over compliance.** A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.
>
> **Material noncompliance.** In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

Title 42 U.S. Code of Federal Regulations section 455 Subpart E – Provider Screening and Enrollment, states in part:

> Section 455.414 Revalidation of enrollment
>
> The State Medicaid agency must revalidate the enrollment of all providers regardless of provider type at least every 5 years.
>
> Section 455.434 Criminal background checks
>
> The State Medicaid agency -

(a) As a condition of enrollment, must require providers to consent to criminal background checks including fingerprinting when required to do so under State law or by the level of screening based on risk of fraud, waste or abuse as determined for that category of provider.

(b) Must establish categorical risk levels for providers and provider categories who pose an increased financial risk of fraud, waste or abuse to the Medicaid program.

(1) Upon the State Medicaid agency determining that a provider, or a person with a 5 percent or more direct or indirect ownership interest in the provider, meets the State Medicaid agency's criteria hereunder for criminal background checks as a "high" risk to the Medicaid program, the State Medicaid agency will require that each such provider or person submit fingerprints.

(2) The State Medicaid agency must require a provider, or any person with a 5 percent or more direct or indirect ownership interest in the provider, to submit a set of fingerprints, in a form and manner to be determined by the State Medicaid agency, within 30 days upon request from CMS or the State Medicaid agency.

Section 455.450 Screening levels for Medicaid providers.

A State Medicaid agency must screen all initial applications, including applications for a new practice location, and any applications received in response to a re-enrollment or revalidation of enrollment request based on a categorical risk level of "limited," "moderate," or "high." If a provider could fit within more than one risk level described in this section, the highest level of screening is applicable.

(a) Screening for providers designated as limited categorical risk. When the State Medicaid agency designates a provider as a limited categorical risk, the State Medicaid agency must do all of the following:

(1) Verify that a provider meets any applicable Federal regulations, or State requirements for the provider type prior to making an enrollment determination.

(2) Conduct license verifications, including State licensure verifications in States other than where the provider is enrolling, in accordance with § 455.412.

(3) Conduct database checks on a pre- and post-enrollment basis to ensure that providers continue to meet the enrollment criteria for their provider type, in accordance with § 455.436.

(b) Screening for providers designated as moderate categorical risk. When the State Medicaid agency designates a provider as a "moderate" categorical risk, a State Medicaid agency must do both of the following:

(1) Perform the "limited" screening requirements described in paragraph (a) of this section.

(2) Conduct on-site visits in accordance with § 455.432.

(c) Screening for providers designated as high categorical risk. When the State Medicaid agency designates a provider as a "high" categorical risk, a State Medicaid agency must do both of the following:

(1) Perform the "limited" and "moderate" screening requirements described in paragraphs (a) and (b) of this section.
(2) (i) Conduct a criminal background check; and (ii) Require the submission of a set of fingerprints in accordance with § 455.434.

(d) Denial or termination of enrollment. A provider, or any person with 5 percent or greater direct or indirect ownership in the provider, who is required by the State Medicaid agency or CMS to submit a set of fingerprints and fails to do so may have its -
(1) Application denied under § 455.434; or
(2) Enrollment terminated under § 455.416.

(e) Adjustment of risk level. The State agency must adjust the categorical risk level from "limited" or "moderate" to "high" when any of the following occurs:
(1) The State Medicaid agency imposes a payment suspension on a provider based on credible allegation of fraud, waste or abuse, the provider has an existing Medicaid overpayment, or the provider has been excluded by the OIG or another State's Medicaid program within the previous 10 years.
(2) The State Medicaid agency or CMS in the previous 6 months lifted a temporary moratorium for the particular provider type and a provider that was prevented from enrolling based on the moratorium applies for enrollment as a provider at any time within 6 months from the date the moratorium was lifted.

Section 455.436 Federal database checks.

The State Medicaid agency must do all of the following:

(a) Confirm the identity and determine the exclusion status of providers and any person with an ownership or control interest or who is an agent or managing employee of the provider through routine checks of Federal databases.
(b) Check the Social Security Administration's Death Master File, the National Plan and Provider Enumeration System (NPPES), the List of Excluded Individuals/Entities (LEIE), the Excluded Parties List System (EPLS), and any such other databases as the Secretary may prescribe.

Centers for Medicare and Medicaid Services, Center for Medicaid and CHIP Services, CMCS Informational Bulletin, dated December 21, 2011, states in part:

> The Federal regulation at 42 CFR 455.414 requires States, beginning March 25, 2011, to complete revalidation of enrollment for all providers, regardless of provider type, at least every five years. Based upon this requirement, States must complete the revalidation process of all provider types by March 24, 2016.

Centers for Medicare and Medicaid Services (CMS) Sub Regulatory Guidance for State Medicaid Agencies (SMA): Revalidation (2016-001) states in part:

> The federal regulation at 42 CFR 455.414 requires that state Medicaid agencies revalidate the enrollment of all providers, regardless of provider types, at least every 5 years. The regulation was effective March 25, 2011. Based on this requirement, in a December 23,

2011 CMCS Informational Bulletin, we directed states to complete the revalidation process of all provider types by March 24, 2016.

The purpose of this guidance is to revise previous guidance in order to align Medicare and Medicaid revalidation activities to the greatest extent possible. We are revising that previous guidance to now require a two-step deadline under which states must notify all affected providers of the revalidation requirement by the original March 24, 2016 deadline, and must have completed the revalidation process by a new deadline of September 25, 2016.

…

(1) Deadline for SMA to revalidate providers enrolled on or before September 25, 2011. The Federal regulation at 42 CFR § 455.414 requires states, beginning March 25, 2011, to revalidate the enrollment of all Medicaid providers, regardless of provider type, at least every five years. Based upon this requirement, by March 24, 2016, states must notify providers that were enrolled on or before March 25, 2011 that they must revalidate their enrollment. On March 25, 2016, states that have notified all providers subject to the revalidation requirement will be considered compliant with the revalidation activities required as of that date.

Washington Administrative Code 388-71-0510

How does a person become an individual provider?

In order to become an individual provider, a person must:

- (1) Be eighteen years of age or older;
- (2) Provide the social worker/case manager/designee with:
  - (a) A valid Washington state driver's license or other valid picture identification; and either
  - (b) A Social Security card; or
  - (c) Proof of authorization to work in the United States.

2019-063 The Department of Social and Health Services did not report fraud affecting the Medicaid program to the federal grantor.

Federal Awarding Agency:	U.S. Department of Health and Human Services	
Pass-Through Entity:	None	
CFDA Number and Title:	93.775	State Medicaid Fraud Control Units
	93.777	State Survey and Certification of Health Care Providers and Suppliers (Title XVIII) Medicare
	93.778	Medical Assistance Program (Medicaid; Title XIX)
Federal Award Number:	1905WA5MAP; 1905WA5ADM; 1905WAIMPL; 1905WAINCT	
Applicable Compliance Component:	Other- Fraud Reporting	
Known Questioned Cost Amount:	None	

Background

Medicaid is a jointly funded state and federal partnership providing coverage for about 1.8 million eligible low-income Washington residents who otherwise might go without medical care. Medicaid is Washington's largest public assistance program and accounts for about one-third of the State's federal expenditures. The program spent about $13.6 billion in federal and state funds during fiscal year 2019.

Washington was one of 27 states that chose to voluntarily expand Medicaid in 2014 under the Affordable Care Act (ACA), and the Washington State Health Care Authority assumed management of the Basic Health Program known as Apple Health. Before that conversion, the Department of Social and Health Services (Department) managed the Basic Health program.

The Department's Office of Fraud and Accountability (OFA) investigates public benefit fraud in the state. When the Department managed the Basic Health program before 2014, it investigated instances of Medicaid fraud and if it determined allegations were credible, referred the cases for prosecution.

Federal regulations require states to report in writing to federal grantors when fraud occurred that affected federal awards.

Description of Condition

The Department did not report fraud affecting the Medicaid program to its grantor.
During fiscal year 2019, prosecutor offices finalized six cases involving Medicaid fraud that were identified by OFA. These cases were not reported in writing to the U.S. Department of Health and Human Services, as required by federal regulations.

This condition was not reported in the prior audit.

Cause of Condition

OFA was unclear about its requirement to disclose, in writing, instances of fraud affecting federal awards to the Department's federal grantors for funds it expended when it was the state's Medicaid agency prior to 2014.

Effect of Condition

The Department's noncompliance with reporting fraud affecting federal awards diminishes the federal government's ability to monitor grant funds.

If the auditor identifies known or likely fraud affecting a federal award that was not already reported to a grantor by the agency, a federal regulation requires the auditor to report the condition as a finding.

Recommendations

We recommend the Department:

- Establish sufficient procedures to ensure it reports, in writing, instances of fraud affecting grant awards, as required by federal regulations
- Review guidance published by the U.S. Department of Health and Human Services on self-disclosing instances of fraud affecting federal awards[2]

Department's Response

The Department concurs with the finding.

When the Medicaid agency was transferred to the Health Care Authority (HCA), the Department provided Medicaid fraud information to HCA upon request on an annual basis. Recently, the requests have not been received by the Department. This has resulted in no Department Medicaid fraud cases being reported to the federal government.

The Department will immediately notify the Office of the Inspector General of the six cases identified in the audit for fiscal year 2019. Going forward, discussions will be initiated with HCA to determine the frequency of reporting and if it should be HCA or the Department who notifies the federal grantor of the confirmed fraud.

Auditor's Remarks

We thank the Department for its cooperation and assistance throughout the audit. We will review the status of the Department's corrective action during our next audit.

[2] https://oig.hhs.gov/compliance/self-disclosure-info/index.asp

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

> Section 200.113 – Mandatory disclosures, states in part:
>
> The non-Federal entity or applicant for a Federal award must disclose, in a timely manner, in writing to the Federal awarding agency or pass-through entity all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award.

> Section 200.516 Audit findings, states in part:
>
> (a) *Audit findings reported*. The auditor must report the following as audit findings in a schedule of findings and questioned costs:
>
> (6) Known or likely fraud affecting a Federal program award, unless such fraud is otherwise reported as an audit finding in the schedule of findings and questioned costs for Federal awards. This paragraph does not require the auditor to report publicly information which could compromise investigative or legal proceedings or to make an additional reporting when the auditor confirms that the fraud was reported outside the auditor's report under the direct reporting requirements of GAGAS.

2019-064 The Health Care Authority did not have adequate internal controls to ensure payments made to providers under the State Opioid Response Grants were allowable and met period of performance requirements.

Federal Awarding Agency: U.S. Department of Health and Human Services
Pass-Through Entity: None
CFDA Number and Title: 93.788 Opioid State Targeted Response (STR)
Federal Award Number: 6H79TI080249-01M001; 6H79TI026803-02M001; 6H79TI026803-02M002; 6H79TI080249-02M004; 1H79TI081705-01; 3H79T0817505-01S1; 6H79TI081705-01M003
Applicable Compliance Component: Activities Allowed/Unallowed
Allowable Costs/Cost Principles
Period of Performance
Known Questioned Cost Amount: None

Background

The Health Care Authority (Authority), Division of Behavioral Health and Recovery (DBHR), administers the State Targeted Response to the Opioid Crisis and State Opioid Response Grants. The Authority subawards some of the funds to counties, tribes, nonprofit organizations and other state agencies to develop prevention programs and provide treatment and recovery services. The Authority spent more than $24.7 million in grant funds during fiscal year 2019.

As of July 1, 2018, the operations management of the DBHR was transferred from the Department of Social and Health Services to the Authority. At that time, the Authority assumed the responsibilities over the State Targeted Response to the Opioid Crisis grant. The State Opioid Response Grants were awarded directly to the Authority by the grantor effective September 29, 2018.

The State Targeted Response to the Opioid Crisis and State Opioid Response Grants are to fund services and practices that have a demonstrated evidence-base, and that are appropriate for the populations of focus. When Authority Program Managers receive reimbursement requests from providers, they verify whether the provider has met the contract terms and conditions, and the requests are for allowable activities.

Once verified, the requests are forwarded to the DBHR Financial Unit for further review and disbursement. The Fiscal Unit Manager or Supervisor reviews each reimbursement request to ensure accounting coding, program approvals and amounts are correct, and that charges are related to the appropriate time period.

Description of Condition

The Health Care Authority did not have adequate internal controls to ensure payments made to providers under the State Targeted Response to the Opioid Crisis and State Opioid Response Grants were allowable and period of performance requirements were met.

We used a statistical sampling method and randomly sampled 56 out of 495 provider reimbursements. We examined the supporting documentation for each payment and found four (7 percent) did not have the required fiscal approval.

We consider this internal control weakness to constitute a material weakness.

This condition was not reported in the prior audit.

Cause of Condition

Due to a staff shortage in the DBHR Financial Unit, another fiscal unit at the Authority helped DBHR with payment processing and did not know the proper procedure for documenting approvals. Additionally, the Authority did not monitor provider reimbursements to ensure approvals from fiscal management were documented.

Effect of Condition

By not establishing effective internal controls over provider reimbursements, the Authority is at higher risk of making improper payments for provider services.

Recommendations

We recommend the Authority:

- Strengthen its internal controls to ensure fiscal management approvals are documented in accordance with Authority policies and procedures
- Ensure it obtains all required approvals before authorizing reimbursement to a provider

Authority's Response

The Health Care Authority, (HCA) concurs with this finding. With the operations and management of the Substance and Abuse Block Grant, (SABG) moving from the Department of Social and Health Services, (DSHS) to HCA in July of 2018, there were some structural and logistical changes necessary to transfer the grant management tasks effectively over to HCA. Some of the challenges in these logistical changes were a lack of FTEs to support the accounts payable functions. HCA, in an attempt to address a growing backlog of payments allocated FTE resources from other accounting units to process payments. During this time some of the procedures established to ensure payments include the proper approvals were missed. HCA has been able to increase the level of FTEs for the Accounts Payable unit from three to six staff.

Auditor's Concluding Remarks

We thank the Authority for its cooperation and assistance throughout the audit. We will review the status of the Authority's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance) establishes the following applicable requirements:

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

(a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

(b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.

(d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.516 Audit findings, states in part:

(a) *Audit findings reported*. The auditor must report the following as audit findings in a schedule of findings and questioned costs:

(1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.

(2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in internal controls over compliance in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, as follows:

> .11 For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows: …
>
> **Deficiency in internal control over compliance.** A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.
>
> **Material weakness in internal control over compliance.** A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:
>
> > **Reasonably possible**. The chance of the future event or events occurring is more than remote but less than likely.
> >
> > **Probable**. The future event or events are likely to occur.
>
> **Significant deficiency in internal control over compliance.** A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.
>
> **Material noncompliance**. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

2019-065 The Health Care Authority did not have adequate internal controls over and did not comply with federal requirements to ensure subrecipients of the State Opioid Response Grants received required audits.

Federal Awarding Agency:	U.S. Department of Health and Human Services
Pass-Through Entity:	None
CFDA Number and Title:	93.788 Opioid State Targeted Response (STR)
Federal Award Number:	6H79TI080249-01M001; 6H79TI026803-02M001; 6H79TI026803-02M002; 6H79TI080249-02M004; 1H79TI081705-01; 3H79T0817505-01S1; 6H79TI081705-01M003
Applicable Compliance Component:	Subrecipient Monitoring
Known Questioned Cost Amount:	None

Background

The Health Care Authority (Authority), Division of Behavioral Health and Recovery (DBHR), administers the State Targeted Response to the Opioid Crisis and State Opioid Response Grants. The Authority subawards some of the funds to counties, tribes, nonprofit organizations and other state agencies to develop prevention programs and provide treatment and recovery services. The Authority spent more than $24.7 million in grant funds during fiscal year 2019. Of this amount, the Authority passed about $18.9 million to 67 subrecipients.

As of July 1, 2018, the operations management of the DBHR was transferred from the Department of Social and Health Services to the Authority. At that time, the Authority assumed the responsibilities over the State Targeted Response to the Opioid Crisis grant. The State Opioid Response Grants were awarded directly to the Authority by the grantor effective September 29, 2018.

Federal regulations require the Authority to monitor the activities of its subrecipients. This includes verifying that its subrecipients that spend $750,000 or more in federal awards during a fiscal year obtain a single audit. Further, for the awards it passes on to its subrecipients, the Authority must follow up and ensure its subrecipients take timely action on all deficiencies detected through audits, onsite reviews and other means, and must issue a management decision for audit findings pertaining to the federal award provided to the subrecipient by the Authority within six months of the audit report's acceptance by the Federal Audit Clearinghouse. These requirements help ensure grant money is used for authorized purposes and within the provisions of contracts or grant agreements.

Description of Condition

The Authority did not have adequate internal controls over and did not comply with federal requirements to ensure subrecipients of the State Targeted Response to the Opioid Crisis and State Opioid Response Grants received required audits.

We found DBHR did not have adequate internal controls in place to verify:

- Subrecipients received required audits, if necessary
- Findings were followed up on and management decisions were issued in a timely manner

We randomly sampled 12 subrecipients from of a total population of 67 and found seven were not monitored to ensure their compliance with requirements for single audits of subrecipients.

We consider this internal control weakness to constitute a material weakness.

This condition was not reported in the prior audit.

Cause of Condition

The Authority did not assign a staff member or unit to perform single audit tracking duties when the DBHR transitioned from the Department.

In October 2019, the Authority established a subrecipient monitoring workgroup and began the process to determine whether audit monitoring would be handled on a program level or by a centralized group. However, this activity did not occur during the audit period.

Effect of Condition

Without establishing adequate internal controls, the Authority cannot ensure all subrecipients that met the threshold for a single audit complied with federal grant requirements.

Recommendations

We recommend the Authority:

- Establish policies and procedures related to subrecipient audit monitoring
- Continue to support its subrecipient monitoring workgroup

Authority's Response

The Division of Behavioral Health and Recovery transitioned from the Department of Social and Health Services (DSHS) to the Health Care Authority (Authority) in July 2018. The Authority assumed responsibility over the State Targeted Response to the Opioid Crisis and began responsibility over the State Opioid Response Grants.

As mentioned by the State Auditors, the Authority has already taken steps to address the audit recommendations including establishing an agency wide subrecipient monitoring workgroup to define roles and responsibilities for:

- *Assessing and updating policies and procedures related to subrecipient monitoring*
- *Strengthening internal controls to ensure:*

- *Subrecipients submit required audits*
- *Subrecipients take timely actions on all deficiencies identified from audits or onsite reviews.*
- *All audit findings and correction action plans are tracked and management decisions are issued promptly.*

The Authority will ensure the subrecipient monitoring workgroup continues and the audit recommendations are addressed.

Auditor's Concluding Remarks

We thank the Authority for its cooperation and assistance throughout the audit. We will review the status of the Authority's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance) establishes the following applicable requirements:

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

(a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

(b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.

(d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.516 Audit findings, states in part:

(a) *Audit findings reported*. The auditor must report the following as audit findings in a schedule of findings and questioned costs:

(1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.

(2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.

Section 200.331 Requirements for pass-through entities, states in part:

All pass-through entities must:

(d) Monitor the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved. Pass-through entity monitoring of the subrecipient must include:

(1) Reviewing financial and performance reports required by the pass-through entity.

(2) Following-up and ensuring that the subrecipient takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to the subrecipient from the pass-through entity detected through audits, on-site reviews, and other means.

(3) Issuing a management decision for audit findings pertaining to the Federal award provided to the subrecipient from the pass-through entity as required by §200.521 Management decision.

(f) Verify that every subrecipient is audited as required by Subpart F—Audit Requirements of this part when it is expected that the subrecipient's Federal awards expended during the respective fiscal year equaled or exceeded the threshold set forth in §200.501 Audit requirements.

Section 200.521 Management Decisions, states in part:

(c) Pass-through entity. As provided in § 200.331 Requirements for pass-through entities, paragraph (d), the pass-through entity must be responsible for issuing a management decision for audit findings that relate to Federal awards it makes to subrecipients.

(d) Time requirements. The Federal awarding agency or pass-through entity responsible for issuing a management decision must do so within six months of acceptance of the audit report by the FAC. The auditee must initiate and proceed with corrective action as rapidly as possible and corrective action should begin no later than upon receipt of the audit report.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in internal controls over compliance in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, as follows:

.11 For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows: …

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

2019-066 The Health Care Authority did not have adequate internal controls over and did not comply with federal requirements to ensure subrecipients of the State Opioid Response Grants received required risk assessments.

Federal Awarding Agency:	U.S. Department of Health and Human Services
Pass-Through Entity:	None
CFDA Number and Title:	93.788 Opioid State Targeted Response (STR)
Federal Award Number:	6H79TI080249-01M001; 6H79TI026803-02M001; 6H79TI026803-02M002; 6H79TI080249-02M004; 1H79TI081705-01; 3H79T0817505-01S1; 6H79TI081705-01M003
Applicable Compliance Component:	Subrecipient Monitoring
Known Questioned Cost Amount:	None

Background

The Health Care Authority (Authority), Division of Behavioral Health and Recovery (DBHR), administers the Opioid State Targeted Response grant and State Opioid Response Grants. The Authority subawards some of the funds to counties, tribes, nonprofit organizations and other state agencies to develop prevention programs and provide treatment and recovery services. The Authority spent more than $24.7 million in grant funds during fiscal year 2019. Of this amount, the Authority passed about $18.9 million to 67 subrecipients.

As of July 1, 2018, the operations management of the DBHR was transferred from the Department of Social and Health Services to the Authority. At that time, the Authority assumed the responsibilities over the State Targeted Response to the Opioid Crisis grant. The State Opioid Response Grants were awarded directly to the Authority by the grantor effective September 29, 2018.

To determine the appropriate level of monitoring, federal regulations require the Authority to evaluate each subrecipient's risk of noncompliance with federal statutes, regulations, and the terms and conditions of the subaward.

Description of Condition

The Authority did not have adequate internal controls over and did not comply with federal requirements to ensure subrecipients of the State Opioid Response Grants received required risk assessments.

We randomly sampled nine out of a total population of 38 subrecipients of the State Opioid Response Grants who should have received risk assessments during the audit period and found five (56 percent) did not receive required risk assessments.

We consider this internal control weakness to constitute a material weakness. This condition was not reported in the prior audit.

Cause of Condition

The Authority did not monitor to ensure subrecipients of the State Opioid Response Grants received required risk assessments.

Effect of Condition

By not performing risk assessments of subrecipients, the Authority is less likely to perform adequate monitoring that would detect whether subrecipients comply with grant terms and federal regulations. Without adequate monitoring procedures, the Authority cannot ensure risk assessments are performed consistently and analyze the proper criteria, which would ensure consistency in determining the appropriate amount of monitoring for each subrecipient.

Recommendations

We recommend the Authority:

- Establish adequate monitoring procedures to ensure required risk assessments are performed
- Ensure the results of the risk assessments are used to determine how much and what type of monitoring of subrecipients will be performed, as required by federal law

Authority's Response

The Division of Behavioral Health and Recovery transitioned from the Department of Social and Health Services (DSHS) to the Health Care Authority (Authority) in July 2018. The Authority assumed the responsibilities over the Opioid State Targeted Response grant and began responsibility over the State Opioid Response Grants. .

The Authority has already taken steps to address the audit recommendations including establishing an agency wide subrecipient monitoring workgroup to define roles and responsibilities for:

- *Assessing and updating policies and procedures related to subrecipient monitoring*
- *Strengthening internal controls to ensure:*
    - *Monitoring is in place to ensure risk assessments are performed for all subrecipients.*
    - *Results of risk assessments are used to determine what type and level of monitoring will be performed for subrecipients.*

The Authority will ensure the subrecipient monitoring workgroup continues and the audit recommendations are addressed.

Auditor's Concluding Remarks

We thank the Authority for its cooperation and assistance throughout the audit. We will review the status of the Authority's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance) establishes the following applicable requirements:

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

(a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

(b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.

(d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.516 Audit findings, states in part:

(a) *Audit findings reported*. The auditor must report the following as audit findings in a schedule of findings and questioned costs:

(1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.

(2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.

Section 200.331 Requirements for pass-through entities, states in part:

All pass-through entities must:

(b) Evaluate each subrecipient's risk of noncompliance with Federal statutes, regulations, and the terms and conditions of the subaward for purposes of determining the appropriate subrecipient monitoring described in paragraphs (d) and (e) of this section, which may include consideration of such factors as:

(1) The subrecipient's prior experience with the same or similar subawards;

(2) The results of previous audits including whether or not the subrecipient receives a Single Audit in accordance with Subpart F—Audit Requirements of this part, and the extent to which the same or similar subaward has been audited as a major program;

(3) Whether the subrecipient has new personnel or new or substantially changed systems; and

(4) The extent and results of Federal awarding agency monitoring (e.g., if the subrecipient also receives Federal awards directly from a Federal awarding agency).

(c) Consider imposing specific subaward conditions upon a subrecipient if appropriate as described in §200.207 Specific conditions.

(d) Monitor the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved. Pass-through entity monitoring of the subrecipient must include:

(1) Reviewing financial and performance reports required by the pass-through entity.

(2) Following-up and ensuring that the subrecipient takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to the subrecipient from the pass-through entity detected through audits, on-site reviews, and other means.

(3) Issuing a management decision for audit findings pertaining to the Federal award provided to the subrecipient from the pass-through entity as required by §200.521 Management decision.

(e) Depending upon the pass-through entity's assessment of risk posed by the subrecipient (as described in paragraph (b) of this section), the following monitoring tools may be useful for the pass-through entity to ensure proper accountability and compliance with program requirements and achievement of performance goals:

(1) Providing subrecipients with training and technical assistance on program-related matters; and

(2) Performing on-site reviews of the subrecipient's program operations;

(3) Arranging for agreed-upon-procedures engagements as described in §200.425 Audit services.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in internal controls over compliance in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, as follows:

> .11 For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows: …
>
> **Deficiency in internal control over compliance.** A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.
>
> **Material weakness in internal control over compliance.** A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:
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> > **Reasonably possible**. The chance of the future event or events occurring is more than remote but less than likely.
> >
> > **Probable**. The future event or events are likely to occur.
>
> **Significant deficiency in internal control over compliance.** A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.
>
> **Material noncompliance**. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

Office of Management and Budget's Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards 2 CFR 200 – Frequently Asked Questions

> .331-10 Requirements for Pass-Through Entities. Timing of Subrecipient Risk Assessments, states in part:

Section §200.331 (b) indicates that pass-through entities must "evaluate each subrecipient's risk of noncompliance with Federal statutes, regulations, and the terms and conditions of the subaward for purposes of determining the appropriate subrecipient monitoring…" Are pass- through entities required to assess the risk of non-compliance for each applicant prior to issuing a subaward?

> No. While section §200.331 (b) requires risk assessments of subrecipients, there is no requirement for pass-through entities to perform these assessments before making subawards. Under the Uniform Guidance, the purpose of these risk assessments is for pass-through entities to determine appropriate subrecipient monitoring. Pass-through entities may use judgment regarding the most appropriate timing for the assessments. Regardless of the timing chosen, the pass-through entity should document its procedures for assessing risk. Section §200.331 (b)(1)(4) includes factors that a pass-through entity may consider when assessing subrecipient risk.

2019-067 The Department of Children, Youth, and Families did not have adequate internal controls over and did not comply with requirements to ensure payroll costs charged to the Maternal, Infant, and Early Childhood Home Visiting grant were allowable and properly supported.

Federal Awarding Agency:	Health and Human Services, Health Resources and Services Administration
Pass-Through Entity:	None
CFDA Number and Title:	93.870 Maternal, Infant, and Early Childhood Home Visiting Program
Federal Award Number:	UH4MC30465; X10MC32742; UH4MC33157; 17X10MC31177; 17X10MC32877
Applicable Compliance Component:	Activities Allowed/Unallowed Allowable Costs/Cost Principles
Known Questioned Cost Amount:	$274,287

Background

Washington pioneered a unique approach to home visiting, with a private-public partnership between the Department of Children, Youth, and Families and Thrive Washington (now called the Ounce Washington), one of the subrecipients reviewed in this audit. The Home Visiting Services Account (HVSA) was established by the state Legislature in 2010, and a portion of the funds for the HVSA are provided through the Maternal, Infant, and Early Childhood Home Visiting (MIECHV) federal grant.

MIECHV programs are intended to support and strengthen cooperation and coordination and promote linkage among various programs that serve pregnant women, expectant fathers, young children, and families in tribal communities and result in high-quality, comprehensive early childhood systems in every community.

The Department is allowed to request federal reimbursement for salaries and benefits for MIECHV program activities. The Department established a process where employees who spend 100 percent of their time working on the grant must submit semi-annual certification. Employees who work on multiple grants must submit timesheets to track daily activities performed for each grant. Twice a month, these employees complete and sign a timesheet and submit it to their direct supervisor for approval. The supervisor reviews and approves the employee's timesheet to ensure they are correctly charging time to the program.

The Department's Cost Allocation Unit sets up cost objectives to allocate initial payroll costs to the program based on a budgeted percentage. Each month, employees submit approved timesheets to the unit, where staff compare the percentage of the budgeted allocation to the percentage of actual hours worked for the program. Staff use the difference between the time budgeted and the time actually worked to create accounting adjustments to ensure the payroll costs charged to the grant are based on actual hours worked.

The Department spent about $11.2 million in federal grant funds during fiscal year 2019. Of this amount, the Department claimed $735,549 in federal grant funds for program salaries and benefits. This amount represented about 7 percent of total grant expenditures.

Description of Condition

The Department did not have adequate internal controls over and did not comply with requirements to ensure payroll charges for the MIECHV grant were allowable and properly supported.

Employees who charge all of their time to the grant

During the audit period, the Department did not complete any semi-annual certifications to ensure the two employees who charged 100 percent of their time to the federal grant for the MIECHV program were allowable and properly supported.

Employees who work on multiple grants

The Department did not have adequate internal controls to ensure payroll costs charged to the grant were accurate. We used a non-statistical sampling method to randomly sample five months of a total population of 12 months. The samples we reviewed included 8 employees, 78 timesheets, and 48 journal vouchers, and we found:

- Six instances when employees did not sign the timesheets to certify the time worked was accurate
- Seven instances when supervisors did not sign the timesheets to certify employees' time worked was accurate
- One instance when the Department could not find the employee's timesheet
- Twelve instances when the Department did not create journal vouchers for the differences to adjust actual payroll costs charged to the grant
- Forty eight instances when the amount of journal vouchers were over or understated

We consider these internal control deficiencies to be a material weakness.

This condition was not reported in the previous audit.

Cause of Condition

The Department did not monitor to ensure the two employees whose time was 100 percent charged to the grant submitted a semi-annual certification in a timely manner. The Department also said limited staffing resources and lack of training caused inaccurate reconciliations.

Additionally, the Department did not have written policies in place to ensure it adequately supported payroll costs paid for with federal grant funds.

Effect of Condition and Questioned Costs

The Department charged $274,287 in payroll to the MIECHV grant that was not adequately supported. We are questioning these costs. We used a non-statistical sampling method and estimate likely questioned costs to be $374,805.

We question costs when we find an agency has not complied with grant regulations or when it does not have adequate records to support its expenditures.

Recommendations

We recommend the Department:

- Establish policies and procedures to ensure it adequately supports direct payroll costs charged to the federal grant
- Provide proper training to staff to ensure payroll costs are charged to the program accurately
- Consult with the grantor to discuss whether the questioned costs identified in the audit should be repaid

Department's Response

The Department concurs with the finding that adequate internal controls were not in place to ensure payroll costs charged to the Maternal, Infant, and Early Childhood Home Visiting grant were allowable and properly supported.

During the audit period, the Department's resources were focused on the transition of the Juvenile Rehabilitation Division and Child Care Subsidy Customer Service Contact Center program, formerly of the Department of Social and Health Services, into the Department effective July 2019. The cost allocation team responsible for completing the semi-annual certifications and payroll JVs were assisting with the transition and onboarding of an additional 1,500 employees during the same time-period. Due to the lack of available resources and vacant positions, the Department chose to focus staff time on processing the new agency payroll and benefits payments and other onboarding activities.

As to the Auditor's specific recommendations, the Department:

- *Has implemented a payroll certification policy effective August 29, 2019.*
- *Will complete payroll certifications for SFY19.*
- *Will provide training to program and cost allocation staff to verify timesheets and JVs are properly completed.*
- *Will work with the Administration for Children & Families if they determine question costs should be repaid.*

Auditor's Remarks

We thank the Department for its cooperation and assistance throughout the audit. We will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.53 Improper Payments states:

(a) *Improper payment* means any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; and
(b) *Improper payment* includes any payment to an ineligible party, any payment for an ineligible good or service, any duplicate payment, any payment for a good or service not received (except for such payments where authorized by law), any payment that does not account for credit for applicable discounts, and any payment where insufficient or lack of documentation prevents a reviewer from discerning whether a payment was proper.

Section 200.303 Internal controls, states in part:

The non-Federal entity must:
(a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States or the “Internal Control Integrated Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
(b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.
(d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.403 Factors affecting Allowability of costs.

Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under Federal awards.
(a) Be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles.
(b) Conform to any limitations or exclusions set forth in these principles or in the Federal award as to types or amount of cost items.
(c) Be consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the non-Federal entity.

(d) Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the sample purpose in like circumstances has been allocated to the Federal award as an indirect cost.
(e) Be determined in accordance with generally accepted accounting principles (GAAP), except, for state and local governments and Indian tribes only, as otherwise provided for in this part.
(f) Not be included as a cost or used to meet cost sharing or matching requirements of any other federally-financed program in either the current or a prior period. See also §200.306 Cost sharing or matching paragraph (b).
(g) Be adequately documented. See also §§200.300 Statutory and national policy requirements through 200.309 Period of performance of this part.

Section 200.410 Collection of unallowable costs.

Payments made for costs determined to be unallowable by either the Federal awarding agency, cognizant agency for indirect costs, or pass-through entity, either as direct or indirect costs, must be refunded (including interest) to the Federal Government in accordance with instructions from the Federal agency that determined the costs are unallowable unless Federal statute or regulation directs otherwise. See also Subpart D—Post Federal Award Requirements of this part, §§200.300 Statutory and national policy requirements through 200.309 Period of performance.

Section 200.430 Compensation-personal services states in part:

a) *General.* Compensation for personal services includes all remuneration, paid currently or accrued, for services of employees rendered during the period of performance under the Federal award, including but not necessarily limited to wages and salaries. Compensation for personal services may also include fringe benefits which are addressed in §200.431 Compensation—fringe benefits. Costs of compensation are allowable to the extent that they satisfy the specific requirements of this part, and that the total compensation for individual employees:

(1) Is reasonable for the services rendered and conforms to the established written policy of the non-Federal entity consistently applied to both Federal and non-Federal activities;

(2) Follows an appointment made in accordance with a non-Federal entity's laws and/or rules or written policies and meets the requirements of Federal statute, where applicable; and

(3) Is determined and supported as provided in paragraph (i) of this section, Standards for Documentation of Personnel Expenses, when applicable.

(b) Reasonableness. Compensation for employees engaged in work on Federal awards will be considered reasonable to the extent that it is consistent with that paid for similar work in other activities of the non-Federal entity. In cases where the kinds of

employees required for Federal awards are not found in the other activities of the non-Federal entity, compensation will be considered reasonable to the extent that it is comparable to that paid for similar work in the labor market in which the non-Federal entity competes for the kind of employees involved.

(c) Professional activities outside the non-Federal entity. Unless an arrangement is specifically authorized by a Federal awarding agency, a non-Federal entity must follow its written non-Federal entity-wide policies and practices concerning the permissible extent of professional services that can be provided outside the non-Federal entity for non-organizational compensation. Where such non-Federal entity-wide written policies do not exist or do not adequately define the permissible extent of consulting or other non-organizational activities undertaken for extra outside pay, the Federal Government may require that the effort of professional staff working on Federal awards be allocated between:

(1) Non-Federal entity activities, and

(2) Non-organizational professional activities. If the Federal awarding agency considers the extent of non-organizational professional effort excessive or inconsistent with the conflicts-of-interest terms and conditions of the Federal award, appropriate arrangements governing compensation will be negotiated on a case-by-case basis

(i) Standards for Documentation of Personnel Expenses

(1) Charges to Federal awards for salaries and wages must be based on records that accurately reflect the work performed. These records must:

(i) Be supported by a system of internal control which provides reasonable assurance that the charges are accurate, allowable, and properly allocated;

(ii) Be incorporated into the official records of the non-Federal entity;

(iii) Reasonably reflect the total activity for which the employee is compensated by the non-Federal entity, not exceeding 100% of compensated activities (for IHE, this per the IHE's definition of IBS);

(iv) Encompass both federally assisted and all other activities compensated by the non-Federal entity on an integrated basis, but may include the use of subsidiary records as defined in the non-Federal entity's written policy;

(v) Comply with the established accounting policies and practices of the non-Federal entity (See paragraph (h)(1)(ii) above for treatment of incidental work for IHEs.); and

(vi) [Reserved]

(vii) Support the distribution of the employee's salary or wages among specific activities or cost objectives if the employee works on more than one Federal award; a Federal award and non-Federal award; an indirect cost activity and a direct cost activity; two or more indirect activities which are allocated using different allocation bases; or an unallowable activity and a direct or indirect cost activity.

(viii) Budget estimates (i.e., estimates determined before the services are performed) alone do not qualify as support for charges to Federal awards, but may be used for interim accounting purposes, provided that:

(A) The system for establishing the estimates produces reasonable approximations of the activity actually performed;

(B) Significant changes in the corresponding work activity (as defined by the non-Federal entity's written policies) are identified and entered into the records in a timely manner. Short term (such as one or two months) fluctuation between workload categories need not be considered as long as the distribution of salaries and wages is reasonable over the longer term; and

(C) The non-Federal entity's system of internal controls includes processes to review after-the-fact interim charges made to a Federal awards based on budget estimates. All necessary adjustment must be made such that the final amount charged to the Federal award is accurate, allowable, and properly allocated.

(ix) Because practices vary as to the activity constituting a full workload (for IHEs, IBS), records may reflect categories of activities expressed as a percentage distribution of total activities.

(x) It is recognized that teaching, research, service, and administration are often inextricably intermingled in an academic setting. When recording salaries and wages charged to Federal awards for IHEs, a precise assessment of factors that contribute to costs is therefore not always feasible, nor is it expected.

(2) For records which meet the standards required in paragraph (i)(1) of this section, the non-Federal entity will not be required to provide additional support or documentation for the work performed, other than that referenced in paragraph (i)(3) of this section.

(3) In accordance with Department of Labor regulations implementing the Fair Labor Standards Act (FLSA) (29 CFR part 516), charges for the salaries and wages of nonexempt employees, in addition to the supporting documentation described in this section, must also be supported by records indicating the total number of hours worked each day.

(4) Salaries and wages of employees used in meeting cost sharing or matching requirements on Federal awards must be supported in the same manner as salaries and wages claimed for reimbursement from Federal awards.

(5) For states, local governments and Indian tribes, substitute processes or systems for allocating salaries and wages to Federal awards may be used in place of or in addition to the records described in paragraph (1) if approved by the cognizant agency for indirect cost. Such systems may include, but are not limited to, random moment sampling, "rolling" time studies, case counts, or other quantifiable measures of work performed.

(i) Substitute systems which use sampling methods (primarily for Temporary Assistance for Needy Families (TANF), the Supplemental Nutrition Assistance Program (SNAP), Medicaid, and other public assistance programs) must meet acceptable statistical sampling standards including:

(A) The sampling universe must include all of the employees whose salaries and wages are to be allocated based on sample results except as provided in paragraph (i)(5)(iii) of this section;

(B) The entire time period involved must be covered by the sample; and

(C) The results must be statistically valid and applied to the period being sampled.

(ii) Allocating charges for the sampled employees' supervisors, clerical and support staffs, based on the results of the sampled employees, will be acceptable.

(iii) Less than full compliance with the statistical sampling standards noted in subsection (5)(i) may be accepted by the cognizant agency for indirect costs if it concludes that the amounts to be allocated to Federal awards will be minimal, or if it concludes that the system proposed by the non-Federal entity will result in lower costs to Federal awards than a system which complies with the standards.

(6) Cognizant agencies for indirect costs are encouraged to approve alternative proposals based on outcomes and milestones for program performance where these are clearly documented. Where approved by the Federal cognizant agency for indirect costs, these plans are acceptable as an alternative to the requirements of paragraph (i)(1) of this section.

(7) For Federal awards of similar purpose activity or instances of approved blended funding, a non-Federal entity may submit performance plans that incorporate funds from multiple Federal awards and account for their combined use based on performance-oriented metrics, provided that such plans are approved in advance by all involved Federal awarding agencies. In these instances, the non-Federal entity must submit a request for waiver of the requirements based on documentation that describes the method of charging costs, relates the charging of costs to the specific

activity that is applicable to all fund sources, and is based on quantifiable measures of the activity in relation to time charged.

(8) For a non-Federal entity where the records do not meet the standards described in this section, the Federal Government may require personnel activity reports, including prescribed certifications, or equivalent documentation that support the records as required in this section.

Section 200.516 Audit findings, states in part:

(a) *Audit findings reported*. The auditor must report the following as audit findings in a schedule of findings and questioned costs:

(1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.

(2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.

(3) Known questioned costs that are greater than $25,000 for a type of compliance requirement for a major program. Known questioned costs are those specifically identified by the auditor. In evaluating the effect of questioned costs on the opinion on compliance, the auditor considers the best estimate of total costs questioned (likely questioned costs), not just the questioned costs specifically identified (known questioned costs). The auditor must also report known questioned costs when likely questioned costs are greater than $25,000 for a type of compliance requirement for a major program. In reporting questioned costs, the auditor must include information to provide proper perspective for judging the prevalence and consequences of the questioned costs.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in internal controls over compliance in its <u>Codification of Statements on Auditing Standards</u>, section 935, Compliance Audits, as follows:

.11 For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows: …

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not

allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

2019-068 The Health Care Authority did not have adequate internal controls to ensure payments made to providers under the Block Grants for Prevention and Treatment of Substance Abuse were allowable and met earmarking requirements.

Federal Awarding Agency:	U.S. Department of Health and Human Services	
Pass-Through Entity:	None	
CFDA Number and Title:	93.959	Block Grants for Prevention and Treatment of Substance Abuse
Federal Award Number:	2B08TI010056-17; 2B08TI010056-17S1; 3B08TI010056-18S2; 6B08TI010056-18M002; 2B08TI010056-19; 3B08TI010056-19S1	
Applicable Compliance Components:	Activities Allowed/Unallowed Allowable Costs/Cost Principles Earmarking	
Known Questioned Cost Amount:	None	

Background

The Health Care Authority (Authority), Division of Behavioral Health and Recovery (DBHR), administers the Block Grants for Prevention and Treatment of Substance Abuse. The Authority provides federal funds to counties, tribes, nonprofit organizations and other state agencies to develop prevention programs and provide treatment and support services. The Authority spent more than $43.2 million in grant funds during fiscal year 2019. Of this amount, the Authority spent more than $35.3 million on payments to providers of treatment and prevention support services.

The Authority can use grant funds only for costs that are allowable and related to the grant's purpose. The U.S. Department of Health and Human Services also requires the Authority to spend certain minimum and maximum percentages of its grant award on specific activities. These stipulations are known as grant earmarks. Specifically, the Authority must:

- Spend at least 20 percent of federal Block Grant funds for primary prevention programs for individuals who do not require treatment of substance abuse
- Not spend more than 5 percent of the grant to pay the cost of administering the grant

The Authority assigns specific coding in its accounting system to classify prevention and administrative expenditures applicable to the earmarking requirements when providers request reimbursement. When reimbursement requests are received, Program Managers are responsible for reviewing supporting documentation to determine if the services billed are for an allowable activity under the grant. The DBHR Financial Unit then reviews each request to ensure account coding is appropriate, program approvals are obtained, and amounts are correct.

As of July 1, 2018, the administration of the Block Grants for Prevention and Treatment of Substance Abuse was transferred from the Department of Social and Health Services to the Authority, which then assumed responsibility over the program.

Description of Condition

The Health Care Authority did not have adequate internal controls to ensure payments made to providers with the Block Grants for Prevention and Treatment of Substance Abuse were allowable and complied with earmarking requirements.

We used a statistical sampling method to randomly select 58 out of 1,535 provider reimbursements. In addition, we reviewed three individually significant reimbursements. We examined each reimbursement to determine if program and fiscal approval had been obtained before issuing payments. We found:

- One reimbursement (2 percent) did not receive program approval; and
- 12 reimbursements (21 percent) did not receive fiscal approval.

We consider these internal control deficiencies to be a material weakness.

This condition was not reported in the prior audit.

Cause of Condition

Due to a staff shortage in the DBHR Financial Unit, another fiscal unit at the Authority assisted DBHR with payment processing and was not aware of the proper procedure for documenting approvals. Additionally, the Authority did not monitor provider reimbursements to ensure approvals from program and fiscal management were documented.

Effect of Condition

By not establishing effective internal controls over provider reimbursements, the Authority is at higher risk of making improper payments for provider services. By not reviewing reimbursements to ensure proper account coding is applied to the transactions, the Authority cannot ensure compliance with earmarking requirements.

Recommendations

We recommend the Authority:

- Improve its internal controls to ensure program and fiscal management approvals are documented in accordance with Authority policies
- Ensure all required approvals are obtained before authorizing reimbursement to a provider
- Improve its internal controls to ensure account coding is correctly applied to each transaction to adequately monitor compliance with earmarking requirements

Authority's Response

The Health Care Authority, (HCA) concurs with this finding. With the operations and management of the Substance and Abuse Block Grant, (SABG) moving from the Department of Social and Health Services, (DSHS) to HCA in July of 2018, there were some structural and logistical changes necessary to transfer the grant management tasks effectively over to HCA. Some of the challenges in these logistical changes were a lack of FTEs to support the accounts payable functions. HCA, in an attempt to address a growing backlog of payments allocated FTE resources from other accounting units to process payments. During this time some of the procedures established to ensure payments include the proper approvals were missed. HCA has been able to increase the level of FTEs for the Accounts Payable unit from three to six staff.

HCA does not manage the earmarking requirements of the grant at the individual payment level. HCA has created and staffed a new unit for grants management and has identified staff specifically responsible for monitoring and managing the fiscal requirements of all our federal grants. These positions are aware of the requirements and consistently monitor the balances. The Grants Management unit manages the earmarking requirement at an aggregate level. They will adjust expenditures if needed to ensure we comply with the earmarking requirements

Auditor's Concluding Remarks

We thank the Authority for its cooperation and assistance throughout the audit. We will review the status of the Authority's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

(a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

Section 200.516 Audit findings, states in part:

(a) *Audit findings reported*. The auditor must report the following as audit findings in a schedule of findings and questioned costs:

(1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in internal controls over compliance in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, as follows:

.11 For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows: …

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Title 45, Code of Federal Regulations, Section 96.135 – Restrictions on expenditure of grant, states in part:

(b) The State shall limit expenditures on the following:

(1) The State involved will not expend more than 5 percent of the grant to pay the costs of administering the grant;

Title 45, Code of Federal Regulations, Section 96.124 – Certain allocations, states in part:

(b) The States are also to expend the Block Grant on primary prevention programs as follows:

(1) Consistent with § 96.125, the State shall expend not less than 20 percent for programs for individuals who do not require treatment for substance abuse, which programs -

(i) educate and counsel the individuals on such abuse; and

(ii) provide for activities to reduce the risk of such abuse by the individuals;

2019-069 The Health Care Authority did not have adequate internal controls over and did not comply with federal level of effort requirements for the Block Grants for Prevention and Treatment of Substance Abuse program.

Federal Awarding Agency:	U.S. Department of Health and Human Services
Pass-Through Entity:	None
CFDA Number and Title:	93.959 Block Grants for Prevention and Treatment of Substance Abuse
Federal Award Number:	2B08TI010056-17; 2B08TI010056-17S1; 3B08TI010056-18S2; 6B08TI010056-18M002; 2B08TI010056-19; 3B08TI010056-19S1
Applicable Compliance Component:	Level of Effort
Known Questioned Cost Amount:	None

Background

The Health Care Authority (Authority), Division of Behavioral Health and Recovery (DBHR), administers the Block Grants for Prevention and Treatment of Substance Abuse program. The Authority passes down federal award funds through subawards to counties, tribes, and nonprofit organizations to develop prevention programs and provide treatment and support services. The Authority spent more than $43.2 million in grant funds during fiscal year 2019.

Federal regulations require the Authority to maintain state spending at certain levels to meet federal grant requirements. Specifically, for the Block Grants for Prevention and Treatment of Substance Abuse, the Authority must maintain state spending for:

- Treatment services for pregnant women and women with dependent children at a level that is not less than the amount spent for the same services in 1994
- Authorized activities at a level that is not less than the average of the previous two years spending for the program

Additionally, in meeting this level of effort requirement, the Authority must not use the Block Grants for Prevention and Treatment of Substance Abuse to supplant State funding of alcohol and other drug prevention and treatment programs.

As of July 1, 2018, the operations management of DBHR was transferred from the Department of Social and Health Services (Department) to the Authority. The Authority assumed responsibility over the Block Grants for Prevention and Treatment of Substance Abuse program.

Description of Condition

The Authority did not have adequate internal controls over and did not comply with federal level-of-effort requirements for the Block Grant for Prevention and Treatment of Substance Abuse program.

To monitor current state funding levels, the Authority runs an expenditure report from its accounting system each quarter to determine if current expenditures are on track to meet the level-of-effort requirements for all open grant awards. Upon closing each grant, the Authority also runs a final report to ensure the requirements were met. During the audit period, the Authority was required to maintain state expenditures at no less than the average of the prior two-year spending levels, or $107,557,424. We found that the amount of expenditures for fiscal year 2019 was $4,554,551 less than the required amount.

We consider this internal control deficiency to be a material weakness.

This condition was not reported in the prior audit.

Cause of Condition

During the State's fiscal year-end adjustment period, the Authority transferred allowable state funded expenditures to the federal grant, but did not subsequently monitor final state expenditures levels to ensure it met the spending requirements. Additionally, the quarterly expenditure reports prepared by fiscal staff did not contain appropriate criteria to accurately reflect state spending levels.

Effect of Condition

Without adequate internal controls in place, the Authority cannot ensure it meets all level of effort requirements. By not complying with the federal requirements, the Authority risks having to repay federal funds or having future federal funds withheld.

Recommendations

We recommend the Authority:

- Improve internal controls to ensure sufficient monitoring of level-of-effort requirements
- Ensure staff follow policies and procedures for monitoring level of effort
- Ensure transfers of state-funded expenditures to federal awards are monitored to ensure minimum state spending thresholds are met

Authority's Response

The Health Care Authority, (HCA) concurs with this finding. With the operations and management of the Substance and Abuse Block Grant, (SABG) moving from the Department of Social and Health Services, (DSHS) to HCA in July of 2018, there were some structural and logistical changes necessary to transfer the grant management tasks effectively over to HCA. As this process took place we discovered that certain adjustments to SFY 2018 state expenditures qualifying as maintenance of effort were not taken into account during the reporting of the SFY 2018 Maintenance of Effort, (MOE) expenditures. These expenditures effectively increased the MOE requirement for SFY 2019, which is based on an average of SFY 2017 and SFY 2018 expenditures. HCA communicated this information to the auditors during the fieldwork of the audit and it was used by SAO in calculating the SFY 2019 MOE requirement of $107,557,424. HCA has adjusted the SFY 2019 expenditures in order to meet the MOE requirement, but the adjustment was processed outside the audit period.

HCA has created and staffed a new unit for grants management and has identified staff specifically responsible for monitoring and managing the MOE requirements of all our federal grants. These positions are aware of the requirements and consistently monitor the balances. They also report this information to the management teams of both the relevant program areas and Financial Services during regularly scheduled meetings.

Auditor's Remarks

We thank the Authority for its cooperation and assistance throughout the audit. We will review the status of the Authority's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

(a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

(b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.

(d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.516 Audit findings, states in part:

(a) *Audit findings reported*. The auditor must report the following as audit findings in a schedule of findings and questioned costs:

(1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.

(2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of

compliance requirement for a major program identified in the compliance supplement.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in internal controls over compliance in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, as follows:

.11 For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows: …

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Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

Title 45, Code of Federal Regulations, Section 96.134 - Maintenance of effort regarding State expenditures, states in part:

(a) With respect to the principal agency of a State for carrying out authorized activities, the agency shall for each fiscal year maintain aggregate State expenditures by the principal

agency for authorized activities at a level that is not less than the average level of such expenditures maintained by the State for the two year period preceding the fiscal year for which the State is applying for the grant.

2019-070 The Health Care Authority did not have adequate internal controls over and did not comply with federal requirements to ensure subawards of Block Grants for Prevention and Treatment of Substance Abuse contained all required information.

Federal Awarding Agency:	U.S. Department of Health and Human Services
Pass-Through Entity:	None
CFDA Number and Title:	93.959 Block Grants for Prevention and Treatment of Substance Abuse
Federal Award Number:	2B08TI010056-17; 2B08TI010056-17S1; 3B08TI010056-18S2; 6B08TI010056-18M002; 2B08TI010056-19; 3B08TI010056-19S1
Applicable Compliance Component:	Subrecipient Monitoring
Known Questioned Cost Amount:	None

Background

The Health Care Authority (Authority), Division of Behavioral Health and Recovery (DBHR), administers the Block Grants for Prevention and Treatment of Substance Abuse program. The Authority passes down federal award funds through subawards to counties, tribes, and nonprofit organizations to develop prevention programs and provide treatment and support services. The Authority spent more than $43.2 million in grant funds during fiscal year 2019. Of this amount, the Authority passed about $13.6 million to 78 subrecipients.

When federal funds are passed down to subrecipients, federal regulation (2 CFR 200.331(a)) requires the subrecipient to be notified of all required information concerning the subaward, including all or additional requirements. The Authority must clearly identify 13 subaward components to any subrecipient receiving federal funds.

Upon execution of a subaward for prevention or treatment services, the Authority incorporates the Federal Award Identification for Subrecipients page as an attachment to the subaward. This document contains a boilerplate containing all 13 required components. The Authority uses the Electronic Contracts Management System (ECMS) to input all required fields into the subaward. Depending on these inputs, ECMS will automatically be prompted to include the applicable subaward information and any other required subrecipient language.

As of July 1, 2018, the operations management of DBHR was transferred from the Department of Social and Health Services (DSHS) to the Authority. The Authority assumed responsibility over the Block Grants for Prevention and Treatment of Substance Abuse program.

Description of Condition

The Authority did not have adequate internal controls over and did not comply with federal requirements to ensure subawards of Block Grants for Prevention and Treatment of Substance Abuse funds contained all required information.

During the audit period, the Authority executed 12 subawards for the Block Grants for Prevention and Treatment of Substance Abuse program. We examined all 12 contracts and found four (33 percent) did not contain the following required items:

> (ii) Subrecipient's unique entity identifier;
> (v) Subaward Period of Performance Start and End Date;
> (vi) Amount of Federal Funds Obligated by this action by the pass-through entity to the subrecipient; or
> (vii) Total Amount of Federal Funds Obligated to the subrecipient by the pass-through entity including the current obligation.

We consider these internal control deficiencies to be a material weakness. This condition was not reported in the prior audit.

Cause of Condition

When DBHR transitioned to the Authority, responsibility for executing subawards transitioned from the contracts division to program management. For the four noncompliant subawards, program staff did not properly categorize the contractor as a subrecipient. Because of this improper classification, not all of the required subaward information was communicated to the subrecipient in the subaward. Additionally, because these determinations are made at the program level, contract staff did not have the knowledge when reviewing and approving contracts to determine if any pertinent information is excluded.

In October 2019, the Authority established a subrecipient monitoring workgroup and began the process to determine how best to address the identified deficiencies. However, this decision occurred after the audit period ended.

Effect of Condition

Without adequate internal controls in place, the Authority cannot ensure it is compliant with subrecipient monitoring requirements. By not clearly identifying the subaward funding period and funding amounts, the Authority risks making improper payments under the program.

Recommendations

We recommend the Authority:

- Include all required information when issuing subawards
- Improve its internal controls to ensure compliance with requirements for federal subawards
- Ensure staff responsible for executing contracts understand Authority contractor classifications

Authority's Response

The Division of Behavioral Health and Recovery transitioned from the Department of Social and Health Services (DSHS) to the Health Care Authority (Authority) in July 2018. The Authority

assumed the responsibilities over the Block Grants for Prevention and Treatment of Substance Abuse and Substance Abuse and Mental Health Services Projects of Regional and National Significance.

As mentioned by the State Auditors, the Authority has already taken steps to address the audit recommendations including establishing an agency wide subrecipient monitoring workgroup to define roles and responsibilities for:

- *Assessing and updating policies and procedures related to subrecipient monitoring*
- *Strengthening internal controls to ensure:*
    - *Subrecipients are accurately classified during the contract review and approval process.*
    - *All required information is included when subawards are issued.*

The Authority will ensure the subrecipient monitoring workgroup continues and the audit recommendations are addressed.

Auditor's Remarks

We thank the Authority for its cooperation and assistance throughout the audit. We will review the status of the Authority's corrective action during our next audit.

Applicable Laws and Regulations

Section 200.303 Internal controls, states in part:

> The non-Federal entity must:
>
> (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
>
> (b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.
>
> (d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.516 Audit findings, states in part:

> (a) *Audit findings reported*. The auditor must report the following as audit findings in a schedule of findings and questioned costs:
>
> (1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in

relation to a type of compliance requirement for a major program identified in the Compliance Supplement.

(2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in internal controls over compliance in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, as follows:

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Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

2 CFR Section 200.331 - Requirements for pass-through entities, states in part:

All pass-through entities must:

(a) Ensure that every subaward is clearly identified to the subrecipient as a subaward and includes the following information at the time of the subaward and if any of these data elements change, include the changes in subsequent subaward modification. When some of this information is not available, the pass-through entity must provide the best information available to describe the Federal award and subaward. Required information includes:

(1) Federal Award Identification.

(i) Subrecipient name (which must match the name associated with its unique entity identifier);

(ii) Subrecipient's unique entity identifier;

(iii) Federal Award Identification Number (FAIN);

(iv) Federal Award Date (see § 200.39 Federal award date) of award to the recipient by the Federal agency;

(v) Subaward Period of Performance Start and End Date;

(vi) Amount of Federal Funds Obligated by this action by the pass-through entity to the subrecipient;

(vii) Total Amount of Federal Funds Obligated to the subrecipient by the pass-through entity including the current obligation;

(viii) Total Amount of the Federal Award committed to the subrecipient by the pass-through entity;

(ix) Federal award project description, as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA);

(x) Name of Federal awarding agency, pass-through entity, and contact information for awarding official of the Pass-through entity;

(xi) CFDA Number and Name; the pass-through entity must identify the dollar amount made available under each Federal award and the CFDA number at time of disbursement;

(xii) Identification of whether the award is R&D; and

(xiii) Indirect cost rate for the Federal award (including if the de minimis rate is charged per § 200.414 Indirect (F&A) costs).

(2) All requirements imposed by the pass-through entity on the subrecipient so that the Federal award is used in accordance with Federal statutes, regulations and the terms and conditions of the Federal award;

(3) Any additional requirements that the pass-through entity imposes on the subrecipient in order for the pass-through entity to meet its own responsibility to the Federal awarding agency including identification of any required financial and performance reports;

(4) An approved federally recognized indirect cost rate negotiated between the subrecipient and the Federal Government or, if no such rate exists, either a rate negotiated between the pass-through entity and the subrecipient (in compliance with this part), or a de minimis indirect cost rate as defined in § 200.414 Indirect (F&A) costs, paragraph (f);

(5) A requirement that the subrecipient permit the pass-through entity and auditors to have access to the subrecipient's records and financial statements as necessary for the pass-through entity to meet the requirements of this part; and

(6) Appropriate terms and conditions concerning closeout of the subaward.