



NEBRASKA AUDITOR OF PUBLIC ACCOUNTS

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Scott Frakes, Director
Department of Correctional Services
PO Box 94661
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Dear Mr. Frakes:

In planning and performing our audit of the financial statements of the governmental activities, the business-type activities, the aggregate discretely presented component units, each major fund, and the aggregate remaining fund information of the State of Nebraska (State) as of and for the year ended June 30, 2015, in accordance with auditing standards generally accepted in the United States of America and standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, we have issued our report thereon dated December 17, 2015. In planning and performing our audit, we considered the State's internal control over financial reporting (internal control) as a basis for designing audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial statements of the State, but not for the purpose of expressing an opinion on the effectiveness of the State's internal control. Accordingly, we do not express an opinion on the effectiveness of the State's internal control.

In connection with our audit described above, we noted certain internal control or compliance matters related to the activities of the Department of Correctional Services (Agency) or other operational matters that are presented below for your consideration. These comments and recommendations, which have been discussed with the appropriate members of the Agency's management, are intended to improve internal control or result in other operating efficiencies.

Our consideration of internal control included a review of prior year comments and recommendations. To the extent the situations that prompted the recommendations in the prior year still exist, they have been incorporated in the comments presented for the current year. All other prior year comments and recommendations (if applicable) have been satisfactorily resolved.

Our consideration of internal control was for the limited purpose described in the first paragraph and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies and, therefore, material weaknesses or significant deficiencies may exist that were not identified. However, as discussed below, we identified a certain deficiency in internal control that we consider to be a significant deficiency.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A material weakness is a deficiency, or a combination of deficiencies in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected, on a timely basis. We did not identify any deficiencies in internal control that we consider to be material weaknesses.

A significant deficiency is a deficiency, or combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance. We consider Comment Number 1 (Blue Cross Blue Shield (BCBS) Payments) to be a significant deficiency.

This comment will also be reported in the State of Nebraska's Statewide Single Audit Report Schedule of Findings and Questioned Costs.

In addition, we noted other matters involving internal control and its operation that we have reported to management of the Agency in a separate early communication letter pursuant to AICPA Auditing Standards AU-C Section 265.A17, dated November 2, 2015.

Draft copies of this letter were furnished to the Agency to provide management with an opportunity to review and to respond to the comments and recommendations contained herein. All formal responses received have been incorporated into this letter. Responses have been objectively evaluated and recognized, as appropriate, in the letter. Responses that indicate corrective action has been taken were not verified at this time, but they will be verified in the next audit.

The following are our comments and recommendations for the year ended June 30, 2015.

1. Blue Cross Blue Shield (BCBS) Payments

The Agency provides medical services to inmates through a variety of methods. In addition to employing its own medical professionals, the Agency contracts with vendors for inmate medical care within its facilities. Inmates whose medical needs cannot be met within the confines of a correctional facility are transported by the Agency to an outside medical facility for the appropriate treatment. Such outside procedures are billed through the Agency's third-party insurance administrator, Blue Cross Blue Shield (BCBS).

BCBS also utilized its own service provider, CoreLink, to help process the medical service provider claims for members covered by BCBS. To process medical claims, the Agency sent a daily file of eligible inmates to BCBS from the Agency's Corrections Information and Tracking application. This file contained the pertinent information for each inmate, including name, identification number, date of birth, gender, facility location, and dates eligible for services. Weekly, BCBS sent the Agency a billing of the claims processed and paid. At the end of each month, BCBS sent a final billing for any services provided but not previously billed to the Agency and for the administrative fee charged for processing medical claims.

The Agency paid BCBS \$12,986,962 during the period July 1, 2014, through June 30, 2015.

According to Administrative Regulation (AR) 115.06(VII), “Emergency Medical Care,” “Facility Operational Memorandums shall specify the procedures for documentation and review of all medical and other emergency events.”

Additionally, Medical Protocol 43, “Internal Consult Review Process,” states the following:

Staff will email completed Internal Consultation Request Form to the Medical Director or designee for review. Medical Director or designee will make a determination and email the consult form back to the appropriate facility email distribution group.

The Agency’s process is for an Internal Consultation Request Form to be completed and approved by the Medical Director prior to the inmate receiving care at an outside facility.

A good internal control plan requires procedures for reviewing payments to ensure that only proper medical expenses are paid. Furthermore, a good internal control plan requires procedures to obtain and review a Service Organization Control (SOC) report for any service organization providing services that are part of the Agency’s business process. A SOC report provides both an independent assessment of the controls at the service organization and information regarding controls the Agency should have to complement those of the service organization.

The Agency failed to review BCBS claims to ensure that medical procedures took place and were appropriate. The Auditor of Public Accounts (APA) tested 50 BCBS claims during the Department of Correctional Services Attestation for the period July 1, 2013, through December 31, 2014, and revealed the following:

- A medical provider was overpaid for one claim tested. As a result of the APA’s testing, the Agency received a credit of \$369,504 for services rendered from August 2013 through May 2015 (\$258,170 was related to services during the fiscal year from July 2014 to May 2015). According to the terms of the provider’s contract, medical services would be performed at a correctional facility, and all related billings were to be submitted directly to the Agency. This overpayment was discovered by the APA during the examination, and the Agency sought reimbursement. The APA observed a check from the provider to BCBS for \$369,504 dated August 13, 2015.
- None of the 50 claims tested had documentation to support that the Agency had reviewed them to determine if they were proper to pay.
- Nineteen claims lacked documentation to support that the Medical Director had approved the inmates’ visits to off-site medical providers. For two of those claims, the Medical Director’s name was typed on the front of an Internal Consultation Form, but there was no indication that the document was actually approved by him. Additionally, nine emergency referral forms on file only had a check mark, which the Agency indicated the Medical Director had reviewed, but the Medical Director had not signed or initialed any of those documents. Eight claims did not have emergency referrals on file, as the Agency destroyed emergency referrals six months after the service was provided.

- For 18 claims tested, the procedure code on the BCBS detail was missing or inaccurate based upon either the diagnosis or assessment noted on the Health Services Consultation Request Form completed by the consulting physician or other information provided by the hospital or physician. Sixteen of the 18 claims were missing the procedure code, without which the Agency was unable to verify that the provider billings were correct. For one claim, the Agency lacked documentation to support that the procedure code billed was reasonable. Upon request by the APA, the Agency was eventually able to obtain support for that particular procedure code; however, the Agency did not initially have such documentation on hand. For the last claim, a procedure code was included; however, the amount paid exceeded the claim amount charged. This was caused by many claims being paid through this one claim. The Agency lacked documentation to support that it had reviewed this claim and determined the payment to be proper.
- Six claims were for inmates who should have been on the Agency's Medicaid Database but were not. When needed medical services require an inmate to be away from a facility overnight, the Agency is supposed to record this absence, along with whether the inmate is eligible for Medicaid, on the Medicaid Database. When the Agency does not make such a database entry, there is an increased risk the Agency will pay BCBS for the service provided, instead of that service being paid by Medicaid when an inmate is Medicaid eligible.
- For four claims, the inmates were Medicaid eligible; however, instead of being paid by Medicaid, those claims were paid through BCBS. The claims should have been submitted to the Department of Health and Human Services and paid by Medicaid, which would have resulted in the Agency paying only a portion of the medical costs. Because that process was not followed, the Agency paid \$71,967 for the four medical claims.

It was further noted during the Attestation that the Agency had neither requested nor received the SOC reports for BCBS or CoreLink, both service providers, prior to our inquiry. The Agency was able subsequently to obtain SOC reports for both service organizations covering the periods ending September 30, 2013, and September 30, 2014. However, the Agency did not have processes in place to obtain and review these reports on an annual basis. A review of the SOC reports is necessary for the Agency to implement controls complementary to those utilized by the service organization.

Failure to review the BCBS invoices increases the risk that the Agency will pay for improper billings. Furthermore, failure to obtain and review annual SOC reports increases the risk that a service organization could have significant internal control problems unknown to the Agency.

We recommend the Agency implement procedures for reviewing the BCBS invoices to ensure that those billing documents are correct. These procedures should include tracing the BCBS claim to the inmate's medical file to ensure the procedure billed is proper. We also recommend the Agency maintain the Internal Consultant Forms signed or initialed by the Medical Director. We also recommend the Agency implement

procedures to ensure all inmates who must be away from a facility overnight for treatment are included on the Medicaid Database, so Medicaid will pay for services when allowable. Lastly, we recommend the Agency request and obtain SOC reports on an annual basis and review the reports to ensure the service organization's controls are operating effectively, and the Agency has controls in place to complement those of the service organization.

Agency Response: The Department resolved the issue with the health care provider on the overpayment and a refund was received. A review process for BCBS payments is being established and a Utilization Review Nurse has been hired to assist in this review. Off-site medical consultations are now all signed by the Medical Director or a doctor acting as Medical Director and documentation retained. Health Services staff are working with other DCS staff knowledgeable in databases to develop a better tracking process for potential Medicaid cases.

2. Cardinal Health Contract

A good internal control plan and sound accounting policies require that procedures be in place to ensure that contracted rates are paid and agreed-upon discounts are received for all items purchased.

No one in the Agency compared purchases from Cardinal Health with the Minnesota Multistate Contracting Alliance for Pharmacy (MMCAP) contract to ensure that the invoiced rates were proper. During the period July 1, 2014, through June 30, 2015, the Agency purchased \$7,940,377 worth of medications and medical supplies from Cardinal Health.

The APA tested one Cardinal Health medication purchase, totaling \$54,215, to verify that the Agency paid the correct prices for the items received. Unfortunately, the APA was unable to trace any of the purchases to the contracted rates to verify the prices because the Agency did not know the current or prior contract prices and had no way to find them. The APA also tested four purchases during the Attestation and noted similar results.

The State contracted with MMCAP for the purchase of medications and medical supplies. The Nebraska Department of Administrative Services State Purchasing Bureau (SPB) maintained that contract. The supplier of medications and medical supplies through the MMCAP agreement was Cardinal Health. MMCAP had an online pharmacy catalog that was updated weekly and listed all of the medications on contract. The Agency could have used that catalog to compare to the invoices to ensure that the correct prices were received.

MMCAP also had a contract with eAudit Solutions for electronic pharmacy auditing. eAudit Solutions could have electronically compared contract prices with invoice prices for a fee of between \$100 and \$250 per month; however, the State of Nebraska did not utilize eAudit Solutions. SPB was aware of eAudit Solutions but provided no reason why those services were not used. Meanwhile, the Agency was unaware of the electronic pharmacy auditing services available from eAudit Solutions.

When the Central Pharmacy placed orders through Cardinal Health, an employee logged into a Cardinal Health web portal with credentials related to the MMCAP agreement. While logged into the portal, medications that fell under the MMCAP agreement could be purchased, but alternate medications from different suppliers or under different contracts could also be selected. The Central Pharmacy acknowledged not always selecting the least expensive option for the following two reasons: 1) less expensive medications were not always available; and 2) the cost of adding an alternate medication to the pill-sorting machine sometimes outweighed the savings from purchasing a less expensive version. The Agency did not maintain documentation to support why the least-expensive medication option was not chosen.

The Agency also received a quarterly discount from MMCAP based on payment terms and purchase volume. This discount was recorded in a quarterly report that identified the amount of products purchased by the State as a whole as well as by its individual agencies and departments. The quarterly report should have been reviewed by the Agency to ensure that the correct discount was obtained; however, the Agency neither received nor reviewed it.

When procedures are not in place to ensure invoiced rates agree to the contract prices and proper discounts are received, there is an increased risk the Agency will make overpayments. When the reason for purchasing the more expensive medication option is not documented, the risk the Agency will overpay for its purchases is increased even further. Finally, when MMCAP reports are not reviewed, there is an increased risk correct discounts will not be received.

We recommend the Agency implement review procedures for its medication and medical supply invoices. We recommend also the Agency discuss with SPB the possibility of enrolling in eAudit Solutions. Lastly, we recommend the Agency review MMCAP reports to ensure correct discounts are received.

Agency Response: Multiple meetings have been held with DAS Materiel regarding implementation of eAudit Solutions. It is anticipated that this implementation will be completed in the next 60 days. We have determined that DCS Purchasing staff can access the MMCAP quarterly report related to the discounts. The report will be saved and reviewed on a quarterly basis.

3. Timesheets

Neb. Rev. Stat. § 84-1001(1) (Reissue 2014) states the following, in relevant part:

All state officers and heads of departments and their deputies, assistants, and employees, except permanent part-time employees . . . not required to render full-time service, shall render not less than forty hours of labor each week in which a paid holiday may occur.

In addition, a good internal control plan requires that hours worked be adequately documented, via timesheets or time logs, etc., and that such documentation be kept on file to provide evidence of compliance with § 84-1001(1). Furthermore, a good internal control plan also requires the maintenance of adequate documentation to support that accrued employee sick and vacation leave was actually earned.

The Agency's overtime-exempt employees were not required to maintain timesheets or other similar supporting documentation; rather, they were required only to record leave used. As a result of the Agency's policy, there was no support that full-time employees rendered at least 40 hours of labor each week, as required by § 84-1001(1), or part-time employees rendered the hours required each week.

Without adequate records to support hours worked, there is an increased risk for fraudulent or inaccurate payment of regular hours and accumulation of leave.

We recommend the Agency establish a policy requiring all employees to maintain adequate documentation, such as timesheets or certifications, to support hours worked.

Agency Response: Based on the Fair Labor Standards Act, exempt employees must receive the full salary for any week in which the employee performs any work without regard to the number of days or hours worked, unless certain exceptions are met. The exception reporting of leave is an appropriate process for exempt employees. They are expected to work 40 hours per week, except when taking leave, and they often work more than 40 hours per week.

APA Response: As noted, State statute 84-1001(1) requires all state officers and heads of departments and their deputies, assistants, and employees to work no less than forty hours each week. Therefore, documentation should be retained, such as a certification or a detailed timesheet to document compliance with State statute.

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Our audit procedures are designed primarily on a test basis and, therefore, may not bring to light all weaknesses in policies or procedures that may exist. Our objective is, however, to use our knowledge of the Agency and its interaction with other State agencies and administrative departments gained during our work to make comments and suggestions that we hope will be useful to the Agency.

This communication is intended solely for the information and use of the Agency, the Governor and State Legislature, others within the Agency, Federal awarding agencies, pass-through entities, and management of the State of Nebraska and is not intended to be, and should not be, used by anyone other than the specified parties. However, this communication is a matter of public record, and its distribution is not limited.



Don Dunlap, CPA
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