

Department of
Human Services
BISMARCK, NORTH DAKOTA

Audit Report

For the Biennium Ended
June 30, 2015

ROBERT R. PETERSON
STATE AUDITOR

Office of the State Auditor
Division of State Audit

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OFFICE OF THE STATE AUDITOR
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Transmittal Letter

July 13, 2016

The Honorable Jack Dalrymple, Governor
Members of the North Dakota Legislative Assembly
Maggie Anderson, Executive Director, Department of Human Services

We are pleased to submit this audit of the Department of Human Services for the biennium ended June 30, 2015. This audit resulted from the statutory responsibility of the State Auditor to audit or review each state agency once every two years. The same statute gives the State Auditor the responsibility to determine the contents of these audits.

In determining the contents of the audits of state agencies, the primary consideration was to determine how we could best serve the citizens of the state of North Dakota. Naturally we determined financial accountability should play an important part of these audits. Additionally, operational accountability is addressed whenever possible to increase efficiency and effectiveness of state government.

The in-charge auditor for this audit was Allison Bader. Lindsey Ressler, Elizabeth Rogers, Kristi Morlock, and Dan Cox, CPA, were the staff auditors. Paul Welk, CPA, was the audit manager. Inquiries or comments relating to this audit may be directed to the audit manager by calling (701) 328-2241. We wish to express our appreciation to Ms. Anderson and her staff for the courtesy, cooperation, and assistance they provided to us during this audit.

Respectfully submitted,

A handwritten signature in black ink that reads "Bob Peterson".

Robert R. Peterson
State Auditor

Executive Summary

Introduction

The North Dakota Department of Human Services is an umbrella agency headed by an executive director appointed by the Governor. The Department is organized into three major divisions: Field Services; Program and Policy Management; and Managerial Support. The Department employs approximately 2,200 employees across North Dakota with a large percentage working at the Human Service Centers, State Hospital, and the Life Skills and Transition Center.

The Legislative Audit and Fiscal Review Committee (LAFRC) requests that certain items be addressed by auditors performing audits of state agencies. Those items and the Office of the State Auditor's responses are noted below.

Responses to LAFRC Audit Questions

1. What type of opinion was issued on the financial statements?

Financial statements were not prepared by the Department of Human Services in accordance with generally accepted accounting principles so an opinion is not applicable. The agency's transactions were tested and included in the state's basic financial statements on which an unmodified opinion was issued.

2. Was there compliance with statutes, laws, rules, and regulations under which the agency was created and is functioning?

Other than our findings related to "Early Childhood Provider Licensing" (page 28), the Department of Human Services was in compliance with significant statutes, laws, rules, and regulations under which it was created and is functioning.

3. Was internal control adequate and functioning effectively?

Other than our findings addressing "Lack of Internal Control Fraud Risk Assessment" (page 13), "Insufficient Information to Verify Income and Expenses" (page 14), "Inadequate Controls Surrounding Revenue Collection" (page 16), and "Inadequate Controls Surrounding Inventory of the State Hospital Commissary" (page 16), we determined internal control was adequate.

4. Were there any indications of lack of efficiency in financial operations and management of the agency?

Other than our work related to "Qualified Service Providers" (pages 21-25), "Restriction of Payment to Deceased/Incarcerated Individuals" (page 26-27), "Early Childhood Services Licensing" (pages 28-44), and "Child Care Provider Records" (page 45-46), there were no indications of lack of proper operations and management of the Department of Human Services.

5. *Has action been taken on findings and recommendations included in prior audit reports?*

Except recommendations for “lack of internal control fraud risk assessment,” “online child care provider records,” and “inadequate controls surrounding revenue collection” as shown on page 47, the Department of Human Services has implemented all recommendations included in the prior audit report.

6. *Was a management letter issued? If so, provide a summary below, including any recommendations and the management responses.*

Yes, a management letter was issued and is included on page 48-49 of this report, along with management's response.

LAFRC Audit Communications

7. *Identify any significant changes in accounting policies, any management conflicts of interest, any contingent liabilities, or any significant unusual transactions.*

There were no significant changes in accounting policies, no management conflicts of interest were noted, no contingent liabilities were identified or significant unusual transactions.

8. *Identify any significant accounting estimates, the process used by management to formulate the accounting estimates, and the basis for the auditor's conclusions regarding the reasonableness of those estimates.*

The Department of Human Services' financial statements do not include any significant accounting estimates.

9. *Identify any significant audit adjustments.*

Significant audit adjustments were not necessary.

10. *Identify any disagreements with management, whether or not resolved to the auditor's satisfaction relating to a financial accounting, reporting, or auditing matter that could be significant to the financial statements.*

None.

11. *Identify any serious difficulties encountered in performing the audit.*

None.

12. *Identify any major issues discussed with management prior to retention.*

This is not applicable for audits conducted by the Office of the State Auditor.

13. *Identify any management consultations with other accountants about auditing and accounting matters.*

None.

14. Identify any high-risk information technology systems critical to operations based on the auditor's overall assessment of the importance of the system to the agency and its mission, or whether any exceptions identified in the six audit report questions to be addressed by the auditors are directly related to the operations of an information technology system.

- ConnectND Finance
- ConnectND Human Resource Management System (HRMS)
- MMIS (Medicaid Management Information System)
- VISION
- TECS (Technical Eligibility Computer System)
- LIHEAP (Low Income Home Energy Assistance Program)
- Child Care Assistance
- CCWIPS (Comprehensive Child Welfare Information Payment System)
- ROAP (Regional Office Automated Program)
- AWARE
- FACSES (Fully Automated Child Support Enforcement System)
- AIMS (Advanced Institutional Management Software)
- Contract Management System

Audit Objectives, Scope, and Methodology

Audit Objectives

The objectives of this audit of the Department of Human Services for the biennium ended June 30, 2015 were to provide reliable, audited financial statements and to answer the following questions:

1. What are the highest risk areas of the Department of Human Services' operations and is internal control adequate in these areas?
2. What are the significant and high-risk areas of legislative intent applicable to the Department of Human Services and are they in compliance with these laws?
3. Are there areas of the Department of Human Services' operations where we can help to improve efficiency or effectiveness?

Audit Scope

This audit of the Department of Human Services is for the biennium ended June 30, 2015. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The Department of Human Services has its central office in the Capitol, eight regional human service centers, eight regional child support enforcement units, the State Hospital in Jamestown, ND, and the Life Skills and Transition Center in Grafton, ND.

Locations were selected based on the level of activities (the Bismarck office has the majority of activities) and audit rotation of regional offices' internal control procedures. Activities of the State Hospital and West Central Human Service Center were selected for the current audit. Financial transactions through ConnectND and the Human Resources Management System (HRMS) for all locations were included in the audit scope. Expenditures and internal controls of the Child Care Assistance, Medicaid, Temporary Assistance for Needy Families (TANF), Child Support, Aging, Substance Abuse Prevention and Treatment (SAPT), Supplemental Nutrition Assistance (SNAP), Foster Care, and Early Intervention programs were tested as major programs in the single audit of the state of North Dakota issued March 26, 2015 with appropriate recommendations therein and were excluded from the audit scope.

Audit Methodology

To meet the objectives outlined above, we:

- Prepared financial statements from the legal balances on the state's accounting system tested as part of this audit and the audit of the state's Comprehensive Annual Financial Report and developed a discussion and analysis of the financial statements.

- Performed detailed analytical procedures including computer-assisted auditing techniques. These procedures were used to identify high-risk transactions and potential problem areas for additional testing.
- Tested internal control and compliance with laws and regulations which included selecting representative samples to determine if controls were operating effectively and to determine if laws were being followed consistently. Non-statistical sampling was used and the results were projected to the population.
- Queried the ConnectND (PeopleSoft) system. Significant evidence was obtained from ConnectND.
- Interviewed appropriate agency personnel.
- Observed Department of Human Services' processes and procedures.
- Surveyed employees of the Department of Human Services for evaluation of employees' response to the following:
 - Actual, suspected, or allegations of fraud;
 - Non-compliance with laws or regulations;
 - Inappropriate or unusual financial corrections or accounting adjustments;
 - Management's communication of the importance of ethical behavior and appropriate business practices;
 - Management's oversight over financial reporting, operational compliance, and internal control procedures;
 - Timely corrective action by management of internal control deficiencies;
 - Reporting lines, authorities, and responsibilities assigned to knowledgeable individuals;
 - Individuals held accountable for internal control responsibilities; and,
 - Process for information on fraud, waste, or abuse to be submitted in an anonymous or confidential manner.

In aggregate there were no significant limitations or uncertainties related to our overall assessment of the sufficiency and appropriateness of audit evidence.

Discussion and Analysis

The accompanying financial statements have been prepared to present the Department of Human Services' revenues and expenditures on the legal (budget) basis. The accompanying financial statements are not intended to be presented in accordance with generally accepted accounting principles (GAAP).

For the biennium ended June 30, 2015, operations of the Department of Human Services were primarily supported by federal funds. This was supplemented by appropriations from the general fund and fees credited to the agency's operating fund.

Financial Summary

The Department of Human Services' capital assets include land, buildings, infrastructure, equipment, construction in progress, and intangibles, all of which are valued at historical cost. All capital assets with an original cost of \$5,000 or more per unit (\$50,000 or more for internally developed software) and an estimated useful life in excess of one year are capitalized. The Department's total capital assets before deducting accumulated depreciation at June 30, 2015 were approximately \$179 million.

Revenues consisted primarily of federal revenues as well as patient care and treatment fees, revenue from local governments, and child support collections. These types of revenues made up over 99% of all of the Department of Human Services' revenue. Total revenues and other sources were \$1,019,832,478 for the year ended June 30, 2015 as compared to \$775,114,372 for the year ended June 30, 2014.

The largest source of revenue for the Department of Human Services was from the federal government. Federal revenue increased approximately \$218 million during fiscal year 2015 compared to the prior fiscal year. This increase reflects the additional federal funds received for Medicaid expansion which began January 1, 2014.

Patient care and treatment fees increased approximately \$28.6 million during fiscal year 2015 compared to the prior fiscal year. The majority of this change was due to an increase in developmentally disabled provider audit settlements, hospital settlements, drug rebates, and estate collections, as well as the timing of 3rd party collections. Child support collections consist of child support incentive funds and child support amounts retained by the state due to custodial parents qualifying to receive other economic assistance in lieu of child support. Revenue from local governments and child support collections remained fairly constant during the audit period.

Total expenditures and other uses for the Department of Human Services were \$1,620,593,144 for the year ended June 30, 2015 as compared to \$1,327,500,693 for the prior year. Grants accounted for the majority of the increase in total expenditures for the audited period. Grant expenditures increased approximately \$276 million during fiscal year 2015 compared to the prior fiscal year. The majority of this increase is also due to Medicaid expansion which began January 1, 2014 and increased services provided to Medicaid recipients. All other expenditures remained fairly constant, increasing to a lesser degree.

The Department of Human Services accounts for child support collections and disbursements in an agency fund. Agency fund activity is not included in the financial statements in this report. For the audit period, collections totaled \$258,410,980 and disbursements totaled \$258,260,927.

Analysis of Significant Changes in Operations

The Department of Human Services expanded medical assistance coverage beginning January 1, 2014 to individuals under sixty-five years of age with income below 138% of the federal poverty level, based on modified adjusted gross income. Expansion of Medicaid was authorized by the federal Patient Protection and Affordable Care Act (Pub. L. 111-148), as amended by the Health Care and Education Reconciliation Act of 2010 (Pub. L. 111-152). Expansion of Medicaid provided expanded services of health care coverage and preventive services to more qualifying individuals. Medicaid program expenditures were approximately \$720 million for the year ended June 30, 2015 compared to \$497 million for the prior year.

Analysis of Significant Variances - Budgeted and Actual Expenditures

The excess Operating Expense appropriations over actual expenditures was due to the Department of Human Services' conversion to electronic health records not being completed during the 2013-2015 biennium.

Excess appropriations in the MMIS Carryover line was due to the Medicaid Management Information System (MMIS), related MMIS projects, and the Eligibility system not being completed during the 2013-2015 biennium. Appropriation for the replacement of the MMIS was originally approved in chapter 50 of the 2007 Session Laws with additional appropriations and carryover of funds authorized by subsequent Legislative Assembly sessions. The MMIS system went "live" to users in October 2015. The Eligibility system is scheduled to be completed in the Fall of 2017.

The majority of excess appropriation in the Grants line was due to caseloads for the Supplemental Nutrition Assistance, Temporary Assistance for Needy Families, and Low Income Heating Assistance programs being less than budgeted as a result of the strong economy. In addition, the caseloads of the Vocation Rehabilitation program have not risen to estimated levels. An order of selection process has been in effect in accordance with the 2014-2016 State Plan, Order of Selection Amendment for federal fiscal year 2015. An order of selection process is authorized through the State Plan in accordance with 34 CFR 361.36 for states unable to provide the full range of services of the Rehabilitation Act based on lack of fiscal or human resources.

The excess of Human Service Center (HSC)/Institutions appropriations over actual expenditures was due to the inability to fill professional positions in behavior health, nursing, and direct care staff.

The majority of excess appropriations in the Grants-Medical Assistance line was due to the individual enrollment in the Medical Expansion program being delayed longer than anticipated.

Financial Statements

Statement of Revenues and Expenditures

	<u>June 30, 2015</u>	<u>June 30, 2014</u>
<u>Revenues and Other Sources:</u>		
Revenue from Federal Government	\$953,004,682	\$734,590,099
Patient Care and Treatment Fees	41,717,122	13,151,774
Revenue from Local Governments	13,215,599	13,428,299
Child Support Collections	5,263,453	5,473,246
Rental of Rooms, Buildings, Land	412,699	370,673
Concessions and Miscellaneous Sales	392,625	452,681
Pharmacy and Adaptive Equipment Services	367,962	392,585
Other Revenues	565,705	1,545,255
Transfers In	4,892,629	5,709,760
Total Revenues and Other Sources	<u>\$1,019,832,476</u>	<u>\$775,114,372</u>
<u>Expenditures and Other Uses:</u>		
Grants	\$1,343,557,996	\$1,067,161,193
Salaries and Benefits	159,583,634	149,147,560
Operating Fees and Services	53,404,807	48,350,774
IT Data Processing and Communication	24,189,906	27,072,060
IT Contractual Services	10,606,905	6,319,676
Lease/Rental of Buildings, Land, and Equipment	5,208,614	5,137,242
Travel	2,723,488	2,549,615
Professional Fees and Services	2,685,501	2,320,835
Utilities	1,472,877	2,266,618
Supplies	2,233,230	2,147,210
Medical, Dental, and Optical	1,736,707	1,670,449
Postage and Printing	1,690,584	1,671,363
Equipment Under \$5,000	1,323,786	1,259,729
Repairs	731,347	814,515
Extraordinary Repairs	2,482,189	637,662
Professional Development	531,695	558,326
Equipment Over \$5,000	121,960	194,764
Other Expenses	1,220,149	639,048
Transfers Out	5,087,769	7,582,054
Total Expenditures and Other Uses	<u>\$1,620,593,144</u>	<u>\$1,327,500,693</u>

Statement of Appropriations

For The Biennium Ended June 30, 2015

Expenditures by Line Item:	<u>Original Appropriation</u>	<u>Adjustments</u>	<u>Final Appropriation</u>	<u>Expenditures</u>	<u>Unexpended Appropriation</u>
Salaries and Benefits	\$ 90,029,957	\$ (11,511,826)	\$ 78,518,131	\$ 75,559,506	\$ 2,958,625
Operating Expenses	178,953,761	(13,970,363)	164,983,398	150,254,119	14,729,279
Capital Improvements	12,000	40,345	52,345	16,445	35,900
MMIS Carryover		122,151,465	122,151,465	27,094,528	95,056,937
Grants	459,813,620	(47,774,611)	412,039,009	396,965,073	15,073,936
HSC/Institutions	300,557,794	19,421,531	319,979,325	305,671,979	14,307,346
Grants-Medical Assistance	<u>1,920,085,462</u>	<u>97,988,800</u>	<u>2,018,074,262</u>	<u>1,992,438,206</u>	<u>25,636,056</u>
Totals	<u>\$2,949,452,594</u>	<u>\$ 166,345,341</u>	<u>\$3,115,797,935</u>	<u>\$2,947,999,856</u>	<u>\$167,798,079</u>
Expenditures by Source:					
General Fund	\$1,171,116,129	\$ 13,980,657	\$1,185,096,786	\$1,151,140,059	\$ 33,956,727
Other Funds	1,778,336,465	152,364,684	1,930,701,149	1,796,859,797	133,841,352
Totals	<u>\$2,949,452,594</u>	<u>\$ 166,345,341</u>	<u>\$3,115,797,935</u>	<u>\$2,947,999,856</u>	<u>\$167,798,079</u>

Appropriation Adjustments:

The Department of Human Services is authorized by House Bill 1012 of the 2013 Session Laws, section 3 to transfer appropriation authority between lines and subdivisions. During the biennium ended June 30, 2015, these transfers resulted in the following net adjustments:

- Salaries and Benefits line decrease of \$12,126,579
- Operating Expenses line decrease of \$13,970,363
- Capital Improvements line increase of \$40,345
- MMIS Carryover line increase of \$45,774,611
- Grants line decrease of \$47,774,611
- HSC/Institutions line increase of \$17,906,486
- Grants-Medical Assistance increase of \$10,988,800

The remaining adjustments to appropriations are authorized as follows:

The remaining increase of \$614,753 to the Salaries and Benefits line was approved by the Emergency Commission allowing the Office of Management and Budget (OMB) to transfer appropriation authority from the development impact funding pool to eligible agencies under House Bill 1015 of the 2013 Session Laws, section 6, for employee housing rental assistance and temporary salary increases for employees affected by energy development. Similar transfers of appropriation authority totaling \$1,445,250 were approved by the Emergency Commission and increased the HSC/Institutions line.

The remaining increase to the HSC/Institutions line of \$69,795 was authorized by House Bill 1015 of the 2013 Session Laws, section 11, for the transfer of general fund appropriation authority from the state student internship program to eligible agencies.

The remaining increase to the MMIS Carryover line consisted of the following adjustments:

- \$26,803,661 – authorized by NDCC section 54-44.1-11 for continuation of appropriation for ongoing information technology projects.
- \$43,721,533 – approved by the Capital Construction Carryover Committee and authorized by House Bill 1012 of the 2013 Session Laws, section 4, to allow the Department of Human Services to carryover appropriation from the 2011-13 biennium for the Medicaid management information system.
- \$5,851,660 – approved by the Emergency Commission for additional federal fund authority to expand the Department of Human Services' contract for the completion of the Medicaid management information system.

The remaining increase to the Grants-Medical Assistance line of \$87,000,000 was authorized by Senate Bill 2012 of the 2015 Session Laws, section 21, and declared an emergency measure of increased federal fund authority for the purpose of defraying medical assistance grant costs related to Medicaid expansion.

Expenditures Without Appropriations Of Specific Amounts:

Conference fund has a continuing appropriation authorized by OMB Policy 211 (\$24,075 of expenditures for this biennium).

Insurance Recoveries Property fund has a continuing appropriation authorized by NDCC section 54-44.1-09.1 (\$3,425 of expenditures for this biennium).

Child Support Disbursement Unit fund has a continuing appropriation authorized by NDCC 14-09-25(5) (\$258,260,927 of expenditures for this biennium).

Internal Control

In our audit for the biennium ended June 30, 2015, we identified the following areas of the Department of Human Services' internal control as being the highest risk:

Internal Controls Subjected to Testing:

Central Office:

- Controls surrounding the processing of expenditures including correcting entries and state purchase card transactions.
- Controls surrounding capitalization of equipment, software, and construction in progress.
- Controls surrounding the processing of payroll including segregation of duties, approval of timecards, and authorization and approval of payroll rates and one-time benefit payments.
- Controls surrounding the ConnectND (PeopleSoft) system.
- Controls surrounding the Contract Management System restriction of payments that exceed authorized contract amounts.

Human Service Centers:

- Controls surrounding the Regional Office Automation Program (ROAP) collections.
- Controls surrounding client admissions for services of the Human Service Centers.
- Controls surrounding billing, write-off, and reconciliation of collections of the Human Service Centers.

State Hospital:

- Controls surrounding the Advanced Institutional Management Software (AIMS) collections.
- Controls surrounding security procedures at the State Hospital to ensure safety of patients, employees, and the public.
- Controls surrounding State Hospital inventories including safeguarding physical access and records.
- Controls surrounding custodial responsibility of the State Hospital for patient accounts.
- Controls surrounding facilities used and operated by the State Hospital.
- Controls surrounding State Hospital patient admissions and discharge.
- Controls surrounding patient billings, write-off, and reconciliation of collections of the State Hospital.

Program Operations:

- Controls to ensure required documentation is obtained in the application process of Qualified Service Providers.
- Controls to ensure Qualified Service Provider suspended claims are reviewed and resolved.
- Controls to ensure reasons for Qualified Service Provider claim denials are identified.

- Controls surrounding the Qualified Service Provider claims audit methodology, test procedures, and documentation of results.
- Controls to ensure benefit payments are not made to or on behalf of deceased or incarcerated individuals.
- Controls to ensure all required application items for child care provider licenses are received.
- Controls to ensure child care provider licensing study was completed.
- Controls to identify that records required to be maintained by child care providers are verified by the county licensor.
- Controls to ensure unannounced annual inspection of child care provider facilities and operations is documented.
- Controls surrounding tracking and monitoring of child care provider compliant investigations, corrective orders, sanctions, revocations, suspensions, and denials.
- Controls to ensure the child care provider licensing inspection includes proper health and safety standards.

The criteria used to evaluate internal control is from *Standards for Internal Control in the Federal Government* issued by the Comptroller General of the United States (Green Book, GAO-14-704G). Agency management must establish and maintain effective internal control in accordance with Policy 216 of the Office of Management and Budget and, for programs receiving federal funds, the *Code of Federal Regulation* as set forth by the federal government (2 CFR 200.303).

We gained an understanding of internal controls surrounding these areas and concluded as to the adequacy of their design. We also tested the operating effectiveness of those controls we considered necessary based on our assessment of audit risk. We concluded that internal control was not adequate, noting certain matters involving internal control and its operation that we consider to be significant deficiencies.

Auditors are required to report deficiencies in internal control that are significant within the context of the objectives of the audit. 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 (1) misstatements in financial or performance information, (2) violations of laws and regulations, or (3) impairments of effectiveness or efficiency of operations, on a timely basis. Considering both qualitative and quantitative factors, we identified the following significant deficiencies in internal control of the Central Office, Human Service Centers, and State Hospital. Significant deficiencies in internal control of program operations are identified in the Operations section of this report. We also noted other matters involving internal control that we have reported to management of the Department of Human Services in a management letter dated July 13, 2016.

Lack of Internal Control Fraud Risk Assessment (Finding 15-1)

Condition:

The Department of Human Services did not complete a department-wide risk assessment to identify control weaknesses in the Department's financial, compliance, and operational areas. The Department has prepared risk assessments of operations for central office services including fiscal, legal, provider audit, human resources, and the executive office. In addition, risk assessments for child support, behavioral health, autism services, developmental

disabilities, economic assistance policy, developmental disabilities council, vocational rehabilitation, aging services, and information technology services divisions have been completed. Instances, however, were noted where control activities that prevent and detect risks were not documented. Fraud risk assessments have not been completed for several major program operations managed by the Department including children and family services, medical services, human service centers, State Hospital, Life Skills and Transition Center, and significant information technology programs.

Criteria:

OMB Policy 216 requires all state agencies perform a fraud risk assessment for each of their functions and/or divisions on a biennial basis.

The risk assessment process requires that management identify, analyze, and respond to each significant risk and fraud exposure by designing and documenting necessary control activities to operate within defined risk tolerances. (Green Book, GAO-14-704G para 7.01, 8.01, Appendix I)

Cause:

There is a lack of resources dedicated to monitoring internal controls, and the Department failed to fully implement previous recommendations since the audit of the Department for the biennium ended June 30, 2009.

Effect or Potential Effect:

Without an adequate risk assessment, fraud and excessive errors can occur without being prevented or detected by management.

Recommendation:

We recommend the Department of Human Services establish and perform control risk assessments, including a fraud risk assessment, on a biennial basis in accordance with OMB Policy 216.

Department of Human Services Response:

The Department does not have staff resources to complete a department-wide risk assessment on a biennial basis; however, we will continue to perform assessments with the resources available.

Insufficient Information to Verify Income and Expenses (Finding 15-2)

Condition:

The Department of Human Services does not have adequate procedures to ensure proper income and expense information is collected and verified for services administered by the Human Service Centers and State Hospital. Income and expense information is necessary to determine an individual's ability to pay for services. While the Department has identified certain forms of income reporting as acceptable, social security numbers are not required in the application process. Without a social security number, income is not verified to the Income and Eligibility Verification System as is done for several economic assistance programs administered by the Department. While child support expenses are verified by the Human Service Centers, no documentation is required by the Human Service Centers or the State

Hospital for other major expenses for which third-party monthly statements are available such as child care, medical bills, nursing home expenses, etc.

Criteria:

Section 7 of the Privacy Act of 1974 [Public Law 93-579] (5 U.S.C. § 552a (Disclosure of Social Security Number)) provides that “It shall be unlawful for any Federal, State or local government agency to deny to any individual any right, benefit, or privilege provided by law because of such individual’s refusal to disclose his social security account number.” Sec. 7(a)(1). “Any Federal, State or local government agency which requests an individual to disclose his social security account number shall inform that individual whether that disclosure is mandatory or voluntary, by what statutory or other authority such number is solicited, and what uses will be made of it.” Sec. 7(b).

According to "Standards for Internal Control in the Federal Government" (Green Book), management needs to ensure information is appropriate, complete, and accurate. Management also needs to ensure information is obtained from reliable sources. (GAO-14-704G para. 13.01, 13.02, 13.04, 13.05)

According to the "Standards for Internal Control in the Federal Government", management needs to design control activities, including policies, to achieve objectives and respond to risks. (GAO-14-704G para.10.01, 10.02)

Cause:

The Department of Human Services does not have a sufficient policy in place that identifies information required in the application process to determine an individual's ability to pay for services.

Effect or Potential Effect:

The Department of Human Services may be determining an individual's ability to pay for services based on under reported income. Without defined guidance of policies and procedures, control activities may vary by Human Service Center.

Recommendation:

We recommend the Department of Human Services collect sufficient information to verify income and expenses of individuals applying for services administered by the Human Service Centers and State Hospital.

Department of Human Services Response:

“Based on the Department’s understanding of the Privacy Act of 1974, as well as clarification received from the North Dakota Attorney General’s Office, the receipt of a social security number is voluntary from a client receiving services provided at the Human Service Centers and State Hospital. Also, the services provided at the Human Service Centers and State Hospital are not related to Economic Assistance Programs that require an eligibility determination; therefore, the Department would have to determine if the Income and Eligibility Verification System (IEVS) can be accessed for these services. If access is granted, the Department would need to determine the feasibility and cost of developing and maintaining an interface to IEVS. However, the Department will review current policies and procedures surrounding income and expense verification and will consider updating processes.”

Inadequate Controls Surrounding Revenue Collection (Finding 15-3)

Condition:

Internal controls surrounding the receipt of revenue at the State Hospital are inadequate. The following weaknesses were identified:

- A remittance list is not prepared at the time the mail is opened.
- An excessive number of employees have access to cash. Collections received in the mail are passed between multiple employees before deposit. These same employees also have access to the cash drawer in the business office.
- Receipts are not reconciled to deposits by an individual who does not have access to cash.

Criteria:

According to the "Standards for Internal Control in the Federal Government", properly designed segregation of duties requires segregation between individuals that initiate transactions, have access to cash, and perform reconciliation procedures. (GAO-14-704G para. 10.03, 10.13)

Cause:

The Department of Human Services has not adequately designed internal controls including proper segregation of duties for the receipt of revenue. The Department has not fully implemented the previous audit recommendation of the biennium ended June 30, 2011.

Effect or Potential Effect:

Increased potential for fraud and/or error to occur and be undetected.

Recommendation:

We recommend the Department of Human Services strengthen revenue collection procedures at the State Hospital to ensure:

- Remittance lists are prepared at the time the mail is opened;
- Access to cash is properly limited; and
- Receipts are reconciled to deposits by an individual who does not have access to cash.

Department of Human Services Response:

"The Department has recently centralized the accounting functions of the State Hospital and Life Skills Transition Center and will be reviewing and enhancing various procedures in their business offices."

Inadequate Controls Surrounding Inventory of State Hospital Commissary (Finding 15-4)

Condition:

The Department of Human Services does not have procedures to perform a proper completeness and accountability review of the State Hospital commissary inventory. The Department's monthly profit margin calculation is not adequate to evaluate unusual variances in inventory. An acceptable variance in the profit margin has not been identified, variances identified are not consistently investigated, and an explanation of variances including potential for theft is not documented. In addition, inventory balances including inventory on-hand and disposals are not considered in evaluating variances.

Criteria:

According to the "Standards for Internal Control in the Federal Government," management performs monitoring activities of the internal control system. These activities need to include establishing baselines to use as criteria in evaluating internal control, performing ongoing comparisons and reconciliations, and evaluating and documenting results to identify internal control issues. (GAO-14-704G para. 16.03, 16.05, 16.09)

Cause:

The risks associated with inventory transactions made at the commissary have not been assessed by management. Procedures to ensure all inventory is accounted for have not adequately been developed.

Effect or Potential Effect:

The commissary recorded approximately \$143,000 of sales during fiscal year 2015, with the majority of collections being cash. The significant control weaknesses noted exposed inventory to theft and fraud.

Recommendation:

We recommend the Department of Human Services perform a documented review of the State Hospital commissary inventory balances including inventory on-hand, purchases, sales, and disposals.

Department of Human Services Response:

"The Department has recently centralized the accounting functions of the State Hospital and will be enhancing procedures surrounding the documentation of the inventory variance."

Compliance With Legislative Intent

In our audit for the biennium ended June 30, 2015, we identified and tested the Department of Human Services' compliance with legislative intent for the following areas we determined to be significant and of higher risk of noncompliance:

- Compliance with appropriation laws (2013 Session Laws):
 - \$425,000 appropriated from the Grants-Medical Assistance line to provide a grant to an assisted living center that accepts low-income tenants for an expansion project begun by July 1, 2015 (chapter 12, section 11).
 - \$300,000 appropriated from the general fund for grants to a jurisdiction that is adjacent to an Indian reservation but does not receive reimbursement payments under NDCC section 50-01.2-03.2 and is determined by the Department of Human Services to be the most significantly impacted based on calendar year 2012 data considering the provisions of subsection 2 of NDCC section 50-01.2-03.2 (chapter 12, section 12).
 - \$200,000 appropriated from the general fund for a grant for an adaptive skiing program affiliated with a winter park that is located in a county of less than 10,000 individuals; \$120,000 may be used for a project coordinator and the remaining amount for any equipment necessary for the adaptive skiing program (chapter 12, section 13).
 - \$547,000 appropriated from the general fund and \$182,000 from other funds for an eight-unit transitional living facility in the southeast human service center region (chapter 12, section 17).
 - \$220,000 appropriated in the HSC/Institutions line to demolish the refectory and pleasant view buildings at the developmental center at Westwood Park, Grafton (chapter 12, section 18).
 - \$285,000 appropriated from the general fund for the purpose of providing a grant to an organization for administering statewide 2-1-1 services that include suicide prevention services (chapter 57, section 1).
 - \$1,000,000 appropriated from the general fund for the purpose of providing child care provider incentive grants pursuant to NDCC section 50-11.1-14.1 (chapter 376, section 5).
 - \$300,000 appropriated from the general fund for the purpose of funding early childhood services specialists pursuant to NDCC section 50-11.1-18 (chapter 376, section 6).
 - \$2,500,000 appropriated from the general fund for implementing changes of the Child Care Assistance program contained in House Bill 1422, section 7 of the 2013 Session Laws. If sufficient funding is included in House Bill 1012 appropriations, up to \$1,000,000 of the \$2,500,000 may be used to provide child care provider incentive grants pursuant to NDCC 50-11.1-14.1 (chapter 376, section 7).
 - \$9,600,000 appropriated from the strategic investment and improvements fund for administering a grant program for critical access hospitals in oil-producing counties contiguous to an oil-producing county to address the effects of oil and gas related economic development activities with not more than \$4,800,000 awarded during each year of the biennium (chapter 471, section 10).

- \$132,568 appropriated from the general fund and \$132,568 appropriated from federal funds and other income, for hiring a state autism coordinator (chapter 206, section 6).
- \$80,000 appropriated from the general fund and \$80,000 appropriated from federal funds and other income for implementing a statewide autism spectrum disorder training program (chapter 206, section 7).
- \$539,186 appropriated from the general fund for issuing vouchers as part of the autism spectrum disorder voucher program pilot project with up to \$12,500 allocated per year to each individual enrolled in the voucher program (chapter 206, section 8).
- \$400,000 appropriated from the general fund for providing grants to licensed early childhood services providers that provide child care for children with disabilities or developmental delays pursuant to section 50-11.1-18 (chapter 49, section 3).
- \$449,973 appropriated from the general fund and \$449,973 appropriated from federal funds and other income for expanding the autism spectrum disorder Medicaid waiver program (chapter 206, section 9).
- \$300,000 appropriated from the general fund for providing grants to children's advocacy centers (chapter 62, section 1).
- \$360,000 appropriated from the general fund for funding the underage drinking prevention program provided for in House Bill 1302, section 24 of the 2013 Session Laws (chapter 301, section 25).
- \$87,000,000 appropriated from federal funds for defraying medical assistance grant costs (chapter 46, section 21).
- Proper use and authorization of the following legally restricted funds:
 - Employment of People with Disabilities Fund (NDCC 39-01-15 (5))
 - Compulsive Gambling Prevention Fund (NDCC 50-06-22)
 - North Dakota Health Care Trust Fund (NDCC 50-30-02)
 - Community Health Trust Fund (NDCC 54-27-25)
 - Children's Trust Fund (NDCC 50-27-02)
 - Child Support Disbursement Unit Fund (NDCC 14-09-25)
- Proper authorization of expenditures without appropriations of specific amounts:
 - State Conference Fund (OMB Policy 211)
 - Insurance Recoveries Fund (NDCC 54-44.1-09.1)
 - Child Support Disbursement Unit Fund (NDCC 50-06-14)
- Proper authorization of other funds:
 - Provider Assessment Fund (NDCC 57-63-13)
 - Human Services Department Fund (NDCC 50-06-14)
- Proper enforcement of the moratorium on expansion of psychiatric residential treatment facility for children bed capacity in accordance with NDCC 25-03.2-03.1.
- Establishment of an expedited rate-setting process in accordance with NDCC 50-06-39.
- Proper rules development and adoption relating to licensing and monitoring opioid treatment programs in accordance with NDCC 50-31-08.
- Proper use of the State Treasurer (State Constitution, article X, section 12).
- Compliance with appropriations and related transfers (2013 North Dakota Session Laws chapter 12 (Appropriation), 2013 North Dakota Session Laws chapter 23 (Deficiency Appropriation), 2015 North Dakota Session Laws chapter 46 (Emergency Measure)).

- Compliance with OMB's Purchasing Procedures Manual.
- Compliance with credits to appropriations in accordance with OMB Policy 214.
- Proper use of outside bank accounts, petty cash funds, and proper authority for investments outside the Bank of North Dakota.
- Proper use of the Bank of North Dakota as depository for credit card revenue in accordance with NDCC 54-06-08.2.
- Compliance with fixed asset requirements including record-keeping, capitalization, annual physical inventory, lease and financing arrangements in budget requests, and lease analysis requirements.
- Proper use of wide area network services through the Information Technology Department or proper exemptions obtained (NDCC 54-59-08).
- Proper use of electronic mail, file and print server administration, data base administration, application server and hosting services through the Information Technology Department or proper exemptions obtained (NDCC 54-59-22).
- Information Technology Coordinator appointed (NDCC 54-59-10).
- Shadow systems properly approved by the ConnectND Steering Committee.
- Proper deposit of interest income to the Health Care Trust Fund (NDCC 50-30-02 (1)).

The criteria used to evaluate legislative intent are the laws as published in the *North Dakota Century Code* and the *North Dakota Session Laws*.

Government Auditing Standards requires auditors to report all instances of fraud and illegal acts unless they are inconsequential within the context of the audit objectives. Further, auditors are required to report significant violations of provisions of contracts or grant agreements, and significant abuse that has occurred or is likely to have occurred.

The results of our tests disclosed no instances of noncompliance with the legislative intent identified above that are required to be reported under *Government Auditing Standards*. Thus, we concluded there was compliance with the above legislative intent. However, our review of operations surrounding Early Childhood Services Licensing identified instances of noncompliance with North Dakota Century Code, Administrative Code, and policies of the Department. These findings are described in the Early Childhood Services recommendations of the Operations section of this audit report.

Operations

Our audit of the Department of Human Services' included a review of operations surrounding Qualified Service Providers, Payment Restriction to Deceased and Incarcerated Individuals, and Early Childhood Services Licensing.

In addition, our audit included procedures to follow up on the prior recommendation for Online Child Care Provider Records.

Qualified Service Providers

Background

Qualified Service Providers are self-employed individuals or agencies that provide home and community-based services for the elderly and disabled clients of the Department of Human Services. Qualified Service Providers provide homemaker, chore, respite care, family home care, personal care, adult family foster care, and other essential services to sustain eligible individuals in their homes and in their communities to delay or prevent institutional care. Many Qualified Service Providers provide these services on a full-time basis and rely on the Department's Qualified Service Provider program as their income. Qualified Service Providers receive authorization from the client's case manager to perform approved services within allowable rates. State law requires that clients who are eligible for home and community-based services be free to choose from available Qualified Service Providers that offer competitively priced services. The Qualified Service Provider bills the Department for the services provided through a manual or electronic claims submittal process. The Department weekly reviews and pays claims and periodically performs audits of the Qualified Service Provider claims. The Department also receives and performs complaint resolution of complaints received from clients and Qualified Service Providers.

Our audit of the Department of Human Services' Qualified Service Provider operations was designed and conducted to answer the following objectives:

- Have governing laws, policies, or rules for the Qualified Service Provider Program been established?
- Have objectives of the Qualified Service Provider Program been identified and communicated to all responsible parties?
- Has an assessment of program risks been performed?
- Does the enrollment process ensure that only qualified applicants are enrolled as Qualified Service Providers?
- Are verifications of complete applications, renewal applications, background checks, certifications, and licensure performed?
- Do services provided match the skills of the Qualified Service Provider with the clinical needs of the client?
- Are all claims for payment properly submitted into the Medicaid Management Information System?
- Does the billing process ensure submitted claims are paid accurately, timely, and with proper approval?
- Does the internal audit plan provide reasonable assurance that submitted claims were for allowable services?

In addition to observing processes and procedures, interviewing appropriate agency personnel, and testing internal controls, surveys were distributed to Qualified Service Providers. Surveys were used to evaluate the application, claims processing, claims resolution, and quality assurance audit processes. Surveys were sent to 220 Qualified Service Providers out of 1,475 approved by the Department during the audit period. Of the 220 surveys distributed, 85 survey responses were received resulting in a 39% response rate.

Our audit determined the objectives were met except for the following significant weaknesses.

Insufficient Suspended Claims Process (Finding 15-5)

Condition:

The Department of Human Services does not have evidence that suspended claims for payment to Qualified Service Providers are being reviewed and either approved or denied on a timely basis. Also, there was no validation that system generated denial reports identifying reasons for denial are sent to providers timely or at all. A survey of Qualified Service Providers identified 42% of respondents have had a denied claim. Of those having claims denied, 38% received notice 2 weeks after claim submission. An additional 18% received notice 3 or more weeks after claim submission and one of these providers stated that they never received a denial notification. In addition, the survey showed that 26% of providers that had a denied claim didn't understand the reason for denial.

Criteria:

The "Standards for Internal Control in Federal Government" (Green Book) properly designed control activities require that management establish processes to evaluate performance against the standards of conduct and address any deviations timely and consistently. (GAO-14-704G para 1.08 and 1.10).

In addition, automated control activities, including controls over information processing, tend to be more reliable because they are less susceptible to human error and typically are more efficient (GAO-14-704G para 10.06).

Cause:

The Department of Human Services does not have a process in place to ensure that suspended claims are reviewed and denial notices are sent out timely. A survey of Qualified Service Providers identified that 79% of respondents submit claims manually while only 18% submit them electronically. The Department has not developed electronic denial notices and expanded use of electronic claims submissions.

Effect or Potential Effect:

Qualified Service Providers claim payments have the potential of being delayed. The survey of providers identified that of those who had a claim denied, 13% received payment 4-5 weeks after submission and 9% received payment 6 weeks or longer after submission.

Operational Improvement:

We recommend the Department of Human Services implement procedures for suspended claims to include:

- Evidence of timely approval or denial of suspended claims; and
- Timely disbursement of claim denial notifications.

We also recommend the Department consider expanding use of electronic methods for claim submission to allow for electronic notification of denial.

Department of Human Services Response:

The Department has always made Qualified Service Provider (QSP) claims a priority and has a claims auditor specifically dedicated to work suspended QSP claims. A majority of the suspended claims are processed weekly so they can be paid or denied on the following week's checkwrite. The Legacy Medicaid Management Information System was designed to process checkwrites weekly and the suspended claims report was tied to the weekly checkwrite. Because of this process, it is likely a denial notice would be received 2 or 3 weeks after the submission of a claim. However, if payment is not received on the weekly checkwrite, the QSP can call a 1-866 number and receive information on the status of their claim but not specific details. In the new Health Enterprise MMIS, a daily suspended claims report is reviewed (OPR-ADJ-143) and documentation will be maintained as evidence of the review. Also in the new Health Enterprise MMIS, all providers have the capability to view their claim status on-line. However, the checkwrite will continue to be weekly and therefore it is likely that the hard copy denial notice will be received 2 or 3 weeks after the submission of a claim. The Department has provided extensive opportunities to QSPs to receive education on billing including; an on-line tutorial, on-line billing instructions and examples, informational sessions held across the state, and also has an individual dedicated to answering QSP billing questions. The Department will continue educating QSP's on the benefits of submitting claims electronically.

Lack of Audit Procedures (Finding 15-6)**Condition:**

The Department of Human Services has not designed and documented sampling procedures for the Focused Home and Community Based Service Audits of Qualified Service Provider claims. The following weaknesses were noted:

- An audit sampling plan was not developed;
- Audit sampling methods are not consistently documented;
- Audit samples are not always expanded when errors are detected; and,
- High risk items are not being identified and included into audit sample selections.

In addition, the procedures to conduct Focused Home and Community Based Service Audits of Qualified Service Provider claims are not documented.

Criteria:

Federal Medicaid regulations 42 CFR Part 455.13 require states have methods and criteria for identifying and investigating suspected fraud cases. 42 CFR 456.22 requires procedures for on-going evaluation, on a sample basis, of the quality of Medicaid Services. One of those methods is a properly designed and executed sampling plan (CFDA 93.778 A-133 Compliance requirements).

According to "Standards for Internal Control in the Federal Government" (Green Book), management is required to document in policies and procedures the internal control responsibilities of the organization (GAO-14-704G para 12.02).

Cause:

The Department of Human Services has not evaluated the audit process surrounding Qualified Service Providers.

Effect or Potential Effect:

Qualified Service Providers may receive payment from federal sources such as Medicaid and other state sources they are not eligible to receive.

Operational Improvement:

We recommend the Department of Human Services design and document sampling procedures for the audit of Qualified Service Provider claims to include:

- A properly developed audit sampling plan;
- Consistent documentation of audit sampling methods;
- Expansion of audit samples when errors are detected; and
- Identification and inclusion of high risk items into audit sample selections.

We also recommend the Department of Human Services document procedures for conducting audits of Qualified Service Provider claims.

Department of Human Services Response:

The Department will design and document sampling procedures for the Focused Home and Community Based Service Audits of Qualified Service Provider claims similar to those currently used for the Formal Qualified Service Provider Audits. The Department will also document attributes being tested when conducting these audits.

Inadequate Complaint Resolution Procedures (Finding 15-7)

Condition:

The Department of Human Services does not have adequate procedures for complaint resolution. The Department of Human Services receives complaints both by and against Qualified Service Providers. A documented resolution process identifies that follow up action will occur within 14 days and a letter stating the outcome and any necessary changes will be sent to the Qualified Service Provider. Through testing of the complaint process and review of the Qualified Service Provider survey results, the following weaknesses were identified.

- Eleven of the 113 complaints submitted to the Department during our audit period did not have follow up action within 14 days;
- Two complaints identified as open had been investigated but a letter closing the complaint was not sent, resulting in the complaint remaining open for over a year;
- Complaints of the same nature and resolution action had significantly different resolution times. A provider with a complaint of inappropriate billing was terminated within 3 weeks, while another provider with the same complaint was not terminated for 8 months.

Criteria:

"Standards for Internal Control in the Federal Government" (Green Book) requires a control framework that includes:

- Management periodically review policies, procedures, and related control activities for effectiveness in achieving the entity's objectives or addressing related risks (GAO-14-704G para 12.05).
- Management establish processes to evaluate performance against the entity's standard of conduct and address any deviations in a timely manner. Management addresses deviations from expected standards of conduct timely and consistently. Depending on the severity of the deviation determined through evaluation, management takes appropriate actions (GAO-14-704G para 1.08 and 1.10).

The Department of Human Services' documented resolution process for complaints requires:

- All complaints will be responded to within 14 days; and
- A letter will be sent to the Qualified Service Provider informing them of the outcome and any changes to be made if they are not terminated.

Cause:

The Department of Human Services does not follow their documented procedures for complaint resolution for Qualified Service Providers. In addition, the current process does not ensure that deviations from standard conduct are addressed timely.

Effect or Potential Effect:

Potential for complaints not being adequately investigated and corrective actions not implemented timely.

Operational Improvement:

We recommend the Department of Human Services utilize a complaint resolution process that ensures the following:

- All complaints have follow up action within the timeframes of DHS policy;
- Letters closing a complaint are sent out timely; and
- All submitted complaints are resolved timely.

Department of Human Services Response:

The Department will review current policies and procedures and make necessary changes to ensure complaints are handled and resolved timely.

Restriction of Payments to Deceased or Incarcerated Individuals

Background:

Individuals including household members receive benefit payments through programs of the Department of Human Services based on eligibility. Deceased or incarcerated individuals are not eligible to receive benefit payments through economic assistance programs.

Our audit of the Department of Human Services' procedures restricting payment to deceased or incarcerated individuals identified the following area of potential improvement to operations, as expressed by our operational objective:

- Are individuals receiving economic assistance payments verified to ensure they are not deceased or incarcerated?

Improvements to Restrict Payments to Deceased or Incarcerated (Finding 15-8)

Condition:

The Department of Human Services (DHS) does not have proper procedures to ensure benefit payments are not made to or on behalf of deceased or incarcerated individuals. Sources available to identify deceased or incarcerated individuals include the Social Security Administration (SSA) Death Match and Prisoner Verification Files, as well as, death and incarceration records available through the NDVerify system. Information on NDVerify is available from the ND Vital Records Office and ND Department of Corrections and Rehabilitation. The following weaknesses were noted:

- All Individuals applying for benefit programs are not verified with the SSA Prisoner Verification files. ND Verify receives death records but does not receive national incarceration records through the SSA automated interface. Programs without verification include the Low-Income Home Energy and Assistance Program (LIHEAP), Temporary Assistance for Needy Families (TANF), Child Care Assistance, and Medicaid.
- Procedures to search for applicants in NDVerify are manual for each individual. Current procedures to determine eligibility do not ensure the manual search is performed and eligibility restricted.

Criteria:

DHS policies and federal requirements for program eligibility restrict payment to incarcerated individuals as follows:

- DHS Policy 400-19-45-20(1) for TANF states that an individual who is admitted to a public institution for a full calendar month is ineligible for TANF benefits.
- Federal compliance requirements of 42 CFR 435.1009 state for Medicaid that Federal Financial Participation (FFP) is not available for services provided to inmates of public institution.
- DHS Policy 400-25-55-05 details the allowable activities for the Child Care Assistance Program and states that a caretaker must be participating in an allowable activity to be eligible for assistance. These activities include work, job search, and education or training.

According to "Standards for Internal Control in the Federal Government" (Green Book), automated control activities tend to be more reliable because they are less susceptible to human error and are typically more efficient (GAO-17-704G para. 10.06).

The Green Book also requires management document in policies and procedures the internal control responsibilities of the organization (GAO-14-704G para. 12.02).

Cause:

DHS was unaware applicants of programs other than Supplemental Nutrition Assistance (SNAP) could be verified with the SSA Prisoner Verification files. In addition, DHS does not have documented policies and procedures for eligibility workers to use when determining various program eligibility.

The process to verify eligibility from individual program eligibility systems to NDVerify has not been automated. There are otherwise no verification procedures to ensure manual searches to NDVerify are performed.

Effect or Potential Effect:

Benefit payments may be made to ineligible recipients including household members that are deceased or incarcerated.

Operational Improvement:

We recommend the Department of Human Services ensure payments are not made to or on behalf of deceased or incarcerated individuals to include:

- Verify individuals receiving and applying for benefits to the SSA Prisoner Verification files for all programs.
- Implement an automated process to verify eligibility using NDVerify. Until an automated process is implemented, we recommend the Department establish documented procedures to ensure the manual search of NDVerify is performed and eligibility restricted.

Department of Human Services Response

“The Department will begin to verify all programs to the SSA Prisoner Verification files. The Department will analyze if it is cost effective to develop an automated process to verify eligibility in NDVerify versus the current process. In the meantime, as part of the quality control and quality assurance reviews, the date/time stamp, which is automatically captured in NDVerify when an eligibility worker accesses the record, will be reviewed.”

Early Childhood Services Licensing

Background:

The Department of Human Services is authorized by North Dakota Century Code (NDCC) 50-11.1 to license the operation of early childhood programs. An early childhood program is defined as any program licensed under this same chapter where early childhood services are provided for at least two hours a day for three or more days a week. Licensed providers offer child care in family, group, center, preschool, and school-age program facilities. Early childhood services regulation is structured into three levels: county licensors, regional supervisors (5), and Early Childhood Services Administrator.

The county licensors, located in the county social services offices, act as the authorized agent for the Department in performing licensing procedures in each county. Child care providers contact the county licensors for licensing application documents. Child care providers may apply for a one-year or two-year license. The county licensor receives all application documents, performs the licensing study including an on-site inspection, determines compliance with health and safety standards, and makes a recommendation to the regional supervisor for the issuance of licenses. The county licensor determines the license effective date as the date that all required application documents are received by the county. The county licensor submits licensing documents to the regional supervisor for review. The county licensor also performs unannounced on-site inspections of the providers' operations and facilities.

The five regional supervisors, located at the regional human service centers, are responsible for monitoring the activities of the county licensors. The regional supervisor reviews licenses for proper support, approves and issues the licenses, and maintains records. The regional supervisor is also responsible for completing background check searches of North Dakota court records, sex offender registry, and child abuse/neglect registry on directors, supervisors, providers, household members, and staff members annually unless a full fingerprint background check is completed by the Criminal Background Check Unit of the Department.

The Early Childhood Services Administrator, located in the Department's central office, is responsible for monitoring the performance of the regional supervisors and all activities of the state regulatory system of early childhood services. The Administrator establishes and monitors policies and standards, provides support to the county and regional offices, and reviews revocations, denials, and notices to early childhood providers.

Our audit of the Department of Human Services' child care licensing operations was designed and conducted to answer the following objectives:

- Does the Department of Human Services have a consistent, complete, and timely license application process?
- Does the Department of Human Services properly identify license effective dates?
- Do licensing procedures identify that denials, revocations, and suspensions of providers have been cleared and sanctions paid before a current license is approved and effective date determined?
- Do inspection methods include required health and safety standards of North Dakota Administrative Code (NDAC)?
- Do monitoring procedures ensure provider licenses are restricted to useable square footage of facilities and only one license is issued per residence in accordance with fire marshal inspections and state law?

- Are audit procedures performed by the state properly documented and follow risk-based sampling methods?
- Has the Department of Human Services developed policies and procedures for communication, and tracking of provider license limitations including complaint investigations, corrective orders, sanctions, revocations, suspensions, and denials?

As of May 1, 2015, there were 1,624 licensed providers in the state to allow for child care to over 39,000 children. Our selection of licensed child care providers was designed to include at least 1 provider from each county in the state. In addition to improper operations, our findings identify pervasive weaknesses in internal control and noncompliance with legislative intent. Of the 58 licenses tested, all licenses applied to one or more areas of deficiency explained in the following recommendations.

Failure to Suspend Providers and Notify Parents (Finding 15-9)

Condition:

The Department of Human Services is not properly monitoring or suspending providers and notifying parents after confirmed knowledge of activities that jeopardize the health and safety of children.

Upon confirmation of activities jeopardizing the health and safety of children, providers are allowed to continue operating under memorandum of understanding (MOU) agreements. While the Department has a policy for issuing MOU agreements, there are no state laws or administrative rules that govern the practices of these agreements. No action was taken by the Department to perform further oversight of providers operating under MOU agreements and the Department did not notify parents with enrolled children. In our review of 58 child care provider licenses, 2 MOU agreements were noted. An additional 11 MOU agreements were identified related to providers' care, reported concerns, and required corrections. Reports of child abuse and neglect are confidential pursuant to NDCC 50-25.1-11; therefore, we are not able to disclose specific details of investigations. However, our review identified lack of appropriate action by the Department to monitor providers, suspend licenses, and notify parents. Providers were allowed to continue operating under MOU agreements while the Department was aware of activities including illegal drug use by the provider, restricted persons being present at the facility, inappropriate touching from adults, inappropriate sexual play between children, and other concerns of supervision and discipline.

In addition, the Department does not consistently apply the results of child protection investigations to all programs that approve individuals to care for children. The Department approves individuals to care for children through child care provider licensing as well as other programs. Investigations of child abuse and neglect may concern an owner, staff member, or household member. Investigation results that identify sufficient evidence of child abuse or neglect may be completed during a provider's approved license period. Action based on these results is not taken by the Department within all programs to suspend licenses or prohibit the presence of individuals and notify parents.

Criteria:

NDCC 50-11.1-07.8 states:

1. The Department may
 - a. Suspend a license at any time after the onset of a child abuse and neglect investigation alleging the owner or operator has committed child abuse, including child sexual abuse, or has neglected a child and law enforcement has been involved, if continued operation is likely to jeopardize the health and safety of the children.
 - b. Suspend upon a child abuse or neglect services required determination indicating that a child has been abused or neglected by the owner or operator if continued operation is likely to jeopardize the health and safety of the children present.
 - c. Prohibit the presence of an accused owner, staff member, or household member of the early childhood program from the early childhood premises when children are in child care, upon a report of child abuse or neglect at the premises of the licensed program or involving a staff member or household member if continued operation or the presence of the accused individual is likely to jeopardize the health and safety of the children present.

Pursuant to NDCC 50-11.1-07.8 (2-4), the Department shall also notify the parent of a child receiving early childhood services when the license is suspended and upon the conclusion and disposition of the investigation. The Department may notify the parent of any child receiving early childhood services when an owner, operator, adult staff member, or adult household member of the program providing care of the child is under investigation of a report of abuse or neglect. Any action under this section may preclude an individual's ability to operate pending an appeal.

The Department's Suspension Policy (620-01-120-30) states that a suspension request must be made when the following are present:

- A report of suspected child abuse or neglect at a licensed, self-declared, or registered child care is reported.
- Children are found to be at imminent danger or at risk of harm.

The authorized agent shall:

- Notify the parent of any child receiving care when the license, self-declaration, or registration is suspended.
- Upon the conclusion and disposition of the assessment, notify the parent of each child receiving early childhood services of the disposition.

Confidentiality of records law (NDCC 50-25.1-11) and the Department's Notification of Parents Policy (620-01-115-10-01) require that when a provider or staff member of a licensed program is the subject of a child protection services assessment, the Department shall make a good faith effort to notify all parents of children receiving care in the child care program of the results of the assessment. DHS policy further requires that a copy of the notice will be placed in the licensing file for licensers to reference, and the licenser shall ensure that the notification is properly distributed to parents who are enrolled at the child care at the time the notice is distributed.

Cause:

The Department interprets the authority of NDCC to suspend licenses to be limited to very specific circumstances.

While state law allows for parents to be notified at any time after the onset of a child abuse and neglect investigation, the Department has indicated that procedures are to notify parents after the provider's appeal process.

Effect or Potential Effect:

There are increased risks to the health and safety of children when licenses are not suspended and parents are not immediately notified of reports of suspected child abuse or neglect or other concerns. Providers are allowed to operate without proper oversight by the Department to ensure compliance with MOU requirements.

Operational Improvement:

We recommend the Department of Human Services:

- Perform further oversight of providers to ensure compliance with memorandum of understanding agreements;
- Suspend providers when children are found to be at risk of harm; and,
- Directly notify parents immediately after confirmed knowledge of activities that jeopardize the health and safety of children.

Department of Human Services Response:

The Department will update policy to include further oversight of providers by the county licensors to ensure compliance with memorandum of understandings. The Department will suspend providers in accordance with North Dakota Century Code, which requires a determination that continued operation of the child care program is likely to jeopardize the health and safety of the children and also requires that child protective services and law enforcement be involved in the investigation. Department policy regarding MOUs and suspensions, including notification to parents, will be reviewed and changes will be made as needed.

Inconsistent Licensing Procedures (Finding 15-10)**Condition:**

The Department of Human Services has not developed internal controls and documented instructions to the county licensors and regional supervisors for consistent licensing procedures. The following procedures did not have consistent documentation within the provider licensing files:

- Identification that records were inspected during the licensing study to verify required documents for enrolled children were on file. These records include the child information list, written statement authorizing medical care, authorization to release forms, immunization records, and statement of health;
- Identification of consistent documents including regional and local requirements to be included in licensing application packets;
- Identification of background checks performed by the regional supervisor including source of information, dates, and results;
- Acceptable time period of licensing application documents to be considered current for the applicable licensing period;
- Comparison that square footage requirements are within allowable space restrictions including supporting calculations; and,
- Method of completeness such as a checklist to ensure all required licensing documents have been received.

Criteria:

"Standards for Internal Control in the Federal Government" (Green Book) requires management effectively document internal control to communicate proper execution of procedures to personnel. Documentation of controls is evidence that controls are identified, capable of being communicated to those responsible for their performance, and capable of being monitored and evaluated by the entity (GAO-14-704G para. 3.09-3.11).

Cause:

The Department has not performed risk assessment procedures and evaluated internal controls surrounding the child care provider licensing processes.

Effect or Potential Effect:

Child care providers are operating without complying with licensing requirements jeopardizing the health and safety of children.

Operational Improvement:

We recommend the Department of Human Services develop documented internal controls for consistent licensing procedures to include:

- A method to identify the records inspected during the licensing study;
- Application materials to be included in licensing packets;
- Documentation of background checks performed by the regional supervisor including source of information, dates, and results;
- Expiration timeframes for required application documents;
- Comparison that square footage requirements are within allowable space restrictions; and,
- A method to ensure that all required licensing documents have been received.

Department of Human Services Response:

Prior to the audit work done in this area, the Department had started updating policies and state forms to address some of the items above. The Department will consider making additional changes to ensure consistent documentation is maintained in the child care provider files.

Inconsistent Procedures to Verify Required Records (Finding 15-11)**Condition:**

The Department of Human Services does not have consistent procedures to verify that required records for enrolled children are maintained by the provider. Some county licensors verify records for all enrolled children. Others select a sample of children to verify required records are on file. In reviewing the provider licensing files, we were unable to identify the records that were inspected, if any. Required records include the child information list, written statement authorizing medical care, authorization to release forms, immunization records, and statement of health for each child enrolled with the provider. In completing the licensing study during the application process, the county licensor is required to perform inspection of these records.

Criteria:

NDCC 50-11.1-07 requires a licensee to maintain records as the Department prescribes regarding each child, and shall report to the Department or the Department's authorized agent, when requested, upon forms furnished by the Department, and facts the Department may require with reference to each child.

ND Administrative Code further defines the records required to be maintained by the provider (NDAC 75-03-08-22, NDAC 75-03-09-22, NDAC 75-03-10-22, NDAC 75-03-11-22, NDAC 75-03-11.1-22).

Cause:

The Department has not evaluated internal controls and provided adequate documented instruction to the county licensors.

Effect or Potential Effect:

County licensors may not be verifying that required records are maintained by the provider to ensure the health and safety of enrolled children.

Operational Improvement:

We recommend the Department of Human Services develop consistent procedures to verify that required records are maintained by the provider.

Department of Human Services Response:

The Department will enhance procedures to ensure verification of required provider records are performed consistently.

Incomplete Methods to Verify Health and Safety Requirements (Finding 15-12)**Condition:**

The Department of Human Services is not ensuring providers comply with all health and safety requirements as defined by the North Dakota Administrative Code. The checklists used by county licensors when conducting onsite licensing studies and annual reviews of two-year licenses do not contain all necessary health and safety requirements. The licensing study does not include verification that immunizations are appropriate for the child's age. The annual review of a two-year license does not include inspection for unprotected wells, flammable materials, and minimum space requirements. Additional sanitation requirements for restroom and kitchen areas were also not included in inspection materials.

Criteria:

NDCC section 50-11.1-8 (3)(b) states the governmental unit must certify to the department that the premises of a program, holder of self-declaration, or registration documents meet the requirements of the chapter and the minimum standards prescribed by the department.

The requirements of child care providers are documented in North Dakota Administrative Code sections. Each provider type has a specific section. The sections are as follows: School Age Child Center NDAC (75-03-11.1), Family Child Care (NDAC 75-03-08), Child Care Center (NDAC 75-03-10), Preschool (NDAC 75-03-11), and Group Child Care (NDAC 75-03-09).

Cause:

The Department did not properly assess all health and safety standards and ensure the licensing process verifies the requirements.

Effect or Potential Effect:

Child care providers may be operating without complying with all licensing requirements potentially jeopardizing the health and safety of children.

Operational Improvement:

We recommend the Department of Human Services ensure child care providers are meeting all health and safety standards required to be licensed.

Department of Human Services Response:

The Department will review and make necessary changes to the checklists to ensure the providers are in compliance with North Dakota Administrative Code and Department policies.

License Effective Before Background Checks Performed (Finding 15-13)**Condition:**

The Department of Human Services' policies allow licenses to be effective before background check procedures are performed by the regional supervisor. Of the 58 licenses tested, 25 licenses issued were dated effective before the date of the regional supervisor's review.

In addition, the Department of Human Services does not have adequate documentation of the background searches performed by the regional supervisors including the source of information, date, and results. Of the 58 provider licenses tested, 51 licenses did not identify the proper background check procedures were performed.

Criteria:

In accordance with NDCC section 50-11.1-04, the applicant for a license and the staff members, and, if the application is for a program that will be located in a private residence, every individual living in that residence must be investigated in accordance with the rules adopted by the Department to determine whether any of them has a criminal record or has had a finding of services required for child abuse or neglect filed against them.

Regional supervisors perform background check procedures for each one or two-year early childhood services licensing application. DHS Policy 620-01-40 states, "Regional child care licensing offices will be responsible for completing:

1. North Dakota court searches on directors, supervisors, providers, emergency designees for self-declared providers and household members annually;
2. Sex offender registry checks on directors, supervisors, providers, emergency designees for self-declared providers, household members and staff members annually; and
3. Child Abuse/Neglect Index checks on directors, supervisors, providers, emergency designees for self-declared providers, household members and staff members annually."

Due to the requirement of the reauthorization of the Child Care and Development Block Grant Act of 2014 (CCDBG), the above policy was revised 2/15/15 to indicate that annual searches

would be performed "unless the full fingerprint background check was performed." The revised policy states, "The fingerprint background check shall be completed for all providers and staff members, over the age of eighteen, who are responsible for the care of children or who have unsupervised contact with children, upon hire and every five years after. Staff members who are hired before the age of 18 must complete the fingerprint background check when they turn eighteen."

Cause:

The Department of Human Services has developed policies to allow the license effective date to be the date that all documentation is received by the county licensor. The Department has developed these policies to allow for delay in review of application documents due to employee absence at the county and regional offices. The Department has not sufficiently considered the risk of providers and staff operating a child care facility without proper background checks.

The fingerprint background checks performed by the Department's Criminal Background Check Unit are significantly backlogged due to requirements of the reauthorization of the Child Care and Development Block Grant of 2014.

Effect or Potential Effect:

Child care providers are operating child care facilities prior to background check procedures performed which may jeopardize the safety of children.

Operational Improvement:

We recommend the Department of Human Services revise policies so that child care providers are not licensed until after background check procedures have been performed by the Department's regional offices.

We recommend the Department of Human Services properly document background check procedures performed by the regional offices including source of information, date, and results.

Department of Human Services Response:

The Department has been working on administrative rule revisions based on recommendations from the Governor's Advisory Committee on Child Care Licensing Process to address timelines for licensing and relicensing child care providers. If approved, this rule would be effective July 2017 and will ensure the effective date of the license will not occur until all documentation is received and reviewed by the regional office. State forms have already been updated to ensure background check procedures are properly documented. The Governor's Budget for the 15-17 biennium included 3 additional FTEs for regional supervisors due to their increased workload and also 1.5 FTEs to ensure background checks were completed within the timelines required by the Child Care and Development Block Grant of 2014. During the 2015 legislative session the 4.5 FTEs and associated funding were removed from the Department's 15-17 appropriation.

Improperly Backdating License Effective Date (Finding 15-14)

Condition:

The Department of Human Services is backdating licenses to be effective before all licensing materials are received. Of the 58 provider licenses tested, 9 licenses were determined to be backdated. The following instances were identified:

- Five providers had licenses effective prior to submission of applications, completion of fire or health and sanitation inspections, performance of the licensing study, or authorization for completion of the child abuse and neglect background searches.
- One provider was issued a license after testing positive for illegal drugs and results of a subsequent negative test. The license was backdated as effective prior to and during time of confirmed drug use.
- One provider was issued a correction letter six days after the effective date of the license stating the application fee was not collected, training hours were incomplete, and all authorization forms for child abuse and neglect background searches were not completed.
- One provider had health and sanitation deficiencies that were not corrected until after the license effective date. Correspondence indicated the deficiencies had not been corrected for two years.
- One provider did not have a date identified by the county licenser of when all license application documents were received. As a result, a proper effective date for the license could not be determined.

Criteria:

The issuance of a license to operate a child care [facility] is evidence of compliance with the standards contained in [ND Administrative Code] and North Dakota Century Code chapter 50-11.1 at the time of licensure (NDAC 75-03-08-04, NDAC 75-03-09-04, NDAC 75-03-10-04, NDAC 75-03-11-04, NDAC 75-03-11-04, NDAC 75-03-11.1-04).

DHS Policy 620-01-35-25 states, "A license will not be backdated if a provider fails to submit all required licensing documentation prior to the expiration date."

Cause:

The Department's monitoring procedures performed by the central and regional offices are ineffective to ensure licensing of providers in accordance with state laws and policies. Documents are not consistently date stamped with a receipt date.

Effect or Potential Effect:

Child care providers are operating without complying with licensing requirements which may jeopardize the health and safety of children.

Operational Improvement:

We recommend the Department of Human Services properly date child care provider licenses to be effective after all licensing materials are received.

We recommend the Department of Human Services improve procedures for supporting the effective date of a license by consistently date stamping the receipt of the application and all required documents.

Department of Human Services Response:

The Department has been working on administrative rule revisions based on recommendations from the Governor's Advisory Committee on Child Care Licensing Process to address timelines for licensing and relicensing child care providers. If approved, this rule would be effective July 2017 and will ensure the effective date of the license will not occur until all documentation is received and reviewed by the regional office. The Department will remind county licensors and regional supervisors that all documents need to be date stamped.

Inadequate Records Management (Finding 15-15)**Condition:**

The Department of Human Services does not have proper records management procedures for provider licensing files. The following weaknesses were identified.

- The Department's checklist of received application documents and verifications is not comprehensive to ensure each approved license is properly supported. The following documents and verifications are not included on the checklist.
 - Minimum qualifications of staff;
 - CPR/First Aid certificates;
 - Outside play space plan with square footage;
 - Pet vaccinations;
 - Evacuation plan;
 - Training certifications;
 - Liability insurance;
 - Indication that all penalties and fiscal sanctions have been paid;
 - Indication the provider has not received previous denials or revocations in the last 12 months of the current application date;
 - Indication the provider has not received 3 or more previous denials or revocations with the most recent received within the 5 years preceding the current application date; and,
 - Square footage calculations of allowable space including consideration of restricted space and comparison to the number of licensed children.
- The Department does not maintain a permanent section within the provider licensing file for application documents that may not require updates on an annual basis. These application documents include indoor floor plans, outdoor play space plans, programming schedules, policy and procedures handbook, and evacuation plans. In addition, minimum provider qualifications do not change annually and include bachelor degrees, associate degrees, qualifying teaching certificates, high school diploma or

equivalency, or years of experience. These documents could also be maintained in a permanent section of the licensing file.

- The Department does not properly verify and document for each license whether the providers' facility or operations have changed to require that prior records on file with the Department be updated. Of the 58 provider licenses tested, current documents were not identified for indoor floor plans (26), outdoor play space plans (15), programming schedules (12), policy and procedure handbooks (15), or evacuation plans (6).

Criteria:

Child care provider licensing application documents and fees are required as identified in NDCC 50-11.1-03, 50-11.1-04, NDAC 75-03-09, NDAC 75-03-10, NDAC 75-03-11, NDAC 75-03-11.1, and DHS Policy 620-01-35.

DHS Policy 620-01-35-15 requires a copy of policies and procedures, programming schedule, and floor plan be forwarded by the county licenser to the regional office for review upon initial license or change.

The Department has established rules for minimum qualifications of group child care supervisors; child care center directors; preschool directors, teachers and assistants; and school-age child care program directors and supervisors in NDAC 75-03-09, NDAC 75-03-10, NDAC 75-03-11, and NDAC 75-03-11.1.

"Standards for Internal Control in the Federal Government" (Green Book) requires that management document all transactions and significant events in a manner that allows the documentation to be readily available for examination and be properly managed and maintained. (GAO-14-704G para. 10.03)

Cause:

The Department has not evaluated proper records management of licensing requirements for retention of documents that are not updated on an annual basis.

Effect or Potential Effect:

Child care providers may not be properly licensed. Historical records supporting the license are not verified and reviewed for updates and may be purged during records retention procedures.

Operational Improvement:

We recommend the Department of Human Services revise the licensing checklist to include all required application documents and verifications.

We recommend the Department of Human Services improve records management to include a permanent file for application and qualification records that are not updated on an annual basis.

We also recommend the Department of Human Services establish procedures to verify if changes have been made to permanent file documents with each licensing application.

Department of Human Services Response:

The Department will review the licensing checklists used by the county licensors and will review policies in regards to the organization of the Department's licensing files to ensure work performed is properly documented and maintained.

Lack of Unannounced Inspections (Finding 15-16)

Condition:

The Department of Human Services is not properly ensuring unannounced inspections of child care provider operations and facilities are performed. Of the 58 provider licenses tested, the following instances were noted:

- Sixteen providers did not have proper unannounced inspections during the license period; and,
- Five additional providers had partially completed documentation of the unannounced inspection requirements.

Criteria:

In accordance with NDCC section 50-11.1-04, the Department or the Department's authorized agent shall investigate the applicant's activities and proposed standards of care and shall make an inspection of all premises to be used by the early childhood program applying for a license.

The Department's Policy for Unannounced Visits (620-01-116) dated 10/1/14 states, "The authorized agent is required to perform an unannounced review at least annually for each licensed or self-declared child care provider."

The Department's Policy for Procedures Following Completion of a Compliance Checklist for Licensing Study (620-01-35-15) states, "When the license is a 2-year license, the annual requirements must be submitted to the authorized agent prior to the one-year anniversary of the license. The 2-year license annual review requirement is a scheduled review for the purpose of checking the annual requirements. This is not an unannounced review."

Cause:

The Department's review procedures are ineffective to ensure unannounced visits are performed by the county licensors.

Effect or Potential Effect:

Child care providers are operating child care facilities without proper monitoring of health and safety conditions.

Operational Improvement:

We recommend the Department of Human Services ensure unannounced inspections of child care provider operations and facilities are performed in accordance with the Department's policies 620-01-116 and 620-01-35-15.

Department of Human Services Response:

The Department will enhance procedures to ensure unannounced inspections done by the county licensors are performed in accordance with Department policies.

Child Care Providers Not Properly Licensed (Finding 15-17)

Condition:

The Department of Human Services issued licenses to child care providers without receiving proper evidence of license requirements. Of the 58 providers tested, the following errors were identified:

- 4 providers had no indication that application fees were paid;
- 10 providers did not have indoor floor plans with square footage of rooms;
- 24 providers did not have outside play space plans with square footage of space;
- 4 providers did not have health and sanitation reports;
- 3 providers did not have fire inspection reports;
- 2 providers did not have pet vaccination records;
- 15 providers did not have programming schedules;
- 13 providers did not have policies and procedures including daily schedule and fees;
- 14 providers did not have a child care evacuation plan;
- 1 provider did not have water temperature testing;
- 5 providers did not have CPR/First Aid certificates;
- 13 providers did not have certifications or verification of training hours;
- 14 providers did not have evidence of degrees, certifications, or experience requirements on file; and,
- 5 providers did not have liability insurance.

Related to the above errors, the following observations were made:

- Training certificates are not being obtained consistently for all staff.
- Both property and liability insurance requirements are not obtained for applicable providers.
- Providers operating family child care were not verified for requiring a fire inspection based on the type of home, alternate heating devices, or providing care to children in the basement.
- Two providers did not have a sufficient number of required training hours based on the type of facility.
- One provider had received a health and sanitation report for the facility operated by a previous owner. Licenses are non-transferable.
- One provider submitted an insurance quote rather than evidence of being insured. The subsequent licensing application identified the insurance policy began over two months after the effective date of the license.
- One provider was licensed for nine children when space restrictions only allowed for eight children.
- One provider had not paid the application fee, submitted the authorization for background check on staff, or completed a required training course prior to the effective date of the license. A correction letter issued by the Department indicated the Department was aware of incomplete requirements.
- One provider completed a training course that was improper for the type of license being issued. Correspondence indicated the Department was aware and accepted the training while questioning the abilities of the provider.

Criteria:

The issuance of a license to operate a child care [facility] is evidence of compliance with the standards contained in [ND Administrative Code] and North Dakota Century Code chapter 50-11.1 at the time of licensure (NDAC 75-03-08-04, NDAC 75-03-09-04, NDAC 75-03-10-04, NDAC 75-03-11-04, NDAC 75-03-11-04, NDAC 75-03-11.1-04).

Child care provider licensing application documents are required as identified in NDCC section 50-11.1, NDAC 75-03-08, NDAC 75-03-09, NDAC 75-03-10, NDAC 75-03-11, NDAC 75-03-11.1, and DHS Policy 620-01-35.

Child Care provider licenses are non-transferrable for the provider or facility according to NDAC 75-03-09-07.

The Department's Early Childhood Services Quality Assurance Policy 620-01-20-20 states, "The central office shall perform random file reviews on an annual basis in each region to assure that the regional office files contain necessary documentation." The policy further identifies the following documents are required documentation for provider files:

- Licensing checklists
- SFN 1276 Early Childhood Services Review Forms
- Map of indoor space and outdoor space
- SFN 508 forms and documentation of appropriate completed background checks
- Copies of CPR and First Aid certification cards
- Training transcripts, certificates, or SFN 343
- Pet vaccination records
- Qualifications of provider and staff, if applicable
- Fire and health inspections, if applicable

Cause:

The Department's review procedures performed by the regional supervisors are inadequate. The Department has not designed consistent procedures to ensure licensing applications include all required documents.

Effect or Potential Effect:

Child care providers are improperly licensed and operating without complying with requirements potentially jeopardizing the health and safety of children.

Operational Improvement:

We recommend the Department of Human Services properly license child care providers only upon evidence that the Department has verified compliance with requirements as defined in state laws, rules, and policies.

Department of Human Services Response:

The Department has been working on administrative rule revisions based on recommendations from the Governor's Advisory Committee on Child Care Licensing Process to address timelines for licensing and relicensing child care providers. If approved, this rule would be effective July 2017 and will ensure the effective date of the license will not occur until all documentation is received and reviewed by the regional office. In addition, the Governor's Budget for the 15-17 biennium included 3 additional FTEs for regional supervisors due to their increased workload. However, during the legislative session the 3 FTEs and associated funding was removed from the Department's 15-17 budget.

Lack of Monitoring of Corrective Orders and Imposition of Sanctions (Finding 15-18)

Condition:

The Department of Human Services is not properly monitoring corrective orders, performing re-inspections, and imposing sanctions. The following issues were noted:

- 193 of 444 (43%) corrective orders on the Department's tracking list during 2014 and 2015 did not identify a date the orders were determined to be corrected; and,
- Corrective orders for 5 providers tested did not have evidence that either deficiencies were corrected immediately or re-inspection was performed and sanctions were imposed.

Criteria:

NDCC section 50-11.1-07.2 requires that the Department or the Department's authorized agency issue a correction order whenever it is determined upon inspection that a program or premises is not in compliance with this chapter or rules adopted under this chapter. NDCC section 50-11.1-07.3 requires the Department or the Department's authorized agent shall re-inspect an early childhood program issued a correction order under NDCC section 50-11.1-07.2, at the end of the period allowed for correction.

NDCC section 50-11.1-07.4 requires that if the Department or the Department's authorized agent issues a notice of noncompliance with a correction order to an early childhood program, the Department shall assess fiscal sanctions each day the early childhood program remains in noncompliance after the allowable time period for the correction of violations ends until the Department receives notice indicating the violations are corrected.

Cause:

The Department's method for tracking that corrective orders are resolved is ineffective. The Department does not have a tracking method for ensuring sanctions are properly imposed.

Effect or Potential Effect:

Child care providers are operating without proper follow-up of corrective orders jeopardizing the health and safety of children.

Operational Improvement:

We recommend the Department develop effective tracking methods to ensure corrective orders are resolved and sanctions are imposed.

Department of Human Services Response:

The Department will enhance procedures for tracking corrective orders to ensure work performed surrounding the resolution is documented and adequately maintained and sanctions are properly imposed.

Ineffective Monitoring Procedures (Finding 15-19)**Condition:**

The Department of Human Services' monitoring procedures performed by the central and regional offices are ineffective. The Department's early childhood services administrator and regional supervisors perform procedural reviews of county licensure activities. The significant errors identified in our testing of child care provider licensing indicate these reviews are clearly ineffective at identifying material weaknesses and inconsistencies. These situations include failure to identify incomplete application requirements, improperly licensed providers, nonperformance of unannounced inspections, backdated licenses, lack of monitoring of corrective orders, non-imposed sanctions, and lack of documented notification to parents for serious safety concerns.

Criteria:

"Standards for Internal Control in the Federal Government" (Green Book) requires management enforce accountability of individuals performing their internal control responsibilities. Accountability is driven by the tone at the top and supported by the commitment to integrity and ethical values, organizational structure, and expectations of competence, which influence the control culture of the entity. Accountability for performance of internal control responsibility supports day-to-day decision making, attitudes, and behaviors. (GAO-14-704G para. 10.03)

The Department's Early Childhood Services Quality Assurance Policy (620-01-20-20) requires:

1. The authorized agent is responsible for maintaining the licensing file, and for submitting copies of required documentation to the regional office.
2. The central office shall perform random file reviews on an annual basis in each region to assure that the regional office files contain necessary documentation.
3. The regional office shall perform random provider reviews on an annual basis with the authorized agent. These reviews may take place during relicensing visits or drop-in visits.

Cause:

The Department has not designed procedures to carry out the purpose of licensing early childhood services to safeguard the health, safety, and development of children. There is an improper balance between ensuring safe quality of child care and supporting child care providers to become licensed or continue operating without meeting minimum requirements.

Effect or Potential Effect:

Child care providers are operating without complying with licensing requirements and proper monitoring of health and safety conditions jeopardizing the health and safety of children.

Operational Improvement:

We recommend the Department of Human Services perform effective monitoring procedures to ensure complete licensing applications, properly licensed providers, performance of unannounced inspections, properly dated licenses, monitoring of corrective orders, imposition of sanctions, and notification to parents for serious safety concerns.

Department of Human Services Response:

As stated in the previous responses, the Department is revising administrative rule, considering policy updates, and updating state forms to ensure all work performed is properly documented and North Dakota Administrative Code and Department policies are being followed. The Governor's Budget for the 15-17 biennium included 3 additional FTEs for regional supervisors due to their increased workload and also 1.5 FTEs to ensure background checks were completed within the timelines required by the Child Care and Development Block Grant of 2014. During the 2015 legislative session the 4.5 FTEs and associated funding were removed from the Department's 15-17 appropriation.

Child Care Provider Records

Background:

The Department of Human Services is authorized to license and perform inspections of child care provider facilities. In performing these responsibilities, the Department maintains child care provider records including evaluations of provider operations and inspection deficiencies related to compliance with licensing requirements and health and safety standards.

Our review of prior recommendations identified the following area of potential improvement to operations, as expressed by our operational objective:

- Is North Dakota one of the growing number of states that have launched online daycare record systems?

Lack of Online Child Care Provider Records (Finding 15-20)

Condition:

The Department of Human Services is not currently making child care provider information that would be useful to parents available on the Internet. While parents may request child care provider information from the Department of Human Services or county social services offices, North Dakota is one of only 11 states that has neither inspection nor complaint reports available on the Internet.

The following inefficiencies were noted:

- A full listing of licensed child care providers is not available online. The Department of Human Services directs parents to the Child Care Aware website for assistance in choosing child care. The child care providers identified on the Child Care Aware of North Dakota website are limited to providers that voluntarily choose to be listed and self-reported information.
- Availability of complaint and licensing inspection reports is limited to specific providers as requested by the parent. Parents may request a listing of all providers by location and receive this list via postal mail or email methods. The parent must then narrow the selection of providers to request further information based simply on the providers' name and address, rather than potentially the number and type of inspection violations or complaint reports.

Criteria:

The Child Care and Development Block Grant (CCDBG) Act of 2014 requires website information be available 24 hours a day and include:

- A list of licensed and license-exempt providers,
- Any provider-specific information about compliance with licensing and health and safety requirements [Sec 658L(b)(2)(A)(D)].

The Timeline of Effective Dates for States and Territories: CCDBG Act of 2014 [CCDF-ACF-PI-2015-02] published January 9, 2015, defines the effective date of implementation for posting results of monitoring and inspection reports online is the earlier of November 19, 2017 or one year after monitoring requirements are in place.

The National Bureau of Economic Research publication, "What Happens When Child Care Inspections and Complaints Are Made Available on the Internet?," by Ann Dryden Witte and Magaly Queralt, provides substantial evidence that placing child care provider inspection and complaint reports on the Internet changed the procedures of child care inspectors and improved the quality of child care received by low-income children.

According to Child Care Aware of America's report, "We Can Do Better: 2013 Update," posting inspection reports on the Internet is important to ensure that parents have access to relevant information to help them make the best child care choices possible.

Cause:

The Department of Human Services has not implemented the previous audit recommendation of the biennium ended June 30, 2013.

Effect or Potential Effect:

Management is not ensuring there is efficient external communication of licensed child care providers inspection and complaint reports. Therefore, parents may unknowingly put their children with a provider not offering the most favorable care and safest environments.

Parents' access to information is restricted by the operating hours of state and county offices and employee availability.

Operational Improvement:

We recommend the Department of Human Services improve child care provider information available on the Internet to include:

- A full listing of licensed child care providers; and
- Provider-specific inspection results and complaint reports.

Department of Human Services Response:

The Department is aware of the Child Care and Development Block Grant Act of 2014. The Department is also aware of the proposed rule to implement the Act, which upon adoption, would further define the provider specific information that needs to be made available to the public in an online format. The Department will continue to work with our federal partners and once the rule is published as final, will ensure all requirements of the final rule are included in our website design. The proposed rule allows for the Department to apply for up to three waivers making the potential date of compliance November 2020. The Department has begun website planning and when funding is available, the Department will develop a website that meets the federal requirements. However, at this time, the Department will continue to work with Child Care Aware and county social service offices to provide parents information for providers they are considering as child care options.

Prior Recommendations Not Implemented

Prior recommendations have been implemented with the exception of the following:

Lack of Internal Control Fraud Risk Assessment (Finding 13-2)

Recommendation:

We recommend the Department of Human Services:

- Establish and perform control risk assessments, including a fraud risk assessment, on a biennial basis; and
- Design and document the necessary control activities to ensure that each significant risk and fraud exposure identified during the risk assessment process has been adequately addressed.

Status:

Not implemented since the fiscal year 2008, 2009 audit. See recommendation 15-1.

Online Child Care Provider Records (Finding 13-4)

Recommendation:

We recommend the Department of Human Services improve child care provider information available on the Internet to:

- Include a full listing of providers with inspection results and complaint reports;
- Allow child care providers to identify waiting list options;
- Eliminate employee time and availability restraints placed on parents trying to access information; and,
- Allow mapping functionality to view provider's based on location areas.

Status:

Partially implemented since the fiscal year 2012, 2013 audit. Mapping functionality is available through Child Care Aware of ND. See recommendation 15-20.

Inadequate Controls Surrounding Revenue Collection (Finding 11-2)

Recommendation:

We recommend the Department of Human Services ensure:

- Receipts are reconciled to deposits by an individual who does not have access to cash;
- Bank reconciliations are prepared by individuals who do not have access to cash;
- Access to cash is properly limited; and
- Remittance lists are prepared at the time the mail is opened.

Status:

Partially implemented since the 2010, 2011 audit. Bank reconciliations are prepared by the Business Manager located in Bismarck. See recommendation 15-3.

Management Letter (Informal Recommendations)

July 13, 2016

Maggie D. Anderson, Executive Director
Department of Human Services
600 E. Boulevard Avenue
Bismarck, ND 58505

Dear Ms. Anderson:

We have performed an audit of the Department of Human Services for the biennium ended June 30, 2015, and have issued a report thereon. As part of our audit, we gained an understanding of the Department of Human Services' internal control structure to the extent we considered necessary to achieve our audit objectives. We also performed tests of compliance as described in the same report.

Our audit procedures are designed primarily to enable us to report on our objectives including those related to internal control and compliance with laws and regulations and may not bring to light all weaknesses in systems and procedures or noncompliance with laws and regulations which may exist. We aim, however, to use our knowledge of your organization gained during our work to make comments and suggestions which we hope will be useful to you.

In connection with the audit, gaining an understanding of the internal control structure, and tests of compliance with laws and regulations referred to above, we noted certain conditions we did not consider reportable within the context of your audit report. These conditions relate to areas of general business practice or control issues that have no significant bearing on the administration of federal funds. We do, however, want to present our recommendations to you for your consideration and whatever follow-up action you consider appropriate. During the next audit we will determine if these recommendations have been implemented, and if not, we will reconsider their status.

The following present our informal recommendations.

EXPENDITURES AND CORRECTIONS

Informal Recommendation 15-1: We recommend the Department of Human Services record Positive Support Plan (PSP) Reinforcements to the proper expenditure account code classification.

Informal Recommendation 15-2: We recommend the Department of Human Services ensure that all correcting entries are assigned a correction code identifying the risk level of the activity to ensure proper approval of high risk transactions.

Informal Recommendation 15-3: We recommend the Department of Human Services develop procedures to require all receipts for withdrawals from State Hospital patient accounts be signed by the individual receiving the monies.

FIXED ASSETS

Informal Recommendation 15-4: We recommend the Department of Human Services properly capitalize all internally developed software enhancements in accordance with OMB Fixed Asset Accounting Policies.

LEGISLATIVE INTENT

Informal Recommendation 15-5: We recommend the Department of Human Services implement controls to ensure that proper support documentation of qualifying costs is verified when increasing service rates to nursing and basic care facilities.

REVENUE

Informal Recommendation 15-6: We recommend the Department of Human Services clear balances from outside checking accounts using electronic transfers rather than manual preparation of checks.

Informal Recommendation 15-7: We recommend the Department of Human Services discontinue the preparation of the Audit Report for Private Pay Discounts from the ROAP system to eliminate duplicate review and approval procedures and protect sensitive client information.

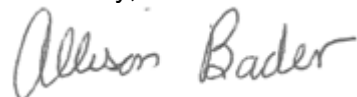
OPERATIONS

Informal Recommendation 15-8: We recommend the Department of Human Services design documented policies and procedures to ensure review of results from the Social Security Administration Death Match and Prisoner Verification files when completing the quality control reviews of the Supplemental Nutrition Assistance Program.

Management of Department of Human Services agreed with these recommendations except for informal recommendation 15-6.

I encourage you to call me or an audit manager at 328-2241 if you have any questions about the implementation of recommendations included in your audit report or this letter.

Sincerely,



Allison Bader
Auditor in-charge

You may obtain audit reports on the internet at:

www.nd.gov/auditor/

or by contacting the
Division of State Audit

Office of the State Auditor
600 East Boulevard Avenue – Department 117
Bismarck, ND 58505-0060

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