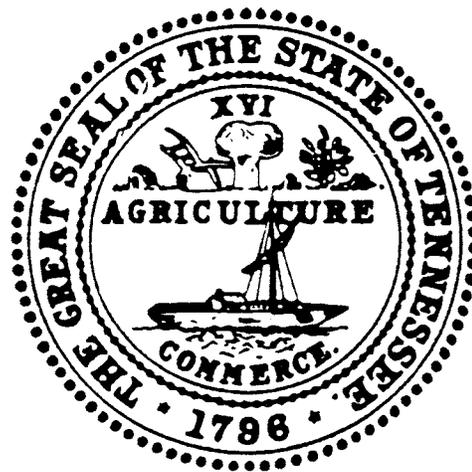


AUDIT REPORT

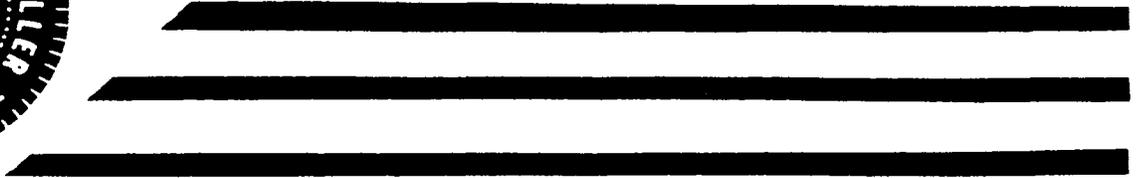
Department of Finance and Administration

February 2007



STATE OF TENNESSEE
COMPTROLLER OF THE TREASURY

Department of Audit
Division of State Audit



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STATE OF TENNESSEE
COMPTROLLER OF THE TREASURY
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John G. Morgan
Comptroller

February 27, 2007

The Honorable Phil Bredesen, Governor
and
Members of the General Assembly
State Capitol
Nashville, Tennessee 37243

and
The Honorable Dave Goetz, Commissioner
Department of Finance and Administration
State Capitol
Nashville, Tennessee 37243

Ladies and Gentlemen:

Transmitted herewith is the financial and compliance audit of the Department of Finance and Administration for the period July 1, 2003, through March 31, 2005.

The review of internal control and compliance with laws, regulations, and provisions of contracts and grant agreements resulted in certain findings which are detailed in the Objectives, Methodologies, and Conclusions section of this report.

Sincerely,

John G. Morgan
Comptroller of the Treasury

JGM/th
05/046



STATE OF TENNESSEE
COMPTROLLER OF THE TREASURY
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DIVISION OF STATE AUDIT

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June 2, 2005

The Honorable John G. Morgan
Comptroller of the Treasury
State Capitol
Nashville, Tennessee 37243

Dear Mr. Morgan:

We have conducted a financial and compliance audit of selected programs and activities of the Department of Finance and Administration for the period July 1, 2003, through March 31, 2005.

We conducted our audit in accordance with *Government Auditing Standards*, issued by the Comptroller General of the United States. These standards require that we obtain an understanding of internal control significant to the audit objectives and that we design the audit to provide reasonable assurance of the Department of Finance and Administration's compliance with laws, regulations, and provisions of contracts and grant agreements significant to the audit objectives. Management of the Department of Finance and Administration is responsible for establishing and maintaining effective internal control and for complying with applicable laws, regulations, and provisions of contracts and grant agreements.

Our audit disclosed certain findings which are detailed in the Objectives, Methodologies, and Conclusions section of this report. The department's administration has responded to the audit findings; we have included the responses following each finding. We will follow up the audit to examine the application of the procedures instituted because of the audit findings.

We have reported other less significant matters involving the Department of Finance and Administration's internal control and instances of noncompliance to the department's management in a separate letter.

Sincerely,

Arthur A. Hayes, Jr., CPA
Director

AAH/th

State of Tennessee

Audit Highlights

Comptroller of the Treasury

Division of State Audit

Financial and Compliance Audit
Department of Finance and Administration
February 2007

AUDIT SCOPE

We have audited the Department of Finance and Administration for the period July 1, 2003, through March 31, 2005. Our audit scope included a review of internal control and compliance with laws, regulations, and provisions of contracts and grant agreements in the areas of the Division of Mental Retardation Services' contract management, the Bureau of TennCare's cost allocation, payment card usage, the Division of Mental Retardation Services' personnel procedures, the developmental centers' operations, the systems development fund, miscellaneous issues, and the Financial Integrity Act. The audit was conducted in accordance with *Government Auditing Standards*, issued by the Comptroller General of the United States. Tennessee statutes, in addition to audit responsibilities, entrust certain other responsibilities to the Comptroller of the Treasury. Those responsibilities include serving as a member of the board of directors of the Local Education Insurance Committee, Local Government Insurance Committee, State Building Commission, State Insurance Committee, Information Systems Council, and TennCare Prescription Drug Committee; approving accounting policies of the state as prepared by the state's Department of Finance and Administration; approving certain state contracts; participating in the negotiation and procurement of services for the state; providing support staff to various legislative committees and commissions; and developing policy guidelines for the overall management of the state's information systems.

AUDIT FINDINGS

The Division of Mental Retardation Services Has Inadequate Controls Over the \$18,508,197 Contract With the Community Services Network of West Tennessee and Has Failed to Seek Available Federal Reimbursement of Over \$2,400,000*

The division has not followed the contract provisions, has not reviewed support for

claims, has not established an appropriate mechanism to obtain federal financial participation on allowable claims, has inappropriately reallocated significant contract expenditures to a Departmental Purchase Authority, and has not monitored administrative expenditures (page 8).

The Division of Mental Retardation Services Has Inadequate Controls Over Other Contracts*

The division does not have adequate internal control over other contracted arrangements. Supporting documentation for contract payments was not always properly approved, documentation was not always available or did not agree to the amounts billed or paid, and the division's provider agreements directed the providers to follow a provider manual that had not been completed (page 12).

Documentation for Waiver Services Was Inadequate*

Contract payments for services related to the Home and Community Based Services waiver were not in compliance with the cost plans, and client files for waiver service recipients did not include all required documentation (page 14).

The Process for Obtaining Reimbursement of Waiver Services From TennCare Is Inadequate, Resulting in Untimely Reimbursement or Possible Loss of Federal Revenue*

The process for obtaining reimbursement for waiver services from TennCare is inadequate, resulting in conflicting rates and denied claims or pended claims. Also, the waiver expenditures incurred through the Community Services Network contract have not been submitted for reimbursement from TennCare (page 16).

The Division of Mental Retardation Services Has Arbitrarily Paid Over \$4,000,000 for Housing Subsidies Without Rules for Eligibility

There are no written policies or procedures to provide the housing subsidies equitably to all eligible clients or to regulate the total state funds spent to provide this supplement. (page 19).

Because Internal Controls Over the Community Services Tracking System Are Inadequate, There Is an Increased Risk of Fraudulent Transactions

Multiple security controls were weak and access capabilities of the employees were inappropriate. There is not an adequate control mechanism for detecting and correcting data-entry mistakes involving service-contract payments. In addition, the division does not maintain adequate and updated system documentation (page 21).

State Purchasing Policies and Procedures Were Not Followed

Payment card purchases did not always comply with purchasing policies and procedures and did not always maximize state dollars. Employees purchased items with the card that should have been purchased from the statewide contracts (page 25).

Personnel Files Were Incomplete**

Current and complete personnel files were not maintained. The files did not include documentation required by the federal government, state law, and the Department of Personnel (page 28).

The Division of Mental Retardation Services Still Has Improper Employer-Employee Relationships**

Management has contracted with agencies to provide individuals that are directly supervised by state employees and to provide contract employees that supervise state employees. These contract employees function much in the same manner as state employees (page 30).

Internal Control Over Resident Trust Funds at Clover Bottom Developmental Center is Inadequate

Funds are withdrawn from the residents' accounts for long periods of time with minimal internal control. Controls over the purchased items were also weak.

Accounting duties related to the funds are not adequately segregated (page 32).

Risks of Fraud and Abuse Regarding Equipment Have Not Been Addressed at the Arlington Developmental Center, and the Center Continues to Maintain Inadequate Records of Equipment**

Equipment items could not be located, locations listed in the equipment records were not correct, and state tags were missing. Also, the department did not follow proper procedure for reporting lost, stolen, or destroyed equipment (page 35).

* This finding is repeated from the prior audit.

** This finding is repeated from prior audits.

As Noted Since the June 30, 2002, Audit, the Division of Mental Retardation Services Still Does Not Follow the Established Conflict-of-Interest Policy**

The division has not followed the Department of Finance and Administration's conflict-of-interest policy (page 36).

The DMRS Administrator Overbilled Mileage and Was Uncooperative With Our Review; Moreover, the DMRS Deputy Commissioner Failed to Appropriately Monitor the Administrator's Work Activities or Review Her Travel Claims Submitted to Him for Reimbursement

The Administrator in the Division of Mental Retardation claimed unrealistic mileage amounts. The travel claims were not reviewed carefully and were paid. Also, the travel was not correlated to work assignments, and the Administrator's work assignments were not monitored (page 44).

Financial and Compliance Audit

Department of Finance and Administration

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Financial and Compliance Audit Department of Finance and Administration

INTRODUCTION

POST-AUDIT AUTHORITY

This is the report on the financial and compliance audit of the Department of Finance and Administration. The audit was conducted pursuant to Section 4-3-304, *Tennessee Code Annotated*, which requires the Department of Audit to “perform currently a post-audit of all accounts and other financial records of the state government, and of any department, institution, office, or agency thereof in accordance with generally accepted auditing standards and in accordance with such procedures as may be established by the comptroller.”

Section 8-4-109, *Tennessee Code Annotated*, authorizes the Comptroller of the Treasury to audit any books and records of any governmental entity that handles public funds when the Comptroller considers an audit to be necessary or appropriate.

BACKGROUND

The mission of the Department of Finance and Administration is to provide financial and administrative support services for all facets of state government. The business, finance, and managerial functions of state government are centralized here. The department prepares and executes the state budget, accounts for state revenues and expenditures, operates a central data processing center, plans and reviews construction and alteration of state buildings, and controls state-owned and leased property. Also, as a result of Executive Orders, the department is responsible for the state’s TennCare program and the state’s Mental Retardation Services, including its developmental centers.

In addition to TennCare and the Division of Mental Retardation services, the Department of Finance and Administration contains eight divisions: Accounts, Administration, Budget, Real Property Administration, Insurance, Office for Information Resources, Resource Development and Support, and the Office of Inspector General.

The Division of Mental Retardation Services is responsible for providing services to Tennesseans of all ages with mental retardation and other developmental disabilities. The division oversees three regional offices which coordinate services to individuals in the community, and the operation of the three developmental centers (Arlington in the west, Clover Bottom in the middle, and Greene Valley in the east).

The Division of Mental Retardation Services currently serves 678 individuals in the developmental centers and 6,768 individuals in the community. The 6,768 individuals in the

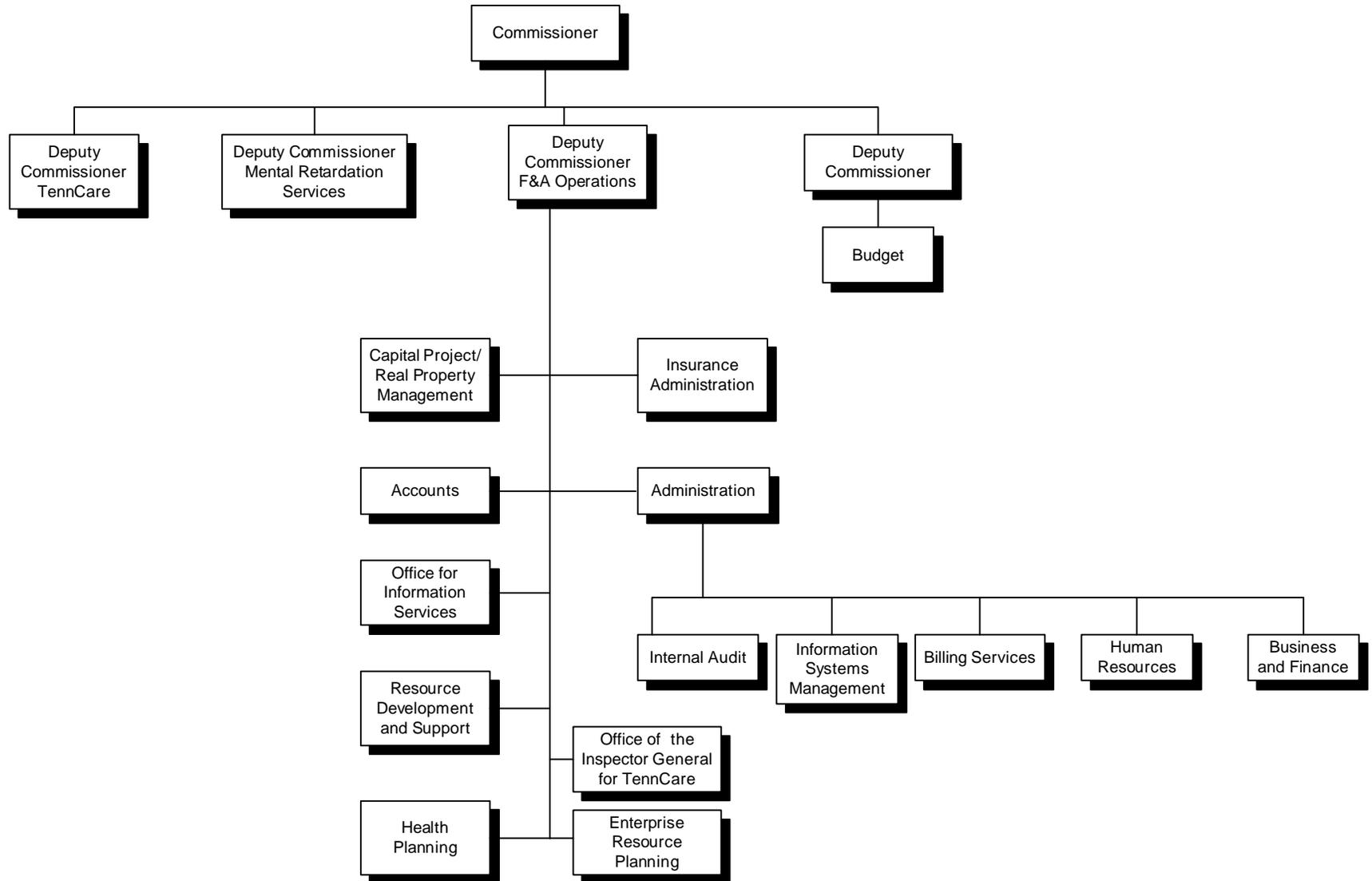
community include 60 people funded by the self-determination waiver interim supports. Of the total number served, approximately 4,684 are served through the Medicaid waiver. As of February 28, 2005, there were 3,761 people on the waiting list for the waiver services. This includes individuals who are not currently receiving any services as well as those waiting for specifically requested services that are not yet available. The division currently operates under four court orders/agreements: *United States v. State of Tennessee* (Arlington Remedial Order), *People First v. Clover Bottom et al.* (Settlement Agreement), Revised Consent Decree Governing TennCare Appeals (Grier Lawsuit), and *Beth Ann Brown et al. v. Tennessee Department of Finance and Administration* (Waiting List – Agreed Settlement currently being implemented).

Organization charts of the Department of Finance and Administration are on the following pages.

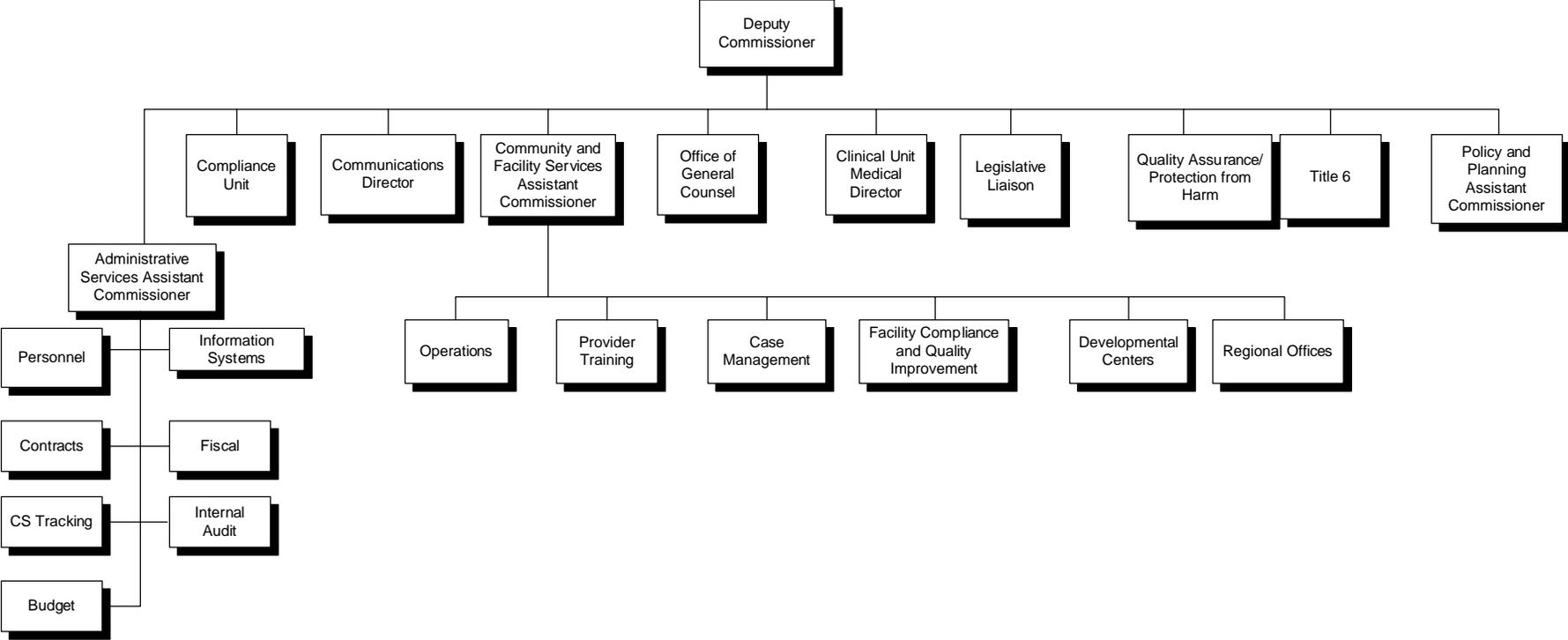
AUDIT SCOPE

We have audited the Department of Finance and Administration for the period July 1, 2003, through March 31, 2005. Our audit scope included a review of internal control and compliance with laws, regulations, and provisions of contracts and grant agreements in the areas of the Division of Mental Retardation Services' contract management, the Bureau of TennCare's cost allocation, payment card usage, the Division of Mental Retardation Services' personnel procedures, the developmental centers' operations, the systems development fund, miscellaneous issues, and the Financial Integrity Act. This audit did not include certain other areas material to the *Tennessee Comprehensive Annual Financial Report* for the year ended June 30, 2005, and the Tennessee Single Audit for the same period. The results of our audits for those areas, including the Medical Assistance Program (Medicaid/TennCare), the State Children's Insurance program (SCHIP), and the statewide controls administered by the Department of Finance and Administration, will be reported in the Tennessee Single Audit Report. The audit was conducted in accordance with *Government Auditing Standards*, issued by the Comptroller General of the United States. Tennessee statutes, in addition to audit responsibilities, entrust certain other responsibilities to the Comptroller of the Treasury. Those responsibilities include serving as a member of the board of directors of the Local Education Insurance Committee, Local Government Insurance Committee, State Building Commission, State Insurance Committee, Information Systems Council, and TennCare Prescription Drug Committee; approving accounting policies of the state as prepared by the state's Department of Finance and Administration; approving certain state contracts; participating in the negotiation and procurement of services for the state; providing support staff to various legislative committees and commissions; and developing policy guidelines for the overall management of the state's information systems.

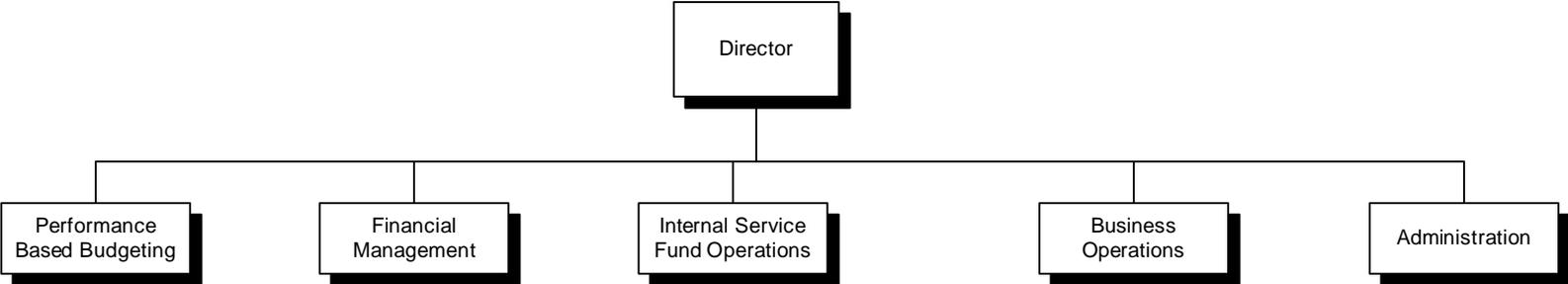
Department of Finance and Administration Organization Chart



Division of Mental Retardation Services Organization Chart



**Finance and Administration
Office of Business and Finance
Organization Chart**



PRIOR AUDIT FINDINGS

Section 8-4-109, *Tennessee Code Annotated*, requires that each state department, agency, or institution report to the Comptroller of the Treasury the action taken to implement the recommendations in the prior audit report. The Department of Finance and Administration filed its report with the Department of Audit on April 14, 2004. A follow-up of all prior audit findings was conducted as part of the current audit.

RESOLVED AUDIT FINDING

The current audit disclosed that the Department of Finance and Administration has corrected the previous audit finding concerning the lack of an approved cost allocation plan.

REPEATED AUDIT FINDINGS

The prior audit report also contained findings concerning inadequate controls over the contract with the Community Services Network of West Tennessee Inc., inadequate controls over other contracts, inadequate documentation for waiver services, not maximizing federal financial participation, incomplete personnel files, improper employer-employee relationships, inadequate recordkeeping for equipment at Arlington Developmental Center, and the lack of a division-wide conflict-of-interest policy. These findings have not been resolved and are repeated in the applicable sections of this report.

OBJECTIVES, METHODOLOGIES, AND CONCLUSIONS

DIVISION OF MENTAL RETARDATION SERVICES' CONTRACT MANAGEMENT

The objectives of our review of the controls and procedures over contract management were to determine whether

- internal control over contracts and reimbursement of federal financial participation from TennCare was adequate;
- proper support was maintained by the department for contract payments;
- payments to the Community Services Network of West Tennessee (CSN), Guardian Healthcare Providers, Inc., and other direct service providers were properly supported and allowable;

- payments to CSN for credit card charges were reasonable;
- internal control over payments to CSN was adequate;
- direct services paid were authorized by an approved cost plan;
- documentation for waiver services was adequate;
- policies and procedures for housing supplements were adequate; and
- the internal controls related to the direct service provider payment system (Community Services Tracking System) were adequate.

We interviewed key personnel and reviewed rules and policies to gain an understanding of the division's procedures and controls over contract management and the reimbursement process from TennCare for waiver services. We selected a nonstatistical sample of contract payments for the period July 1, 2003, through November 30, 2004, to determine if the contract payments were approved for payment and appropriate support was retained by the department. We also selected a nonstatistical sample of DMRS payments focused on the providers other than CSN and Guardian that received the largest total payments for the period July 1, 2003, through November 30, 2004, and a nonstatistical sample of Guardian payments for the same time period. We gathered support from the providers for particular payments on behalf of the certain clients to determine if the services provided were allowable and supported. We obtained all financial records for administrative, credit card, and medical payments for the Community Services Network and reconciled those payments to the state records. Next, we selected separate nonstatistical samples of CSN administrative and medical payments to determine if such payments were properly supported and for allowable services. Applicable transactions in the above samples were reviewed to determine if direct services were authorized by an approved cost plan. To determine if internal control over CSN payments was adequate, we interviewed key state officials. Furthermore, we reviewed all of the CSN credit card transactions for reasonableness. For all waiver services tested in the above samples, each client's file was reviewed to determine if adequate documentation was present to support eligibility for waiver services.

To review the process for requesting federal financial participation through TennCare, we obtained a listing of all the waiver services provided from July 1, 2003, through December 31, 2003, maintained in the Community Service (CS) Tracking system. We compared the amount the division paid the providers for the waiver services and the amount of funds that could have been submitted to TennCare based on the services. We also examined records to determine the amount that actually was submitted to TennCare for the services.

We interviewed key officials about the housing supplements paid to clients to determine related policies and procedures. A listing of all housing supplement payments was obtained and summarized by client and by service period to determine if one client had received more than one payment for a given service period. Furthermore, the listing was sorted by payment amount to determine the clients that receive the highest dollar amounts per month of housing subsidies to determine the justification for such amounts. Lastly, key officials were interviewed about the direct service payment system (CS Tracking) to determine if controls over the system were adequate.

Based on our interviews and testwork, we determined that controls over contract management were not adequate. Multiple deficiencies were noted including the lack of proper support for payments to contractors. Direct services paid were not always authorized by an approved cost plan, and although credit card payments appeared reasonable, there was a general lack of control over payments to CSN. The CSN weaknesses are detailed in finding 1, and other weaknesses, including those related to Guardian, are detailed in finding 2. We also determined that documentation for waiver services was inadequate, as discussed in finding 3, and the division has an inadequate process for obtaining reimbursement from TennCare, as noted in finding 4. Furthermore, management has not developed standard policies and procedures for housing supplements, as noted in finding 5. Also, the CS Tracking system has multiple internal control deficiencies as noted in finding 6.

1. The Division of Mental Retardation Services has inadequate controls over the \$18,508,197 contract with the Community Services Network of West Tennessee and has failed to seek available federal reimbursement of over \$2,400,000

Finding

As noted in the prior audit, the Department of Finance and Administration, Division of Mental Retardation Services, has not implemented adequate controls over the contract with the Community Services Network of West Tennessee, Inc. (CSN). In the prior audit, management concurred with the finding and stated, “We concur that the contract arrangement with Community Services Network is problematic. We are currently in negotiations with the agency to re-evaluate the form and substance of the contract and to redesign the payment methodology.” In a follow-up report dated April 12, 2004, the Deputy Commissioner stated that DMRS was in the process of revising the CSN contract, had hired a full-time director of contracts and additional accounting staff, and had begun meetings with management of CSN to enable the state to request federal financial assistance. However, it appears that the division made little progress in correcting the controls over this contract. The contract provisions did not significantly change and the plans to enable the state to request federal financial assistance were not completed. The division did correct previously noted problems related to CSN administrative fees, but it was noted in the current audit that the division again has not followed the contract provisions, has not reviewed support for claims, has not established an appropriate mechanism to obtain federal financial participation on allowable claims, has inappropriately reallocated significant contract expenditures to a Departmental Purchase Authority (DPA), and has not monitored administrative expenditures by CSN. Also, a CSN board member has a potential conflict of interest.

CSN was incorporated in March 2000, under the direction of a federal court monitor and the assistance of outside consultants. CSN began operations in September 2000 after the federal court approved the CSN grant contract with the State of Tennessee. CSN coordinates and pays for health and behavioral services for and support of the Arlington class members living in the community who choose to become clients of CSN. CSN’s mission statement is, “CSN is dedicated to improving the quality of life for individuals with developmental disabilities living in the community, through the coordination of medical, health and behavioral services and supports.” The \$18,508,197 contract was for services provided for a five-year period. For the

period reviewed, July 2003 through December 2004, there were approximately 225 class members that received services through CSN. Total payments to CSN for the same period totaled approximately \$13,844,258. This averages \$61,530 per class member for that 18 month period.

The original contract included three payment provisions, one of which was that the Division of Mental Retardation Services pay CSN \$603.50 per month for each class member who was eligible to receive and did receive certain defined services. However, in calendar year 2000, the division began paying CSN for actual expenditures related to class members, which were significantly higher than the contract amount. The contract was never amended to reflect this change in payment methodology. Moreover, the amendments to the contracts that extended the terms through June 30, 2003, kept the same payment methodology wording but increased the amount to \$627.64 per month, even though the division was paying actual costs. The payment methodology for these services was not subsequently amended to define payment methods for the years ended June 30, 2004, or June 30, 2005. Therefore, there was not a contractual payment methodology for the state to pay for these defined services. The actual amount paid per month for the defined services averages approximately \$1,750 per class member, or 179% more than under the contract.

To ensure timely payments to CSN for actual costs, the Division of Mental Retardation Services established a zero-balance bank account to reimburse CSN for its expenditures. This method of payment is contradictory to the portion of the contract that states, “the Grantee agrees to provide the State with monthly invoices, with all of the necessary supporting documentation, in a form acceptable to the State, prior to any reimbursement of allowable costs.” This allows CSN to automatically be reimbursed from state funds as checks written from CSN’s account clear the bank. Therefore, the division is still not reviewing support for the expenditures before they are paid. On a monthly basis, CSN submits to the state a summary of administrative expenditures and an electronic data file of all medical claims paid during the month. CSN has submitted the data in a form that the Division of Mental Retardation Services has determined is too labor-intensive for manual addition to the Community Services System (CS Tracking), the division’s claim system, and the division has not been able to establish an automated method to process claims information received from CSN. Also, the division has chosen not to review the data in the format received. Therefore, the claims information again has not been reviewed and was not tracked in the division’s claims system.

The Division of Mental Retardation Services is also responsible, per the second payment provision covered in the contract, for administering funds related to the Home and Community Based Services Waiver for the Mentally Retarded and Developmentally Disabled (HCBS waiver), which is a waiver from normal Medicaid regulations. HCBS waiver expenditures are tracked through CS Tracking, and the information from CS Tracking is used to request federal financial participation. Although CSN pays for services that would be eligible for federal financial participation under the HCBS waiver, the division has not made it a priority to regularly process that information on CS Tracking. The information currently has to be manually entered to get on CS Tracking. Instead of manually entering the information or finding another way to convert the data, DMRS has simply left the information off of CS Tracking and has not sought reimbursement for those allowable expenditures. Based on information received from CSN,

\$3,819,398 was spent on waiver-related services in the period July 1, 2003, through December 31, 2004. Federal financial participation for the 2004 and 2005 waiver-related services would have exceeded \$2,400,000. This does not include the more than \$2,000,000 of state funds noted in the prior audit that have not been reimbursed with federal funds. Management stated that they were in the process of trying to obtain the information from CSN to be able to bill TennCare for amounts expended in 2005; however, as of the end of April 2005, this had not been accomplished.

Also, in a prior year, CSN had a primary contract with the Division of Mental Retardation Services as well as a provider agreement contract under the division's Departmental Purchase Authority (DPA), which allows the division to contract with various providers using standard wording without having to go through the review of the Department of Finance and Administration, Office of Contract Review, each time. Waiver services were to be billed under the DPA, with all of the same terms and conditions that other providers are subject to, while other expenditures were assigned to the primary contract. During the year ended June 30, 2004, CSN did not have a provider agreement under the DPA. However, CSN has substantially exceeded the amount of the primary contract. The contract amount for the year ended June 30, 2004, was \$3,701,350, but total payments made to CSN were over \$9,000,000. As noted in the prior audit and again during the year ended June 30, 2004, as CSN has gotten close to exceeding the expenditures allowable in the primary contract, the division transferred some of the excess charges to the DPA, even though CSN no longer had a provider agreement under the DPA. Transfers of approximately \$5,700,000 were made from the contract to the DPA to reduce the amount of expenditures related to this contract for the year ended June 30, 2004. The funds spent by CSN over the contract amount and the transfer of funds to the DPA, as well as the use of estimates in this process, were inappropriate. For the year ended June 30, 2005, the division did obtain a signed provider agreement from CSN and charged all expenditures that were paid through the zero-balance bank account to this provider agreement rather than to the CSN contract. The DPA limits the kinds of services to be provided under the provider agreement. However, per the contract CSN is allowed to provide services other than those listed on the DPA, such as nursing case management and pharmacy services. Therefore, the division is paying CSN through the provider agreement for services that would be allowable under the CSN contract, but not allowable under the provider agreement.

In addition, the third payment provision of the CSN contract states that DMRS is responsible for CSN's administrative costs. This provision states that "the grantee shall be compensated for actual, reasonable, and necessary cost" and that "the Grantee agrees to provide to the State monthly reports regarding administrative expenses in a form acceptable to the State." It was noted during the current audit that CSN was providing DMRS management a monthly report of administrative expenditures. However, DMRS had not performed any type of monitoring of CSN to ensure these expenditures were actual, reasonable, or necessary.

Furthermore, as reported in the prior audit and in CSN's independent auditor's report for the year ended June 30, 2004, an officer of CSN that is a member of the CSN's executive committee is also CSN's legal counsel. In addition, this individual has a conflict of interest as a member of a law firm that also provides legal counsel to a member of CSN's provider network.

This could raise questions about transactions between CSN, on behalf of the Division of Mental Retardation Services, and the provider.

Because the Division of Mental Retardation Services once again has not adequately monitored CSN's compliance with the contract, the division still has no reviewed support for payments made to CSN. CSN has the ability to make payments for non-state or personal expenses with state funds and the division would not likely discover the fraudulent payments. As in past years, division management have lost federal financial participation associated with payments. The division has again greatly exceeded the dollar amount of services permitted by the CSN contract and has charged those services to the DPA. Many of those services are not allowable under the terms of the DPA. By doing so, the division has circumvented the state's controls over the contract process. The division has not properly amended the contract to include payment methodology for certain services. In addition, the continuing potential conflict of interest could give the appearance that certain arrangements may not be in the best interest of the state.

Recommendation

The Commissioner of Finance and Administration should determine why improvements were not made over internal controls for the CSN contract as were recommended in the prior audit. The Deputy Commissioner should take immediate steps to amend the contract with CSN to reflect the actual payment responsibilities of the state. The Commissioner should determine why a method to obtain CSN expense information in an acceptable form was not developed and ensure that one is developed immediately. The zero-balance bank account arrangement should be reviewed, and any other such arrangements should be reassessed and approved by the Commissioner.

The Commissioner should determine why Division of Mental Retardation Services staff have not been reviewing claims information for each class member before the claims are paid and ensure that reviews are made in the future. The Deputy Commissioner should require CSN to track actual HCBS waiver expenditures and submit the support for such waiver expenditures in a form acceptable to the state to obtain federal financial participation. The Commissioner should determine why contract limits have been exceeded and why unallowable expenditures are now being charged to the DPA. The Deputy Commissioner should ensure monitoring of CSN administrative expenditures is performed on a regular basis. Finally, the Deputy Commissioner should ensure that all potential conflicts of interest are eliminated.

Management's Comment

Management concurs. Based on the recommendations of the auditors, DMRS has done the following:

- Required CSN to sign a valid provider agreement as of July 1, 2005 and to submit claims through CS Tracking. These claims are eligible for federal financial participation and are being collected on a routine basis from TennCare.
- DMRS monitors are conducting annual reviews of CSN (beginning with calendar year 2005) to ensure that the state is receiving the services for which it is paying and to ensure that administrative costs are reasonable and necessary.
- The DPA for HCBS has been changed to include all services that CSN is authorized to provide.

2. The Division of Mental Retardation Services has inadequate controls over other contracts

Finding

In addition to the Community Services Network (CSN) contracting issues noted in finding 1, the Division of Mental Retardation Services does not have adequate internal control over other contracted arrangements. These issues were noted in the prior audit. Supporting documentation for contract payments was not always properly approved, was not always available or did not agree to the amounts billed or paid, and the division's provider agreements directed the providers to follow a provider manual that had not been completed.

Management concurred with the prior audit finding by saying the division was in the process of redesigning its contract services operations, so that these issues would be immediately addressed. In addition, management stated that the division was in the process of rewriting, and having approved by TennCare, a provider manual that would clearly outline the requirements to which community providers would be held accountable. However, problems with contracts still remain and the provider manual was not completed and approved until March 13, 2005.

Contract payments made to Guardian Health Providers, Inc. were not adequately supported and approved. The Division of Mental Retardation Services (DMRS) contracted with Guardian Health Providers, Inc. for nursing services provided to individuals living at Arlington Development Center (ADC) and class members who were served by the West Tennessee Regional Office. The Division maintained two nursing contracts with Guardian during the period of our audit from July 1, 2003, through March 31, 2005. One contract provided DMRS up to 22 full-time nurses, on an as-needed basis, to work at ADC. The second contract provided the division ten nurses to work at ADC and the West Tennessee Regional Office. The review of 51 time sheets for nursing services billed to DMRS by Guardian revealed that 6 timesheets (12%) did not agree with employee's sign-in sheets, 10 other time sheets (21%) did not have supporting sign-in sheets, and one (2%) was not properly approved by ADC's Director of Nursing. In these cases, the state could have been billed for services that were not performed. In addition, one of 60 Guardian invoices tested (2%) was not properly approved by the nursing management. All of these mentioned discrepancies are related to contract FA0214664, which states, "Each contract nurse at ADC must sign in and out the time they report to or from duty. Each timesheet or sign in sheet must be verified by ADC's Director of Nursing or her designee.

Contractors will be paid ONLY for the hours worked and verified by ADC.” In addition this contract states, “The Contractor shall submit invoices . . . with all of the necessary supporting documentations prior to any payment. Such invoices shall, at a minimum, include the number of actual hours worked during the period which shall be validated by ADC Nurse Management signatures”

In addition, a sample of 60 contract payments to certain other providers was reviewed for adequate documentation of the services provided and billed. The providers included Independent Opportunities, Inc.; Omni Visions, Inc.; Pacesetters, Inc.; Preferred Alternatives of Tennessee; Shelby County Residential and Vocational; Sunrise Community; and Volunteers of America of Tennessee. Testwork on \$279,038 of the payments indicated that the number of service units billed by the provider on six payments (10%) exceeded that on supporting documents or were not supported. These errors totaled \$380 in overbillings. In addition, one of the payments made by DMRS exceeded the units billed by the provider. This error resulted in an additional overpayment of \$74. According to service provider agreements, providers are required to maintain adequate supporting documentation for the service units billed.

We also reviewed contracts between CSN and various providers of goods and services for the clients of CSN. Testwork involving CSN payments indicated that for 8 of 60 payments (13%), adequate support could not be located. These included one instance where the provider had gone out of business; two instances where charges for travel time could not be substantiated; one instance where the provider charged for travel, but no documentation of the visit could be located in the client’s file; and four instances where the provider could not provide documentation of the Medication Administration Record.

Furthermore, DMRS was granted a Special Delegated Authority by the department’s Office of Contract Review, effective January 1, 2005, to contract through provider agreements with many different service providers across the state. These provider agreements direct the providers to follow the department’s provider manual. However, the provider manual was not published until March 13, 2005.

Each state agency is responsible for the effective management of all of its contracts. The *Rules of the Department of Finance and Administration* state that each agency should implement management practices related to contracts as necessary to ensure accountability. However, as indicated by the issues disclosed in this finding, accountability has been lacking. This could result in overpayments for services received or payment for services not received.

Recommendation

The Commissioner should review the controls related to contract payments to determine why payments were made to providers when properly approved supporting documentation did not exist. The Commissioner should also recover the costs of unsupported services. The Deputy Commissioner should determine why employees did not carryout their assigned internal control functions of reviewing and approving supporting documentation in advance of payments. Appropriate disciplinary action should be taken where needed. The Deputy Commissioner

should initiate a comprehensive review of Guardian's time sheets and sign-in sheets, and follow up on any discrepancies.

Management's Comment

Management concurs. When the DMRS took over administrative duties from MHDD in 2004, one of the first requirements of the new central fiscal office to program staff was that someone had to manage and monitor work done on contracts. Each contract invoice submitted to the fiscal office for payment must have approval from the appropriate program individual. The approval signifies that to the best of his or her knowledge, the work for which the DMRS has been billed has been performed and is of satisfactory quality. Post-monitoring of these contracts is done by the monitoring section.

Auditor Comment

Management's response did not address the need for obtaining appropriate documentation prior to payment or the search for and recovery of unsupported costs already paid.

3. Documentation for waiver services was inadequate

Finding

As noted in the prior audit, contract payments for services related to the Home and Community Based Services (HCBS) waiver made by the Community Services Network (CSN) were not in compliance with the cost plans. In addition, client files for waiver service recipients did not include all required documentation.

Management concurred in part with the prior-year finding. However, management's comment to the prior-year finding was unresponsive to the issues that were noted again in the current audit.

The Division of Mental Retardation Services *Operations Manual* (later replaced by the *Provider Manual*) requires all services funded through the waiver and all services funded by the division (except Early Intervention and Family Support) to be preauthorized by the regional offices through the use of a service plan for each client. The approved service plan, or cost plan, is used as a mechanism to control costs within the Community Services System (CS Tracking), the system used to summarize claim payments and the system from which data is collected for federal financial participation requests. In addition, the *Operations Manual* states that certain information must be maintained for each person receiving waiver services to maintain Medicaid eligibility.

The division did not utilize CS Tracking to process payments for services and goods for CSN clients. The division has not invested the time necessary to convert CSN data to include in CS Tracking. Therefore, cost plans were not reviewed to determine if the requested goods or services were allowable. Failing to utilize the control mechanism within CS Tracking led to improper payments. The review of 25 payments made by CSN revealed that 9 services or goods purchased (36%) were not included in a cost plan on CS Tracking. The review of the remaining 16 payments for goods or services that were included in a cost plan indicated that the numbers of units paid in 2 payments (13%) exceeded those allowed by the cost plans, and the rates paid in 15 of 16 payments tested (94%) were higher than those stated on the cost plans.

In order to receive reimbursement for costs incurred in relation to waiver services, DMRS must ensure that the expenses were for financially eligible recipients. DMRS has contracted with the state's Department of Human Services (DHS) for the services of determining the financial eligibility of recipients for Medicaid coverage in order to facilitate reimbursement of costs covered by the Medicaid program. The *Operations Manual* states that financial eligibility of waiver recipients must be recertified every year. According to the *Operations Manual*, annual updates are automatically generated by DHS for those persons receiving cost-of-living increases to SSI and SSA benefits. Section 1.5.h of the *Provider Manual* published on March 13, 2005, that replaced the *Operation Manual* clearly states,

Unless the service recipient is actively receiving SSI Benefits, sufficient information must be provided to the DHS for determination of continuing financial eligibility to be made. When the re-determination/reapplication is due, the DHS will mail a Form 1860 to the designated representative payee. Upon receipt, the representative payee must complete the required forms and contact the appropriate DHS staff by telephone to complete an interview, during which, the service recipient's current income and resources will be verified. If the forms and interview are not completed in a timely manner, the DHS will determine the service recipient to be ineligible for continuation of Medicaid waiver services.

However, testwork of contract payments by CSN included five waiver-eligible recipients who were not active SSI members, and for two of these five members (40%), no income/resource recertification had been performed. Another review of waiver recipients who were not active SSI members and who were under the care of Independent Opportunities, Inc. (Mid. TN); Omni Visions, Inc. (Mid. TN); Pacesetters, Inc.; Preferred Alternatives of Tennessee; Shelby County Residential and Vocational; Sunrise Community (Mid. TN); and Volunteers of America of Tennessee found that no income/resource recertification was performed for 11 of 17 recipients (65%).

The purpose of having cost plans on CS Tracking is to improve the accuracy of service payments and to facilitate the reimbursement for waiver services incurred. Failure to utilize this control mechanism may lead to inaccurate and improper payments that could jeopardize the division's eligibility for reimbursement from TennCare. Likewise, failing to comply with Medicaid's requirements gives TennCare reasonable grounds to deny waiver services submitted for reimbursement. When such reimbursement requests are denied, state funds have already been used in lieu of the federal reimbursement.

Recommendation

The Deputy Commissioner should ensure that cost plans and CS Tracking are utilized by CSN in processing payments to service providers. In addition, the Commissioner should assign appropriate personnel to monitor and make sure that contractual duties for eligibility redeterminations are carried out by DHS.

Management's Comment

Management concurs. CSN is now required to adhere to service plans and bill through the CS Tracking system. DMRS monitors are reviewing samples of claims during each monitoring visit.

Auditor Comment

Management's response did not address eligibility redeterminations.

4. The process for obtaining reimbursement of waiver services from TennCare is inadequate, resulting in untimely reimbursement or possible loss of federal revenue

Finding

As noted in the prior audit, the process for obtaining reimbursement from TennCare for the Home and Community Based Services (HCBS) waiver and Arlington/West waiver is inadequate, resulting in conflicting rates and denied claims or pended claims. Also, the waiver expenditures incurred through the Community Services Network (CSN) contract have not been submitted for reimbursement from TennCare. Management concurred with the prior finding and stated that an effort was under way to "more closely align TennCare rates paid to the Division to those paid by the Division to providers." Management also stated that a plan would be implemented to reconcile waiver payments and to resubmit denied claims for reimbursement. Although the Division of Mental Retardation (DMRS) has started to implement mentioned corrective actions, the process has not been fully completed as of the end of the audit period March 31, 2005.

The division received federal reimbursement by virtue of cost settlements with TennCare on waiver services incurred up to June 30, 2002, with the exception of previously denied claims from July 1, 1996, to June 30, 2002. Even though the division has made this progress in addressing the problem, waiver services incurred after June 30, 2002, still have not been settled with TennCare. Furthermore, denied and pended claims have not been resolved so that they can be resubmitted or included in the settlement schedule for reimbursement. As a result, the division still has not optimized federal financial participation for HCBS waiver, Arlington/West waiver, and waiver expenditures incurred through CSN.

The HCBS waiver lists specific rates for each allowable service, which were the rates that TennCare used to reimburse DMRS. However, DMRS established rates for the various services paid to its providers that frequently differed from the approved TennCare rates. As a result, it was determined to obtain a listing of all the waiver services provided in the period from July 1, 2003, to December 31, 2003, and maintained in the Community Service (CS) Tracking system. This list indicated that the division paid providers approximately \$154,000,000 for waiver services incurred in this period. If the division had submitted all of the mentioned waiver services to TennCare for reimbursement and all of these were allowed by TennCare for reimbursement at TennCare's approved rates, then the division would have received \$145,000,000 for these same waiver services. Thus, the division would be paying approximately \$9,000,000 more to the waiver services providers than TennCare would have paid had they paid the providers directly with the approved rates. Furthermore, the review indicated that only approximately \$140,000,000 of waiver services was actually submitted to TennCare for reimbursement compared to the \$145,000,000 maximum reimbursable amount. The new rate structure designed to align TennCare rates paid to the division to those paid by the division to providers was not implemented until January 1, 2005.

In addition, due to the ineffectiveness of the reimbursement process in place during the audit period, DMRS did not receive reimbursement for all valid claims submitted. The division creates a computer file of claims to be reimbursed from TennCare. This file is sent to TennCare, where it is entered into the TennCare Management Information System (TCMIS). TCMIS performs a data match, and one of three results occurs: (1) the claim is approved and paid; (2) the claim is denied; or (3) the claim is placed into a pended status within the TennCare system. The division receives a report from TennCare detailing the number of claims paid and denied. However, the claims that are placed into a pended status are not reported to the division. Such claims are either approved or denied at a later time. As a result, the division still does not have effective procedures to track all claims sent to TennCare or to reconcile the reports to determine if the claims were appropriately handled or resolved. The division does not currently have knowledge of exactly how much money or how many claims are unpaid by TennCare. The review of waiver services previously mentioned indicated that approximately \$135,000,000 was actually reimbursed to DMRS by TennCare out of \$140,000,000 waiver services submitted for reimbursement. The unpaid claims may be valid waiver expenses that are simply missing some required information. Providers are required to submit claims within 12 months of the date of service. Without a tracking mechanism in place, such claims may sit idle until the allowable period of submission has passed. Furthermore, the volume of claims denied is such that the division is having difficulty reviewing and resubmitting the denied claims in a timely manner.

Management stated that an attempt to reconcile waiver payments and to resubmit denied claims for reimbursement was currently under way, but the process was not completed as of the end of March 2005. The division also proposed a cost-settlement calculation to TennCare for waiver services incurred in fiscal years 2003 and 2004. The cost settlement calculation methodology was to obtain reimbursement from TennCare of actual amounts DMRS paid providers for waiver services, net of the amount of claims denied by TennCare. As of May 20, 2005, TennCare has not approved the cost-settlement calculation prepared by DMRS for those years.

Also, as mentioned in finding 1, CSN has incurred valid waiver expenses under its contract that are not entered in the CS Tracking system. CSN sends an electronic file of all claims paid to the division; however, the division management has not developed a process to enter this data into the CS Tracking system. Thus, DMRS staff have been unable to obtain reimbursement from TennCare for those eligible expenditures.

The lack of effective processes over the waiver service payment and reimbursement cycle led to untimely reimbursement received from TennCare and possible loss of federal revenues. Federal financial participation is available to match the state costs related to the HCBS waiver. When federal dollars are not maximized or not received timely, the state and the state's taxpayers are forced to bear the additional costs related to such expenditures or the opportunity costs of lost interest.

Recommendation

The Commissioner should take action to expedite the reconciliation process so that claims submitted to TennCare, claims approved, claims denied, and pending claims can be determined with acceptable accuracy. The Commissioner should closely monitor and evaluate the progress of the resubmission of denied claims for reimbursement and should ensure that division staff fulfill that responsibility and are held accountable for failure to do so. The Commissioner should also determine why a process has not been put in place to obtain reimbursement from TennCare for eligible waiver services provided by CSN and hold responsible parties accountable. Furthermore, the Deputy Commissioner should ensure that a process is immediately developed to request reimbursement for the eligible expenditures to CSN.

Management's Comment

Management concurs. The DMRS now requests reimbursement monthly from TennCare through a HIPAA-compliant automated system. Amounts submitted to TennCare from CS Tracking are reconciled to STARS. Also, the DMRS established a group in March 2005 to reconcile, correct, and resubmit HCBS claims denied by TennCare. The efforts of this group have resulted in an increased number of successfully processed claims. The DMRS is now able to determine which claims have been paid, which have been denied, and which are in a pending file, enabling staff to reconcile amounts submitted to amounts reimbursed.

The issues in this finding regarding federal financial participation were addressed in the DMRS response to finding 1 above.

5. The Division of Mental Retardation Services has arbitrarily paid over \$4,000,000 for housing subsidies without rules for eligibility

Finding

The Division of Mental Retardation Services (DMRS) pays providers for many types of services for its eligible clients. One of the payment types made to these providers is referred to as housing subsidies. These subsidies are to help supplement room and board costs (i.e., rent or mortgage payments, food, etc.). This is a fully state-funded subsidy and is provided in addition to what the provider may be receiving for the clients' needs from social security. The division pays the subsidy to the direct service provider, who subsequently pays for the mortgage or rent of the client. There are no written policies or procedures to provide this subsidy equitably to all eligible clients. In addition, there are no written policies or procedures to regulate the total state funds spent to provide this supplement.

There are no federal or state requirements for the state to provide this supplement. DMRS staff indicated that MR Housing was added as a solution to satisfy lawsuits the division has been involved in over several years. However, management never provided any documentation where the courts specifically ordered this subsidy or explained who would be required to receive the subsidy.

DMRS staff stated that when a client requests the housing subsidy, an employee performs a calculation that determines the client's need for assistance. However, it was noted that calculations are not always performed and the results of the calculations are not always followed. In addition, DMRS staff confirmed that if there are two or more individuals with similar income and similar medical needs that request the subsidy, one might receive the housing supplement and one might not. Furthermore, it was confirmed that the clients that are class members of the lawsuits receive priority. Based on a January 2005 list of housing subsidy payments, there were 899 clients that received housing subsidies. Some clients lived with one or more other clients, but approximately half of these clients lived in a dwelling by themselves at greater expense to the state.

DMRS management explained that they have decided that clients can be approved for the housing subsidy when their expenses exceed their ability to pay for their living expenses. Property is either purchased by the client or rented by the client. Also, any necessary modifications to the property to accommodate the client's needs (i.e., wheel chair ramps, roll-in showers, widened doorways) are paid for by DMRS. Once the modifications are completed and the client has moved into the housing, it is subsequently difficult and/or expensive to move the client into other housing not having the modifications. Therefore, in the situation when a property is rented, the landlord can raise the rent without the fear of DMRS moving the client into other housing. Eventually the state could be paying rent at above-market rates for many years, and the client and/or the state would have no asset. Based on review of the amounts paid, housing subsidies of over \$900 per month were provided to help pay for rents or mortgages over \$900 on behalf of 14 residents, which totaled \$220,573 for the period of July 1, 2003, to February 28, 2005. Some of these properties were viewed and the cost and appraisal values were obtained. Based on review, in four cases these rents were paid for properties appraised at

\$90,500 to \$91,100. Rents exceeding \$900 per month seem excessive for these properties considering the appraisal amounts and the locations of the properties.

The highest housing subsidy paid for any one client in the month of January 2005 was \$1,587 per month for rent. The house was owned by the client's father. Prior to the audit period, this same house was being rented for \$1,100 per month.

In addition, housing subsidies for three of the shared units involved properties which housed two or three clients for a total of \$3,000 per month per dwelling. These three properties' 2005 tax appraisals indicated values of \$115,500, \$105,600, and \$94,500. These properties were purchased by Hearthwood Properties, LLC, and leased to the state for \$3,000 per month for 10 years. This special arrangement was entered into with the lessor to buy certain specially equipped properties that DMRS determined were necessary for their clients at rates above fair-market value. DMRS had to locate a lessor to purchase the properties for them since DMRS did not purchase properties in the name of the state and in this instance could not purchase the properties in the name of the clients. The lessor also had to make some additional modifications to the property, resulting in an inflated monthly lease. These arrangements had not been approved by the State Building Commission.

Furthermore, we obtained a list of all DMRS housing payments for the period July 1, 2003, through February 28, 2005, summarized by service period. Seven instances were noted when two DMRS housing payments were paid on behalf of a single individual for a single month.

If the division continues to provide this service without policies and procedures, additional legal matters could arise or, as more and more residents request the supplement or as the rents increase on the units already being utilized, costs will continue to escalate.

Recommendation

The Deputy Commissioner should review the division's current processes related to this service and develop standardized policies and procedures that address the division's position on these issues. Reasonable limits should be established. These policies and procedures should address situations in which rental property is involved to ensure that the state can limit how much a landlord can raise rent. The Deputy Commissioner should ensure that all long-term lease arrangements are approved by the State Building Commission. Duplicate payments should be recovered.

Management's Comment

Management concurs. The DMRS continues to work toward a viable set of rules for housing subsidies that takes into account the very limited income of most persons with mental retardation, the limited funding available for housing subsidies, equality of access to funding for subsidies, the expectations of the parties in the lawsuits, the availability of housing stock suitable

for people with special needs, and agreed upon reasonable and necessary costs for room and board.

Auditor Comment

Management's response did not address the recovery of duplicate payments.

6. Because internal controls over the Community Services Tracking System are inadequate, there is an increased risk of fraudulent transactions

Finding

Security and internal controls over the Community Services Tracking System (CS Tracking) are inadequate. Management stated that CS Tracking was not developed or implemented to support the current processes of the Division of Mental Retardation Services (DMRS). Furthermore, management stated that CS Tracking was originally intended to be a short-term fiscal system to generate monthly payments to Home and Community Based Service providers and to file claims with TennCare for Medicaid and State TennCare reimbursement. However, management has stated that over more than 10 years, rather than meet additional needs by developing an adequate system, this system has been adapted to try to track over 7,000 individuals receiving services and over 500 community agencies providing services. Management also stated that the system accounts for approximately \$34,000,000 of payments per month to these providers.

Our review of CS Tracking revealed that multiple security controls within the application were weak, and access granted to certain current and former employees should have been changed or revoked, but was not. We have not disclosed in this finding the specific vulnerabilities that could allow someone to exploit the state's systems. Disclosing those vulnerabilities could present a potential security risk by providing readers with information that might be confidential pursuant to Section 10-7-504 (i), *Tennessee Code Annotated*. We provided the department with detailed information regarding the specific vulnerabilities we identified as well as our recommendations for improvement.

Our review also revealed that the division does not have an adequate control mechanism for detecting and correcting data-entry mistakes involving service-contract payments. CS Tracking is used to generate and send paper turnaround documents to each provider. The provider is then responsible for completing the document with the total number of units of each service provided per individual. When the document is received back into the Central Office, an employee in the payment section manually enters the information into CS Tracking, which subsequently processes the payment. As long as the amount entered falls within the limits of the cost plan, the payment will be processed. As a result, human keying errors could create overpayments to providers, such as the \$74 overpayment noted in finding number 2. Reconciliations are not performed to ensure that the amount billed agrees to the amount paid. Additionally, the 12 employees that have access to key payment information also have the ability

to make adjustments. Adjustments bypass controls related to cost plan limitations and allow the user to enter any payment amount desired. The application is capable of producing error reports; however, these reports are not automatically generated and are not a requirement.

Finally, DMRS does not maintain adequate and updated documentation related to the application for users and programmers to follow. The application lacks the following documentation: (1) instructions for restarting the application and for backup and recovery, (2) comprehensive instructions for application users, (3) explanations of internally generated transactions and calculations, (4) flow charts and/or data flow diagrams, and (5) software security information. There are no current procedures for authorizing transactions and approving program changes, and evidence is not retained regarding tests of the program changes or management's periodic inspection of table file settings.

A lack of appropriate security could lead to faulty or fraudulent data in CS Tracking. Without adequate segregation of duties, inappropriate additions or changes could be made without being discovered. The risk of fraud is significantly increased when computer controls are weak. Data entry reconciliations and automatic generation of error reports are necessary to reduce improper payments. If the division does not maintain proper system documentation, users may unknowingly be performing functions improperly. Additionally, the lack of documentation regarding program changes and inspection of table files could cause problems within the system that may result in temporary or permanent shutdowns.

Recommendation

The Deputy Commissioner should ensure that adequate security controls are established within CS Tracking. Employee access to CS Tracking should be reviewed and modified. The Deputy Commissioner should implement controls to reconcile billings to actual payments to avoid overpayments. The Deputy Commissioner should also ensure that appropriate documentation related to CS Tracking be maintained and kept up-to-date. Program changes and table files should be reviewed and documented.

Management's Comment

Management concurs.

DMRS is addressing the general inadequacy of the CS tracking system by replacing it, as evidenced in the Integrated Services Information System and its Services Accounting Module projects in the three-year information systems plan. To date, the paper-based provider current billing process has already been replaced with an on-line electronic process, eliminating the opportunity for keying errors. DMRS Information Technology (IT) is currently working on an additional component for the Provider Claims Processing application that will enable providers to also bill their claim adjustments through the web application. This will address both the keying error potential and will provide the ability to edit the adjustments against the authorizing

cost plans' rules and previous payments and match adjustments back against original claims. It is not viable to correct the deficiencies in this process in CS Tracking.

Despite its many security and internal control deficiencies, CS Tracking does have a sophisticated double-layer user validation feature that enables fairly granular control of access by user/role.

The DMRS has implemented documented administrative policies for notifying the IT and CS Tracking security administrators of departing employees to help ensure that users are not kept active in the system after leaving employment. DMRS has also reviewed its list of users and addressed those that should have had access revoked or restricted. DMRS acknowledges this has not been done as routinely in the past as it should be and is working toward remaining more current in this review. Other security vulnerabilities will be addressed as the underlying architecture for the tracking system changes from distributed servers running old technology to the centralized, secured server running the web-based ISIS application.

Because CS Tracking is actively being replaced in stages, it is not sensible to reconstruct documentation that should have been available ten years ago. Recognizing this deficiency, DMRS IT has implemented formalized methodologies and documentation templates in its design of ISIS modules. Such documentation includes scope documents, high level and/or detailed requirements documents, including security requirements, change control documents, business process maps or flow charts, user training manuals, and technical manuals as required, including, if applicable, specialized backup, restore and re-start procedures. All documents must be reviewed and signed by the business owner, and the finalized documents are stored in a central repository as well as electronically filed by application module where they can be referenced by interested parties through a web site. The division is also implementing formalized testing procedures using electronic test tools, including electronically documented test plans and scripts. Results from tests will be retained once the tools and processes are fully implemented.

Requirements documentation for the ISIS Services Accounting Module will indicate that many of the potential-for-fraud weaknesses in CS Tracking are being addressed and tightened in the new system. Again, the effort and resources that would be required to correct these deficiencies in CS Tracking cannot be justified in a system that is technologically past the point of being supportable by the software vendor. While the formalized completion of the new accounting module is not expected before CY 2007, DMRS development staffs continue to design and implement components that will realize the greatest return and relief from exposure in the short run. Processing will be moved off CS Tracking to this new system as it is enabled.

BUREAU OF TENNCARE'S COST ALLOCATION

The objective of our review of the Bureau of TennCare's cost allocation methods was to follow up on the prior-year finding regarding the Bureau of TennCare operating without an approved cost allocation plan. We interviewed key personnel and reviewed documentation to determine if a cost allocation plan had been approved. As a result of our work, we determined that a cost allocation plan was approved and the division had requested and received

reimbursement from TennCare of indirect costs for the years ended June 30, 1997, through June 30, 2002.

PAYMENT CARD USAGE

Our objectives in reviewing controls and procedures over the use of payment cards were to determine whether

- internal controls over payment cards were adequate;
- payment card purchases were adequately supported, approved, and reconciled to the monthly bank records;
- cardholder cycle dollar limit increases were properly justified;
- terminated employees' payment cards were revoked timely;
- payment card purchases appeared reasonable and necessary; and
- payment card purchases complied with the Department of General Services Purchasing policies and procedures concerning recurring purchases; purchases from statewide contract; and purchases requiring bids, including purchases that were split to avoid bid requirements.

We reviewed the applicable laws and regulations, interviewed key personnel, and reviewed supporting documentation to gain an understanding and to evaluate the adequacy of the controls and procedures over payment cards. We tested a sample of payment card transactions for adequate documentation, proper approvals, and reconciliation to the bank records. To determine if purchases appeared reasonable and necessary for conducting state business, we tested purchases which exceeded the single purchase dollar limit and purchases to suspicious vendors. We also searched for illegal vendors, items purchased on a weekend or holiday, multiple purchases from an individual vendor which exceeded \$400 over a two-day period, and purchases of items which were prohibited by policies and procedures governing payment card purchases. We reviewed the department's justification for cardholder cycle dollar limit increases. We reviewed evidence that terminated employees' cards had been canceled. We tested a sample and several listings of purchases and transaction logs for compliance with the Department of General Services' purchasing policies and procedures and determined whether the purchases appeared reasonable and necessary for the conduct of state business.

Based on our interviews and our review of supporting documentation, we determined that internal controls over payment cards were adequate. We determined that the department adequately justified increasing cardholder cycle dollar limits and that terminated employees' payment cards were revoked in a timely manner. We determined that payment card purchases did appear to be reasonable and necessary to conduct state business. Payment card transactions were adequately supported, approved, and reconciled to the monthly bank records. However, we determined that payment card purchases did not always comply with Department of General Services' policies (see finding 7).

7. State purchasing policies and procedures were not followed

Finding

The state payment card was implemented as an alternative method of payment for agency local purchases of \$400 or less. The department is still required to comply with state purchasing policies and procedures when using the payment cards. Testwork performed on purchases using the payment card as a method of payment revealed that purchases did not always comply with purchasing policies and procedures and did not always maximize state dollars.

A random sample of 60 payments was tested involving the purchase of 94 items. Seven of 94 items purchased (7%) were obtained using the payment card even though the exact items were available on statewide contract. Through other analyses of payment card purchases, we noted an additional 15 items for which the exact items were available on statewide contract. Section 4.1.6 of the *State of Tennessee Payment Card Cardholder Manual* states, "Purchases of any supply, material, or equipment covered by a statewide or agency term contract **shall not** be made using the State Payment Card."

In addition to direct violations of the purchasing policies and procedures, 19 of 94 items tested (20%) in the random sample mentioned above were purchased using the payment card when similar items were available on statewide contract that would have resulted in savings to the state. In addition to the sample of 60 purchases, other analyses of payment card purchases indicated 42 other items that were purchased when similar items were available on statewide contract. According to the Department of General Services' *Agency Purchasing Procedures Manual*, Section 11.2, "all State agencies must utilize existing statewide contracts. In extraordinary circumstances where vendor delivery is not possible, agencies must justify and secure approval on TOPS from the Department of General Services, Purchasing Division, Purchasing Administrator, for any deviation from an established statewide contract."

Among these items were numerous calendars, day planners and related supplies purchased from Franklin Covey, an upscale office supply vendor. Items from Franklin Covey are more expensive than similar items available from statewide contract, or in the absence of statewide contracts, from other vendors. Invoices indicated that refills for these calendars were approximately \$30 each. The calendars available on statewide contract were less than two dollars each. An analysis of payments during fiscal year 2004 indicated the state spent \$78,214 with Franklin Covey. For the year ended June 30, 2004, the Department of Finance and Administration spent \$12,262, or 16% of the total. An analysis of payments during the period July 1, 2004, through April 30, 2005, revealed that the state spent \$60,366 with Franklin Covey. For this time period, the department of Finance and Administration spent \$9,001 or 15% of the total. The department used the payment cards for approximately half of these purchases and used the Tennessee On-line Purchasing System for the other half of the purchases. No documentation could be provided by management that documented the approval of these purchases by the General Services Purchasing Administrator.

When state purchasing policies and procedures are not followed, the risk of inappropriate use of state funds increases. In addition, when statewide contracts are not utilized to the fullest extent possible, the state may not get the best possible price for goods and services purchased.

Recommendation

The Commissioner should establish procedures to ensure that cardholders are in compliance with purchasing policies and procedures. Statewide contracts should be used when available or proper approvals should be obtained to purchase items outside of the statewide contract terms.

Management's Comment

Office of Business and Finance Management's Comments

We concur, partially. The implementation of the payment card is a recent improvement in the State's payment mechanism. Due to the implementation of it, a more precise and definable method to evaluate compliance with purchasing policies and procedures was measurable. Cardholders and approvers did attend training classes and compliance with the rules was emphasized. During the course of the implementation, the monthly logs were audited by Business and Finance staff, and any infraction related to non-compliance by cardholders was addressed appropriately. These same items are also itemized in the audit itself. These appear, for the most part, to be related to the cardholders' failure to look for the item on contract or find it on TOPS. The system is very cumbersome to navigate through and items change daily with statewide contracts coming on and going off it. The audit period was considerably subsequent to the date some of the items were purchased and, therefore, certain items in question may have been on contract during the audit period but not at the time of purchase. In addition, the amounts in question are very immaterial amounts based upon total payments by all cardholders in F&A.

Additional training classes have been held for cardholders and approvers to reinforce the importance of compliance with the rules and regulations related to the payment card. Those classes have also provided information on navigating through TOPS with emphasis on determining if statewide contracts are in place. Documentation is also being attached to current transaction logs to document attempts to locate the items on contract at the time of purchase. Cardholders who do not comply with the promulgated rules and regulations are relieved of their purchasing responsibilities and the card terminated.

The department does not concur that purchasing infractions occurred with the purchase of day planners and related items. For a number of years, the department has utilized the Franklin Covey time management tools which originally derived from DOP instructional classes to assist employees with time management. Similar items that are on contract with Purchasing are not compatible with the system used by neither this department nor other departments who have attended those time management classes. Therefore, purchasing rules were not violated. However, in an attempt to resolve the issues, the management of Finance and Administration is

currently working with the management in Purchasing to secure a statewide contract for these specific time management items.

DMRS Management's Comments

Management concurs with the auditors finding on payment cards. Once the DMRS took control of its own administrative support in 2004, the central financial officer had the cards in question cancelled. These cards have not been reissued. Currently, the DMRS is using only 4 payment cards in its Central Fiscal Office. While the DMRS anticipates initiating a division-wide implementation of the payment card program in fiscal year 2007 or 2008. The program will be implemented only after adequate training has been given to all staff and supervisors who will be using the cards and each individual involved has been fully advised of the disciplinary consequences of violating state purchasing rules and laws while using the cards.

Management does not concur that purchasing infractions occurred with the purchase of day planners and related items. For a number of years, the DMRS, as well as, other state agencies has utilized the Franklin Covey time management tools which originally derived from DOP instructional classes to assist employees with time management and it's related savings attributed to increased productivity. Calendars that are on contract are not compatible with the system used by this department and other departments who have attended the time management classes. Therefore, purchasing rules were not violated. However, in an attempt to resolve the issues, the management of Finance and Administration is working with the management in General Services Purchasing to secure a statewide contract for these specific time management items.

DIVISION OF MENTAL RETARDATION SERVICES' PERSONNEL PROCEDURES

The objectives of our review of the controls and procedures over the Division of Mental Retardation Services' personnel procedures were to determine whether

- proper documentation is kept in DMRS personnel files, and
- improper employer/employee relationships exist.

We researched the Department of Personnel's requirements and state law to determine which documents are required to be maintained in each employee's personnel file. We selected a nonstatistical sample of DMRS employees as of December 9, 2004, to ensure their personnel files contained the proper documentation. In addition, we reviewed the contracts tested as part of the contract management review and examined the supervisory structure at the developmental centers and regional offices to determine whether improper employer/employee relationships existed.

As noted in finding 8, we determined that the division was not complying with the Department of Personnel's requirements and state law. Also, as noted in finding 9, improper employer/employee relationships were identified.

8. Personnel files were incomplete

Finding

As noted in the prior two audits, a review of personnel files at the West Tennessee Regional Office (WTRO), Middle Tennessee Regional Office (MTRO), East Tennessee Regional Office (ETRO), and the Division of Mental Retardation Services central office revealed that current and complete personnel files were not maintained. The personnel files are maintained as follows: WTRO personnel files are maintained at the Arlington Developmental Center in Arlington, MTRO personnel files are maintained at Clover Bottom Developmental Center in Nashville, ETRO personnel files are maintained at Greene Valley Developmental Center in Greeneville, and Central Office personnel files are maintained in Nashville. Management concurred with the prior audit finding and stated that they would take steps to assure that all required personnel files are updated and regularly monitored for compliance. Although some improvement was made regarding the volume of errors, testwork indicated that personnel files still did not have current applications for the position held or proof of education documented. Current, signed job plans and evaluations were not found. Also, an IRS I-9 form and an Internet agreement form were not on file. In addition, personal references, prior job references, and authorization of release of information were not documented, and results of one background check were not maintained.

The State of Tennessee Department of Personnel requires the personnel division of all facilities to have a current application for the position held, copies of proof of education, a current signed job plan describing the employee's duties, and a current annual evaluation. These items are required to ensure that an employee is qualified for the position and is capable of performing the duties the position requires. The department also requires an Internet agreement to be on file for every employee who has access to the Internet. In order to ensure that employees know the rules and regulations concerning what is acceptable, employees are required to sign a statement stating they fully understand the Internet usage policy of the State of Tennessee.

Section 33-2-12, *Tennessee Code Annotated*, requires the department to check prior job references, check personal references, and order background checks of all personnel whose positions would include direct contact with or direct responsibility for any persons with mental illness or developmental disabilities, regardless of whether personnel are employees or volunteers. The Division of Mental Retardation Services is required to perform these procedures to ensure the safety of its clients. The law also requires that a signed authorization of release form for the background check is obtained.

The Federal Immigration Reform and Control Act of 1986 requires the completion of the I-9 form. In order to verify the identity of an employee and eligibility to work in the United States, an I-9 form must be completed and on file.

Sixty employees' personnel files were randomly selected to ensure that the proper records were being maintained. Testwork revealed the following:

- Six of 52 applicable personnel files (12%) did not contain a current state application for the position held.
- Two of 50 applicable personnel files (4%) did not contain documentation of the proper level of education obtained for the position held.
- Nine of 57 applicable personnel files (16%) either did not contain a current signed job plan or the job plan was not signed by the employee.
- Sixteen of 50 applicable personnel files (32%) did not contain an annual performance evaluation.
- One of 27 applicable personnel files (4%) did not contain a signed Internet agreement form.
- Six of 30 applicable personnel files (20%) did not have the employees' prior job reference checks documented.
- Seventeen of 30 applicable personnel files (57%) did not have personal reference checks documented.
- One of 34 applicable personnel files (3%) did not contain documentation of background checks.
- Eleven of 34 applicable personnel files (32%) did not have a signed authorization form for the release of information.
- One of 49 applicable personnel files (2%) did not contain an IRS I-9 form.

Recommendation

The Deputy Commissioner should determine why all required personnel files were not updated and regularly monitored. Furthermore, the Deputy Commissioner should ensure that personnel staff adhere to all state and federal laws and written guidelines established by the Department of Personnel in maintaining employees' personnel files and all required documentation. The Deputy Commissioner should take the utmost care to ensure that individuals who have direct contact with clients have the appropriate background checks. All files should be reviewed, background checks should be performed, and missing documents should be obtained.

Management's Comment

Management concurs. In early 2004, the DMRS established its own central personnel office. Prior to this establishment, the main personnel record for each employee of DMRS was maintained in the central personnel office for Mental Health and Developmental Disabilities (MHDD) and a satellite file was kept in the field offices. Before the personnel records were turned over to DMRS, the Personnel Division of MHDD stated that all files had been audited for completeness.

Once all the main files were turned over to the DMRS around March of 2004, a decision was made that the employee's main personnel record should be maintained in the field office where the employees, supervisors, personnel staff, Regional Director and the Superintendent could have immediate access to the personnel files. The personnel records were shipped to the field offices around May of 2004 to be combined with the satellite records maintained in the field.

Fiscal year 2004/2005 was a year of transition for DMRS and some files were not completed before the current audit began. Each field personnel officer has been charged with auditing employee records routinely to make sure all pertinent and necessary information is included in each file.

9. The Division of Mental Retardation Services still has improper employer-employee relationships

Finding

As noted in the prior audit, the West Tennessee Regional Office, Middle Tennessee Regional Office, East Tennessee Regional Office, and the three developmental centers of the Division of Mental Retardation Services had established improper employer-employee relationships. The same condition was also noted in the year ended June 30, 2002, audit for the West Tennessee Regional Office. Management concurred with the prior finding and stated, "Contract policies have been changed to require re-evaluation of each contract and an effort made to convert any possible contractor positions to state employees. This has resulted in a conversion in the current fiscal year of approximately 25 positions." However, the current audit revealed that the division still had 23 contracts that provide 143 contractors which either supervise state employees and/or are supervised by state employees.

The auditors obtained copies of all personnel contracts from the division's contract officer. Based on review of the contracts and discussions with staff at the various locations, the following was noted:

Arlington Developmental Center in Memphis has 63 contractors that were supervised by state employees, one contractor that supervises state employees, and three contractors that were both supervised by state employees and supervise state employees. The West Tennessee Regional Office in Memphis has 41 contractors that were supervised by state employees. Clover Bottom Developmental Center in Nashville had 13 contractors that were supervised by state employees, the Middle Tennessee Regional Office in Nashville had 5, Green Valley Developmental Center had 13, the East Tennessee Regional Office in Knoxville had one, and the Division of Mental Retardation Services central office in Nashville had three contractors that were supervised by state employees.

Chapter 0620-3-3-.07 of the *Rules of the Department of Finance and Administration* requires that "State employees shall be hired through the merit system of the Department of Personnel." Section 8-30-201(a), *Tennessee Code Annotated*, establishes "a system of personnel

administration based on merit principles and scientific methods. That system shall govern the appointment, promotion, transfer, layoff, removal and discipline of employees, and other incidents of state employment.” Section 8-30-201(b), *Tennessee Code Annotated*, gives the Department of Personnel the responsibility of administering and improving this system. By entering into these contracts, the department in effect circumvented the state’s employment process for obtaining staff.

Furthermore, the practice of allowing employees of non-state entities to report directly to department officials/employees in carrying out what can be construed as state programs raises serious policy and legal issues. The manner in which the contract employees are utilized by the division meets multiple tests and criteria established by the IRS and upheld by Tennessee case law defining employee status. The division controls the manner in which contractors perform services, the division establishes the working hours and workplace arrangements, the contractors perform services that supplement division staff, and the tenure of most contractors is continuing. All of these factors meet the criteria that define employee status.

Recommendation

The Commissioner should determine why efforts to convert contract positions to state positions have not been more successful. The Commissioner should consider the costs of the decisions to contract with third parties rather than using state employees. The Deputy Commissioner should develop and implement a policy for regional offices and developmental centers to follow to avoid establishing employer-employee relationships with individuals who are, in effect performing state services. These individuals should be placed on the state payroll system through the proper hiring procedures established by the Department of Personnel.

Management’s Comment

Management concurs. The Division of Mental Retardation is closely focusing on all contract employees to determine if these positions can be filled by state employees. One large contract that DMRS has is for Behavioral Analysts who must possess unique skills set that does not exist in any current state personnel classification. DMRS worked with the Department of Personnel (DOP) in establishing a classification but because of the unique skill set, DOP was unable to create a classification and pay range appropriate for this classification. The DMRS continues to work on getting this classification created.

Most of the other contracts are for nurses, occupational therapists, Speech and Language Pathologists and Physical Therapists. The market rate and competition for these classifications are in such demand that it is almost impossible to hire them as state employees with the current pay range. DMRS is working with DOP to increase the range for these classifications in hopes of more successfully competing with outside markets. DMRS will continue its concentrated effort to convert as many contracts as possible during calendar year 2006 and 2007.

DEVELOPMENTAL CENTERS' OPERATIONS

Our objectives in reviewing the controls and procedures over the developmental centers' operations were to determine whether

- controls over equipment at the centers were adequate to ensure that information in the equipment records was accurate,
- controls over expenditures at Clover Bottom Developmental Center were adequate to ensure that transactions were handled in compliance with state rules and regulations,
- conflict-of-interest statements were obtained from employees as needed, and
- controls over the resident trust accounts at Clover Bottom Developmental Center were adequate.

We interviewed key personnel to obtain an understanding of the controls and procedures for equipment, expenditures, conflict-of-interest disclosures, and resident trust accounts. We selected nonstatistical samples of equipment at December 31, 2004, at each developmental center to determine the accuracy of the information recorded in the Property of the State of Tennessee (POST). At Clover Bottom Developmental Center, we reviewed certain transactions with the characteristics of split invoices, conflict-of-interest statements, and resident trust account transactions.

Based on testwork performed, we determined that recordkeeping for equipment was adequate except at the Arlington Developmental Center. Controls over expenditures were adequate to ensure the transactions were in compliance with state rules and regulations. However, a division-wide conflict-of-interest policy had still not been established, and there were multiple internal control deficiencies over resident trust accounts at the Clover Bottom Developmental Center. See findings 10, 11, and 12.

10. Internal control over resident trust funds at Clover Bottom Developmental Center is inadequate

Finding

Clover Bottom Developmental Center (CBDC) had multiple internal control deficiencies related to the resident trust accounts and purchases from these accounts. The purpose of these accounts is to provide residents at CBDC access to their funds for personal use. Employees were not following established procedures to make purchases on behalf of the residents. Also, persons signing for the residents' funds were not always the persons who were going to make the actual purchases. When the funds were withdrawn, the purchases were not always made timely, and a large amount of cash was outstanding from the funds for excessive periods. Purchased items were not entered into the residents' inventory records timely, nor were they prepared or distributed for use timely. In addition, the location of some of the purchased items was suspicious. Furthermore, there is not adequate segregation of duties or a system of approvals over the accounting for the resident trust fund accounts.

The residents' income is deposited and maintained in a separate state bank account. The accounting records of this account are detailed to indicate the amount of money each resident has on a day-to-day basis. Residents receive money from various sources, such as the Social Security Administration, relatives, and jobs. CBDC is responsible for maintaining accurate records and internal control over these funds.

According to the policies and procedures for the trust fund accounts, requests for purchases of clothing and personal property from the residents' trust accounts must follow specified procedures. These procedures include filling out a form DMH-315-B, which includes the exact item, store name, amount (including tax), and approval signatures. This form is to be turned into the accounting office and a check written to the store for the amount specified. However, it was noted that the accounting office was cashing checks and distributing cash to the various CBDC employees to make the purchases.

Also, the CBDC employees that pick up and sign for the residents' funds are not always the employees who ultimately spend or distribute the funds for the residents. However, the employees that sign for the funds are responsible for returning all receipts and any unused funds. This creates problems in determining the total amount of funds one CBDC employee has at a particular time.

On April 28, 2005, resident trust accounting records indicated that there was a total of \$20,521 of resident funds that had been withdrawn from the resident's bank accounts for the purpose of making purchases on behalf of residents. Of this total, \$4,419 had been outstanding for over 20 days. The amounts outstanding ranged from 20 to 241 days old. The accounting clerk did regularly prepare memos with related documentation to inform the various supervisors that their employees had outstanding resident funds that had been distributed for over 14 days, but that effort appeared to produce little results.

The same accounting records indicated that one CBDC clerk had \$9,288 of residents' funds signed out, of which \$1,950 had been outstanding for 21 to 173 days since they had been distributed. Once management was made aware of this situation, this clerk provided receipts and unused funds within three days in the amount of \$11,364. The amount in excess of the \$9,288 was the result of funds that had been checked out by other employees and given to this clerk for purchase. The funds were accounted for; however, the receipts attached to the documentation indicated that this clerk spent over \$7,000 within the three days between when management was made aware of this issue and when the clerk turned in the documentation.

Because this clerk spent over \$7,000 within three days, it was determined that the inventory records for each resident for which a purchase had been made in this time period should be reviewed. However, even though policy requires inventory records to be updated immediately after a purchase is made, none of the inventory records had been updated when we requested the records at least six days after the purchases. Therefore, the auditor asked to observe each item purchased. Most of the items were accounted for, but several discrepancies were noted. Ten of the purchases, which involved multiple items, remained in the original packaging including the stores tags and/or bar codes. These items could easily be returned to the store for a cash refund or store credit. Furthermore, multiple items purchased to decorate a

resident's room were located in the building supervisor's car. When interviewed, this employee explained that these items were going to be taken to another building so that the resident's name could be affixed to the items. Furthermore, one purchase involved multiple purchases of shoes for the residents. One pair was located in the trunk of the clerk's vehicle.

The accounting clerk is responsible for all of the accounting functions related to resident trust fund accounts. This clerk not only distributes the funds to the requestors, but also is the individual who is the first to receive the unused funds and receipts. There is not a cash receipt prepared when the unused funds are initially received. Also, there is no detailed supervisory review of the accounting records over the resident trust funds.

Without adequate internal control over the resident trusts accounts, residents' funds could be lost or stolen. When the funds are distributed to employees for long periods of time, the chances of loss, theft, or inappropriate use increases. In effect, employees could be receiving loans that may or may not be repaid. In addition, the residents may not be receiving the needed goods and services in a timely manner. Furthermore, if the accounting records are not periodically reviewed, inappropriate transactions could occur, mistakes could go unnoticed, and/or significant policy and procedures violations could go unnoticed or unenforced. This lack of review combined with an inadequate segregation of duties is an invitation for a fraud to occur that would not be detected.

Recommendation

The Commissioner should require policy changes related to the resident trust funds. The duties should be adequately separated so that the person receiving funds and writing the receipts for the funds is not the same person accounting for the funds. Receipts should be prepared immediately by the person collecting the cash. An approval process should be put in place over the accounting for all resident trust funds. In addition, the policies should require the person who is going to spend the residents' funds to be the same person who signs for the funds. Time limits for funds outstanding should be established and enforced. The Deputy Commissioner should ensure that a review is performed of all funds that have been outstanding for an excessive amount of time. Such situations should be immediately investigated. Furthermore, the Deputy Commissioner should ensure all employees follow established procedures for inventorying residents' purchases. Supervisory controls should be established to ensure all purchases are accounted for in the inventory and distributed to the appropriate residents in a timely manner. Disciplinary action should be taken against employees where appropriate.

Management's Comment

Management concurs. Management has assigned the internal audit staff to review the issues discovered by the auditors at CBDC at the other two developmental centers.

11. Risks of fraud and abuse regarding equipment have not been addressed at the Arlington Developmental Center, and the center continues to maintain inadequate records of equipment

Finding

Equipment records are still not accurate at the Arlington Developmental Center. Several equipment items could not be located, locations listed in the records were still not correct, and state tags were still missing. These inaccuracies were noted in the prior two audits. Furthermore, it was discovered in the current audit that the department did not follow proper procedures for reporting equipment that was lost, stolen, or destroyed. Current year testwork indicated that the department did correct the internal control deficiencies at Clover Bottom Developmental Center and Greene Valley Developmental Center.

In response to the prior audit finding, management concurred and stated that issues surrounding purchasing and inventory would be investigated and addressed and responsible parties held accountable. Although changes appear to have been made at the other two developmental centers, such accountability was not established in Arlington.

Items listed in the Property of the State of Tennessee (POST) as reported lost, stolen, or destroyed were not approved by the department head and were not reported to the POST Administrator for proper removal from the inventory list. The POST *User Manual* states that any item of personal property that is to be removed from the POST database must be submitted to the Department of General Services. The request should contain the signature of the agency/department head. For the request prior to January 2005 that was reviewed, only the signature of a supervisor was present, and it appeared the request was not submitted to the Department of General Services. In addition, the supervisor's signature was obtained before requests were completed. The Property Officer, who is also a procurement officer, obtained the signature of his supervisor, another procurement officer, on a blank form to report lost, stolen, or destroyed equipment. This form was copied and equipment information was entered. In the case of the January 2005 request, equipment information was submitted to the POST Administrator on these copied forms for removal from the active status in POST.

Because the information was not removed from the property listing prior to January 2005, 9 of 60 property items selected from the POST property listing (15%) could not be located. Eight of these nine items had been included in the requests to be removed from active status. Also, for 3 of 60 property items selected from the POST property listing (5%), the location code in POST did not agree to the physical location of the item, and one of 60 property items selected from the POST property listing (1.67%) did not have a state tag attached.

The state has made major expenditures over the years for assets that will enable the department to carry out its mission. The department has a fiduciary responsibility to ensure these taxpayer-purchased assets are adequately safeguarded and accounted for properly. If management does not maintain an accurate, up-to-date equipment inventory system that holds individuals accountable for state property, that property may be misused or misappropriated. This could result in jobs not being performed and clients not being adequately supported because

of the lack of needed equipment, and could result in an increase in costs to the state to replace lost or stolen equipment.

Recommendation

The Commissioner should determine why the problems are still occurring at Arlington Developmental Center and hold individuals accountable for the failed results of previous corrective efforts. In addition, the Deputy Commissioner should determine why the department is not following proper procedures for reporting lost, stolen, and destroyed equipment. Appropriate internal control should be established with the proper checks and balances, including independent approvals of equipment write-offs. The Deputy Commissioner should take action to determine why employees did not understand that signing blank forms was wrong and prohibit employees from doing so. The fiscal director at Arlington Developmental Center should ensure that records are updated as necessary for loss, recordkeeping errors, and location changes. State tags should be placed or replaced on each piece of equipment. Thorough physical inventories should be conducted on an annual basis, and errors found should be corrected. Individuals should be assigned responsibility for equipment in their areas, and they should be held accountable for missing, stolen, or destroyed items.

Management's Comment

Management concurs. The situation with wrong approving signatures was corrected immediately when the auditor brought it up. The form General Services uses to record these lost items shows a line for the Property Officer to sign and for the Supervisor to sign. The Property Officer had his immediate supervisor sign the form instead of checking the POST manual and noting that the supervisor signature was intended to be the Agency Head or designee. Blank forms are no longer signed prior to completion and they are signed by the Chief Officer or Assistant Chief Officer. The appropriate POST forms are submitted at the end of the annual inventory or any time a piece of tagged equipment is discovered to be missing. Removal of the item from POST is done within TN Dept. of General Services.

12. As noted since the June 30, 2002, audit, the Division of Mental Retardation Services still does not follow the established conflict-of-interest policy

Finding

As noted in the prior two audits, the Division of Mental Retardation Services (DMRS) does not follow the Department of Finance and Administration's conflict-of-interest policy. In response to the prior audit recommendation that the division should either follow the departmental conflict-of-interest policy or implement a policy at least as restrictive as the departmental policy, management stated that a conflict-of-interest policy would be developed and implemented, but this has not occurred. Even though the required disclosure of conflicts through a conflict-of-interest policy is a basic ethical standard, the division has decided that such a policy is not necessary.

The Department of Finance and Administration has a standard conflict-of-interest procedure, but the Division of Mental Retardation Services has determined that the procedure is not applicable to the division. The Department of Finance and Administration procedure requires applicable employees to sign a conflict-of-interest statement when the employee is hired so that the department has the information to identify potential conflicts of interest. Without such a requirement, division purchases to a vendor for which a conflict of interest exists or biased decision-making regarding the selection of contractors or service providers could go unnoticed. Although other statewide policies require certain state employees to complete a conflict-of-interest statement, the division does not retain conflict-of-interest information to ensure that the employees are complying with Section 12-3-106, *Tennessee Code Annotated*, which states, “No . . . employee of any state department, institution or agency charged with the responsibility of initiating requisitions, shall accept or receive, directly or indirectly, from any person, firm or corporation to whom any contract for the purchase of materials, supplies, or equipment for the state of Tennessee may be awarded, by rebate, gifts, or otherwise, any money or anything of value whatsoever, or any promise, obligation, or contract.” Some regional offices and developmental centers in the division had conflict-of-interest requirements, but the requirements and the applicable employees varied from location to location.

Without a standardized conflict-of-interest policy for their employees, the division does not have a procedure in place to ensure compliance with this law. Division management has the responsibility to assess the risk of fraud, waste, and abuse and then to take appropriate measures to mitigate it. DMRS management is in the position to identify where the most serious conflicts could occur related to the division. When the division management is not aware of employees’ potential conflicts, serious conflict-of-interest problems could exist and continue unnoticed, thus creating a situation for future liability or public scrutiny.

Recommendation

The Commissioner should determine why a division-wide conflict-of-interest policy has not been established as promised in management’s response to the previous audit or why the Department of Finance and Administration procedure has not been followed. The Deputy Commissioner should develop and implement a conflict-of-interest policy which applies to all employees of the division and requires disclosure of potential conflicts of interest. The conflict-of-interest risks should be assessed, and a division-wide policy should be established based on the risk assessment. The policy should be at least as comprehensive as the departmental procedure.

Management’s Comment

Management does not concur. At the current time, all employees are expected to sign a “Conflict of Interest Form” [Available upon request] indicating they have read and understand the “General Personnel and Practices and Administrative Guidelines”. These guidelines (available upon request) contain the following language:

Public Relations – Conflict of Interest

As a state employee, you represent the State of Tennessee in your contacts with the public on and off the job. Each contact you make is an opportunity to create goodwill for your agency and your state government, and places the important responsibility of establishing and keep a good image of the state employee squarely upon your shoulders. . . .

Employment with the State of Tennessee is a public trust. Employees must not participate in any activity in either a private or official capacity where a conflict of interest may exist. Your first loyalty should be to the public interest, and you must avoid associations, or interests that could affect your objectivity in performing your job or in making the decisions required of your position. However, employees are encouraged to participate in professional and civic organizations if such participation does not adversely affect their role as a public employee.

If you question whether any outside activity or interest may be in conflict with your job requirement, you should ask for an opinion from your supervisor. [See Pages 16 & 17 of Attachment No. 2]

Thus, the Division does have a written provision addressing conflict of interest of which its employees must be aware. Legally, the DMRS can find no requirement as to what, if any, additional conflict of interest policy DMRS must adopt.

Auditor's Rebuttal

The reference from the “General Personnel and Practices and Administrative Guidelines,” mentioned in Management’s Comment above, does not require division employees to disclose potential conflicts of interest to management that at a minimum would mirror the Department of Finance and Administration’s conflict-of-interest policy. As stated in the finding, if division management does not obtain the information necessary to identify potential conflicts of interest, division management will not be able to ensure compliance with state law. Governor Bredesen’s Executive Order Number 2 states that “the maintenance of high standards of honesty, integrity, impartiality, and conduct by employees and agents of the State of Tennessee is essential to ensure the proper performance of government business and the maintenance of confidence by citizens of their government”; and that “full disclosure is an appropriate measure reasonably related to helping to ensure the maintenance of these high standards.” Given the division’s many contracts and service providers where conflicts could exist, the policy referenced by management is not adequate. Again, the Division of Mental Retardation Services is a division of the Department of Finance and Administration, which has already prescribed a more stringent conflict-of-interest policy than the one the division follows. Division management should immediately reexamine their stance on this issue and revise their policy as promised in response to prior audit findings.

SYSTEMS DEVELOPMENT FUND

Our objectives in reviewing the controls and procedures over the Systems Development Fund were to determine whether

- the loans for system development and equipment replacement were issued properly, and
- the proper amount of accounts receivable was calculated at year-end.

We interviewed key personnel to obtain an understanding of the controls and procedures for the Systems Development Fund. We obtained a listing of all systems development and equipment replacement loans and tested each to determine if it had been properly approved. Furthermore, we reviewed the year-end accounts receivable for fiscal year ended June 30, 2003, to determine if the account balance was reported correctly.

Based on testwork performed, all loans were properly approved and the accounts receivable balance at year-end was reasonable.

MISCELLANEOUS ISSUES

The audit objectives were also to determine whether

- related employees did not have job duties that would create an inappropriate segregation of duties,
- manual payroll checks were issued appropriately, and
- mental retardation clients have valid and active social security numbers.

Payroll records were sorted, and employees who worked within the same allotment code and had the same address were reviewed. Employees with access to cash were examined to determine if related employees had job duties which would conflict with an appropriate segregation of duties. All manual payroll checks were accounted for and reviewed for unusual payees or endorsements. In addition, the social security numbers for mental retardation clients were matched against a listing of valid social security numbers and death records.

As a result of our testwork, we determined that related employees job responsibilities did not create an inappropriate segregation of duties. No inappropriate manual payroll checks were discovered, and the social security numbers of the mental retardation clients were valid and active.

FINANCIAL INTEGRITY ACT

Section 9-18-104, *Tennessee Code Annotated*, requires the head of each executive agency to submit a letter acknowledging responsibility for maintaining the internal control system of the agency to the Commissioner of Finance and Administration and the Comptroller of the Treasury by June 30 each year. In addition, the head of each executive agency is required to conduct an evaluation of the agency's internal accounting and administrative control and submit a report by December 31, 1999, and December 31 of every fourth year thereafter.

Our objectives were to determine whether

- the Finance and Administration's, TennCare's, and the Division of Mental Retardation's June 30, 2004, responsibility letters and December 31, 2003, internal accounting and administrative control report were filed in compliance with Section 9-18-104, *Tennessee Code Annotated*;
- documentation to support the Department of Finance and Administration's, TennCare's, and the Division of Mental Retardation's evaluation of their internal accounting and administrative control was properly maintained;
- procedures used in compiling information for the internal accounting and administrative control report were in accordance with the guidelines prescribed under Section 9-18-103, *Tennessee Code Annotated*; and
- corrective actions are being implemented for weaknesses identified in the report.

We interviewed key employees responsible for compiling information for the internal accounting and administrative control report to gain an understanding of the Department of Finance and Administration's, TennCare's, and the Division of Mental Retardation's procedures. We also reviewed the June 30, 2004, responsibility letters and the December 31, 2003, internal accounting and administrative control report to determine whether they had been properly submitted to the Comptroller of the Treasury and the Department of Finance and Administration. To determine if corrective action plans had been implemented, we interviewed management and reviewed corrective action for the weaknesses identified in the report.

We determined that the Financial Integrity Act responsibility letters and internal accounting and administrative control reports were submitted timely, support for the internal accounting and administrative control report was properly maintained, and procedures used were in compliance with *Tennessee Code Annotated*. Corrective actions have been taken on the weaknesses noted.

SPECIAL INVESTIGATIONS

THE QUALITY ASSURANCE AND IMPROVEMENT ADMINISTRATOR IN THE DIVISION OF MENTAL RETARDATION SERVICES INFLATED MILEAGE ON HER TRAVEL CLAIMS

Origin of Review

In October 2004, Division of State Audit staff identified a state employee who had been paid high travel reimbursements during the one-year period ending June 30, 2004. The employee in question was a Quality Assurance and Improvement Administrator (hereinafter referred to as the Administrator) in the Division of Mental Retardation Services (DMRS). The Administrator had been reimbursed \$26,605.78 during the fiscal year ending June 30, 2004. Of this amount, \$22,974.47 (86%) was paid to the Administrator for mileage. The remaining \$3,631.31 (14%) in travel reimbursement was for lodging, per diem, parking, and taxi service.

DMRS is a division of the Department of Finance and Administration and is headed by a Deputy Commissioner who reports to the Commissioner of Finance and Administration. At the time of the review, the Administrator reported directly to the DMRS Deputy Commissioner.

Once the questionable high mileage claims were identified, the matter was referred to the Special Investigations section of the Division of State Audit.

Objectives of Review

The objectives of this review were

- to determine the nature and extent of possible overbilling of mileage on state travel claims by the Administrator;
- to obtain the Administrator's explanations for her claimed mileage;
- to determine the adequacy of related internal controls;
- to report any findings to the appropriate authorities; and
- to recommend appropriate actions to correct any noted deficiencies.

Scope of Review

During the review, we interviewed the DMRS Administrator as well as the DMRS Deputy Commissioner, Fiscal Director, and other related division staff. We also contacted audit staff with the Office of Inspector General of the U.S. Department of Health and Human Services in Birmingham, Alabama. We reviewed the Administrator's travel claims for the 17-month period July 1, 2003, through December 3, 2004. We cross-matched the Administrator's travel claims with reimbursement payments to the Administrator. We also correlated the

Administrator's travel on selected days with the state's phone records for phone calls made by and to the Administrator on her state-provided cell phone on those same days. In addition, we reviewed materials and information provided to us by the Administrator.

Background

At the time of our review, the Administrator reported directly to the Deputy Commissioner of the Division of Mental Retardation Services (DMRS) in the Department of Finance and Administration (F&A). Because the Administrator reported directly to the DMRS Deputy Commissioner, the DMRS Deputy Commissioner was directly responsible for signing her travel claims.

According to information provided by the Department of Personnel (DOP), on September 24, 2003, the F&A Commissioner and the DMRS Acting Deputy Commissioner sent a memorandum to the DOP Commissioner requesting the establishment of a new executive service position, entitled Mental Retardation Quality Assurance and Improvement Administrator (Administrator). The memorandum included as attachments a completed position classification questionnaire and a DMRS organizational chart. According to DOP's "Class Documentation and Routing Form," the effective date for the new position was November 1, 2003.

On October 1, 2003, the position of DMRS Deputy Commissioner was filled by the current incumbent, who had previously been employed in the private sector. On November 10, 2003, both the F&A Commissioner and the newly appointed DMRS Deputy Commissioner signed and sent a letter to the DOP Commissioner requesting an exception to the hiring freeze and approval to transfer and promote the individual in question into the recently created executive service Administrator position. The requested transfer would be from the TennCare Bureau's Long Term Care Division to DMRS. Both divisions are in the Department of Finance and Administration.

The letter also requested approval for the promotion of the employee from a Managed Care Program Manager 2 position to the recently established Administrator position. As justification for the transfer and promotion, the letter stated that the employee

- would have statewide responsibilities related to the daily programmatic operations of Tennessee's Home and Community Based Mental Retardation and Developmental Disabilities Waiver as it relates to Quality Assurance;
- would direct and manage the Quality Assurance Unit staff in the development and implementation of a new comprehensive and integrated quality management, quality assurance, and quality improvement process; and
- would provide daily oversight of staff assigned to this unit to ensure they are fulfilling their obligations in the programmatic areas for which they are responsible.

The letter further stated that the employee in question had a master's degree in Organizational Management and Total Quality Management and that the employee's recent employment with the TennCare Bureau's Long Term Care Division involved responsibility for

providing oversight of DMRS and for ensuring that DMRS was in compliance with its contract with the TennCare Bureau to ensure the health, safety, and welfare of the Mental Retardation Waiver service recipients. The letter stated that one of the areas of the employee's responsibilities was quality assurance, which comprised investigations, protection from harm, provider compliance, and complaints/appeals.

The proposed transfer and promotion, once approved by DOP staff, would entail a 61% salary increase for the employee, from \$3,526 per month (\$42,312 per year) to \$5,667 per month (\$68,004 per year), an increase of \$2,141 per month (\$25,692 per year). In addition to the transfer, promotion, and salary increase, the F&A Commissioner and DMRS Deputy Commissioner requested that the personnel action be made retroactive to August 1, 2003, a full three months prior to their written request.

The letter, in its concluding paragraph, summarized the rationale for transferring and promoting the employee, and engaging in a retroactive personnel action, as follows:

[The employee's] skills, education, experience and her agreement to leave her civil service position for this executive service position makes her an excellent candidate for DMRS. Due to the extensive responsibilities associated with this position as well as the educational requirements to perform the duties of this position, this division would request an exception to the usual promotional policies and request approval to offer [the employee] a salary of \$5,667 per month effective August 1, 2003.

The employee's retroactive transfer, promotion, and salary increase ultimately were personally approved by the Deputy to the Governor on November 19, 2003, as recorded by his having handwritten the word "Approved" and his signature and date. According to State Employee Information System data, the employee's transfer, promotion, and salary increase were effective August 1, 2003.

As a result of issues disclosed during the course of this review, the F&A Commissioner and the DMRS Deputy Commissioner dismissed the Administrator from her executive service position by sending her a certified letter, signed by them and dated August 31, 2005. The Administrator's dismissal was effective August 31, 2005.

From the date of the Administrator's promotion, effective August 1, 2003, through August 31, 2005, the date of the Administrator's termination, the Administrator was granted two 3.0% cost-of-living raises, which had been authorized by the Tennessee General Assembly for all state employees. The two cost-of-living raises increased her salary from a beginning salary of \$5,667 per month in August 2003 to an ending salary of \$6,012 per month in August 2005, an increase of \$345 per month (\$4,140 per year). The Administrator's ending annual salary was \$72,144.

Finding

13. The DMRS Administrator overbilled mileage and was uncooperative with our review; moreover, the DMRS Deputy Commissioner failed to appropriately monitor the Administrator's work activities or review her travel claims submitted to him for reimbursement

Our review disclosed that for the 17-month period reviewed—July 1, 2003, through December 3, 2004—the Administrator submitted 63 travel claims for reimbursement of travel expenses purported by her to be related to her official duties. The Administrator signed each of her travel claims below the printed certification statement, which states, “I certify that this claim is true and correct.”

The 17-month period consisted of 520 calendar days. Of those 520 calendar days, the Administrator claimed reimbursement for travel on 265 days (51%). The Administrator claimed reimbursement for travel on both weekdays and weekend days. The Administrator's total claimed travel reimbursement for the 17-month period was \$38,169.20. Of that amount, \$32,280.27 (85%) was for mileage. The Administrator received reimbursement for her travel expenses. The remaining \$5,888.93 (15%) in travel reimbursement was for lodging, per diem, parking, taxi, rental car, gas for the rental car, and two disposable cameras for group home photos.

Analysis of those 63 travel claims revealed that the Administrator claimed mileage reimbursement for over 1,000 miles traveled on a single day four times. Specifically, the Administrator claimed 1,367 travel miles on March 28, 2004; 1,325 travel miles on March 29, 2004; 1,094 travel miles on February 5, 2004; and 1,092 travel miles on June 13, 2004.

Clearly, mileage in these amounts appeared unrealistic. For instance, if the Administrator had traveled 1,367 miles in a single 24-hour period at 70 miles per hour, she would have spent 19.5 hours in her vehicle without allowing for time for rest stops, eating, or refueling, leaving only 4.5 hours for work and sleep. From her travel claims, one can see that she claimed 1,325 travel miles the very next day, which would have involved yet another 18.9 hours of driving at 70 miles per hour, leaving 5.1 hours for work and sleep. This kind of mileage appeared to be a highly unlikely physical possibility and unrealistic with reference to the nature of her work and the distances within the state.

Moreover, the 1,367 miles traveled on March 28, 2004, supposedly occurred on a Sunday. In the month of March 2004, the Administrator claimed mileage for 24 of the 31 days in the month, and she claimed mileage for 7 of the 8 weekend days. Overall, in March 2004, the Administrator claimed a total of 11,862 miles traveled, for an average of 494 miles per travel day. The highest mileage claimed was 1,367 miles, while the lowest mileage claimed was 24 miles.

Our review of the Administrator's travel claims disclosed that the Administrator claimed mileage reimbursement for over 7,500 miles per month for the seven-month period February through August 2004. The distribution of claimed mileage is 7,610 miles in February; 11,862

miles in March; 9,764 miles in April; 8,176 miles in May; 7,500 in June; 10,516 miles in July; and 8,317 miles in August. (See Exhibit 1.)

Our review further disclosed that a substantial portion of the Administrator's daily trips started and ended in Nashville, despite the high mileage incurred. Of the Administrator's 265 travel days, 185 (70%) involved trips that started and ended in Nashville.

Based on our review of the Administrator's 63 travel claims, we identified 56 days on which the Administrator claimed that she had traveled more than 500 miles. As noted above, the Administrator claimed over 1,000 miles on four days. The breakdown for the remaining days is one day in the 900's; three days in the 800's; eight days in the 700's; 17 days in the 600's; and 23 days in the 500's. (See Exhibit 2.)

For the Administrator's high mileage days, because she did not consistently record arrival and departure times on her travel claims, it was difficult for us to determine when she initiated her travel, when she reached her destinations, or the length of time she spent at each destination. For the 56 high mileage days, the Administrator noted her departure and arrival times only 12 times (21%). In addition, of the 56 high mileage days, we noted that 49 (88%) of the Administrator's trips started and ended in Nashville.

According to the DMRS Fiscal Director, although the state travel claim form contains column headings for "Time Left" and "Time Arrived" and space to enter that information, when the state established per diem rates instead of per meal rates, the state also dropped the requirement that state employees record when they left one location and when they arrived at the next destination. The DMRS Fiscal Director told us that he had advised DMRS staff that they did not need to record the "Time Left" and "Time Arrived" on their travel claims.

We contacted the state official responsible for state accounting policies in the Department of Finance and Administration. The F&A Director for Accounting Policies stated that the state's Comprehensive Travel Regulations do not specifically require an employee to complete the "Time Left" and "Time Arrived" columns, and that he thought the change had occurred in 1998 when the state adopted a per diem system. He noted that a state department can still require completion of that data prior to processing and approval of the claim and that many departments do so, on the basis that the claim form is not only a reimbursement tool but also a management tool that records an employee's whereabouts and workday.

The Administrator cited the advice of the DMRS Fiscal Director as the reason that she stopped recording her departure and arrival times.

Prior to November 2003, the Administrator reported to either her supervisors in the TennCare Bureau's Long Term Care Division or to the DMRS Assistant Deputy Commissioner. The Administrator submitted 13 travel claims for travel during the period July through October 2003. Of those 13 travel claims, six were signed as approved by her TennCare Bureau supervisors, and seven were signed as approved by the DMRS Assistant Deputy Commissioner.

Starting in November 2003, the Administrator reported directly to the DMRS Deputy Commissioner. The Administrator submitted 50 travel claims for travel that occurred during the period November 2003 through December 3, 2004, when the Administrator reported directly to the DMRS Deputy Commissioner. For that 13-month period, the DMRS Deputy Commissioner signed as the approving authority for 48 of 50 (96%) of the Administrator's travel claims. The remaining two travel claims were signed as approved by the DMRS Assistant Commissioner of Administrative Services.

In addition to analyzing the Administrator's travel on a per-day basis, we also compared, on a limited basis, the travel claimed by the Administrator with records of cell phone usage for the state cell phone assigned to the Administrator. That review disclosed that on some days where the Administrator claimed travel to destinations in other regions of the state, her cell phone records showed only calls made and received in the Middle Tennessee area.

Interview With the Administrator Regarding Her Travel Claims

On May 5, 2005, we questioned the Administrator about her travel claims, focusing particularly on her claimed travel miles. This was our only interview with the Administrator about these matters. In our interview with the Administrator, we questioned the Administrator specifically about five of her travel dates, divided into two categories: (1) her two highest mileage dates (March 28 and 29, 2004); and (2) three dates where she claimed over 600 travel miles, but records of cell phone usage for her state-provided cell phone conflicted with her claimed travel (November 7, 2003; July 23, 2004; and August 6, 2004).

Two Highest Mileage Dates: March 28, 2004 (1,367 Miles) and March 29, 2004 (1,325 Miles)

March 28, 2004 (1,367 Miles)

The Administrator submitted two travel claims that claimed mileage reimbursement for March 28, 2004. The Administrator signed and dated one travel claim for 590 miles (\$188.80 in mileage) on March 29, 2004, the very next day. The Administrator signed and dated a second travel claim for 777 miles (\$248.64) on April 5, eight days after her trip purportedly occurred. The combined total for the two travel claims for March 28 was 1,367 travel miles and \$437.44 in claimed mileage reimbursement. The Administrator received payment for her two travel claims.

Because she submitted her travel claims so close in time to when her trips purportedly occurred, the Administrator should have had detailed contemporaneous knowledge of her actual travel on March 28. Furthermore, all of this travel should have left a vivid impression on her memory when she was completing her travel claims.

However, when we questioned the Administrator about her claim for mileage reimbursement for 1,367 travel miles on March 28, 2004, the Administrator stated that she had made mistakes in submitting her travel claims and that she did not in fact make both trips on March 28, 2004, as she had claimed. The Administrator at first told us that her travel claim for 590 miles on March 28, signed and dated by her on March 29, actually was for travel of 590 miles that had occurred on March 6. The Administrator asserted to us that she had driven all the

mileage claimed on her March 29 travel claim but that the mileage had occurred on a day over three weeks before March 29.

In explanation, the Administrator stated that she kept up with her travel on a sticky pad in her personal vehicle and that she then transferred the information about her travel from her sticky pad to her travel claim and also to her calendar. She stated that after filling out her travel claim, she typically threw the sticky pad pages away. She stated that possibly she did not throw the page away for her travel on March 6, and that she later found it in her personal vehicle. She stated that she probably assumed that she had not submitted a travel claim for her March 6 trip, and then submitted a travel claim representing that the March 6 trip occurred on March 28 to obtain mileage reimbursement. She stated that her sticky pad page did not always show the dates of her trips. Thus, according to the Administrator, she may have found a sticky pad page without a date in her personal vehicle, assumed she had not submitted that travel for reimbursement, and then submitted the traveled miles on a current travel claim to obtain reimbursement.

When we asked the Administrator for her sticky pad page that showed the trip in question, she stated that she had thrown all her sticky pad pages away. In providing this explanation to us, the Administrator admitted that she had submitted incorrect information for March 28 on her travel claim, which she had signed and dated March 29.

The Administrator also admitted that she had not reviewed her previously submitted travel claims to determine if she had already claimed mileage for her trip on March 6 before submitting her travel claim for March 28. Clearly, a state official with her education, years of service, management-level position, and statewide responsibilities should have known that the appropriate step, prior to submitting any travel claim under such circumstances as she described, would have been to conscientiously review her previously submitted travel claims to ensure that she did not submit a duplicate claim. Moreover, the Administrator should have submitted a travel claim with the correct dates and mileage and should have clearly noted that the travel claim was a late submission.

The Administrator stated that she did not make any effort to determine if she had already submitted a travel claim for March 6. The Administrator further stated, as a rationale, that she did not retain any copies of her travel claims, and thus did not have them available to review. However, her travel claims would have been available for her review in the division's fiscal office and she could have easily obtained them from fiscal office staff.

In fact, the Administrator had previously submitted a travel claim that included March 6. The Administrator's travel claim for the period February 29 through March 6 was signed and dated by her on March 8. We provided this travel claim to the Administrator and asked her to explain why she made two round trips from Nashville to Memphis on March 6, one shown on the travel claim signed and dated by her on March 8 and a second trip on the travel claim signed and dated by her on March 29.

In response, the Administrator admitted that she had not actually made two round trips to Memphis on March 6. She further admitted that her second travel claim for her Memphis round trip on March 6, shown as having occurred on March 28 on her travel claim that she had signed

and dated March 29, was in fact a duplicate claim. The Administrator stated that her duplicate claim was a mistake, was unintentional, and was possibly due to sloppy record keeping. In addition, the Administrator acknowledged that she owed the cost of the duplicate claim to the state.

We examined the Administrator's calendar entry for March 6 with her. The calendar entry recorded a round trip from Nashville to Memphis and a round trip from Nashville to Sparta. The Administrator did not claim her purported March 6 Nashville-to-Sparta round trip on her travel claim signed and dated by her on March 8. The Administrator had no explanation for her failure to include the March 6 Nashville-to-Sparta round trip on her travel claim that included March 6, other than that it was unexplainable error on her part.

The Administrator did claim a March 28 Nashville-to-Sparta round trip on her travel claim signed and dated by her on March 29. As noted above, the Administrator asserted that her travel on March 28 had actually occurred on March 6; and then the Administrator later admitted that her travel claim, signed and dated by her on March 29, contained a duplicate Memphis round trip.

Because the Administrator provided conflicting accounts of her travel, admitted to misstating information on a travel claim, admitted to submitting a duplicate claim for reimbursement, and failed to provide any documentation related to her trips, it is impossible to distinguish between true work-related travel and duplicative, inflated, or fictitious travel on her travel claims.

Examples of evidence that would assist in determining the Administrator's work activities and travel would include calendar entries, names of providers visited, names of service recipients observed, lists of records obtained and reviewed, monitoring reports, memoranda summarizing work activities, and status reports. However, in spite of direct requests, the Administrator did not furnish us any information that would establish that she had in fact made the trips in question or that the trips had been undertaken pursuant to official state business.

While it is not possible to independently determine the exact facts surrounding this unreasonable travel request, the lack of documentation and the inconsistent statements of the Administrator call into question the entire travel claimed. In particular, at a minimum, the \$188.80 for the 590 miles claimed on March 28, 2004, and for which the Administrator requested mileage reimbursement on March 29, 2004, is questionable in light of her admissions that she had submitted a duplicate travel claim.

March 29, 2004 (1,325 Miles)

Each of the Administrator's two travel claims, discussed above, also included claimed mileage reimbursement for March 29, 2004. The Administrator signed and dated a travel claim for 702 miles (\$224.64 in mileage) on March 29, 2004, the same day the travel supposedly occurred. The Administrator also signed and dated a second travel claim for 623 miles for travel on March 29 (\$199.36 in mileage) on April 5, seven days after her trip purportedly occurred. The combined total for the two travel claims for March 29 was 1,325 travel miles and \$424.00 in

claimed mileage reimbursement. As noted above, the Administrator received payment for these two travel claims.

When questioned about her travel on March 29, the Administrator admitted that she had not made both trips as she had claimed. Instead, according to the Administrator, one of her trips that she had claimed occurred on March 29 had actually occurred on March 8. The Administrator identified her trip from Nashville to Memphis to Dresden to Lexington to Bolivar to Hendersonville to Columbia to Nashville as the trip that had actually occurred on March 8 and not on March 29. This trip represented 702 miles and \$224.64 in reimbursement.

In providing this explanation to us, the Administrator admitted that she had submitted incorrect information for March 29 on her travel claim, which she had signed and dated March 29. Clearly, the Administrator should have known on March 29 the details of a trip that occurred on that same day.

The Administrator attributed her wrong date for her trip to a “mistake” on her part, and she provided the same “sticky pad” explanation for her March 29 claim as for her March 28 claim.

In fact, the Administrator did not submit a travel claim that included any travel on March 8. Thus, her claimed March 29 trip, which she stated actually had occurred on March 8, did not duplicate or overlap a trip that she had previously claimed.

Because the Administrator admitted to misstating information on a travel claim and failed to provide any documentation related to her trips, it is impossible to distinguish between true work-related travel and duplicative, inflated, or fictitious travel on her travel claims.

As with the first case cited above, while it is not possible to independently determine the exact facts surrounding this unreasonable travel request, the lack of documentation and the statements of the Administrator that acknowledged improper dating related to her travel call into question the entire travel claimed. In particular, at a minimum, the \$224.64 for the 702 miles claimed on March 29, 2004, and for which the Administrator requested mileage reimbursement on March 29, 2004, is questionable.

Conflict Between Travel Claims and Records of Cell Phone Usage Relating to the Administrator’s State-Provided Cell Phone

We selected three dates where the Administrator claimed over 600 travel miles and the records of cell phone usage for her state-provided cell phone conflicted with her claimed travel. The three dates were November 7, 2003; July 23, 2004; and August 6, 2004. We did not review in detail all the dates where the Administrator claimed mileage reimbursement and the records of cell phone usage for the state cell phone assigned to the Administrator showed that cell phone calls had been made on those dates. Our review was limited in extent. Therefore, it cannot be presumed that the Administrator’s travel on all other dates was consistent with the information related to calls to and from her state-provided cell phone.

During our interview, the Administrator stated that she had her state cell phone with her at all times and that she placed her state cell phone in a pocket in her purse. She stated that she did not loan her state cell phone to other staff for their use other than for an infrequent phone call while she was traveling with another person. She stated that when she first received a state cell phone, in October or November 2003, the cell phone was a “pooled” cell phone, and was thus available for use by other DMRS staff. She stated that in December 2003 a state cell phone was permanently assigned to her and was only out of her possession when she turned her state cell phone in for repairs.

November 7, 2003 (669 miles)

The Administrator submitted a travel claim for travel for the period November 7 through 17, 2003. She signed her travel claim and dated it November 17, 2003. Her travel claim showed a trip on November 7, 2003, from Nashville to Knoxville to Johnson City to Bristol to Maryville to Cleveland to Nashville for 669 total miles and \$214.08 in mileage expense. The Administrator received payment for this travel claim.

We provided the Administrator with the cell phone usage records for her state cell phone that showed that on November 7, 2003, nine calls originated from a source tower located in Nashville between the hours of 10:43 a.m. and 5:41 p.m. There were no calls before 10:43 a.m. or after 5:41 p.m.

However, in the one of the few instances where the Administrator recorded departure and arrival times, the Administrator’s travel claim recorded that she left Nashville at 6:30 a.m. and returned to Nashville at 1:30 a.m. the next day. Clearly, the cell phone records and the travel claim conflict.

The Administrator explained the discrepancy between her travel claim and her state cell phone records by stating that the state cell phone was not permanently assigned to her until December 2003. She stated that before December 2003 the cell phone was a “pooled” phone and could be checked out and used by other division employees. The Administrator asserted that she had made the trip shown on her travel claim and that another division employee must have been using the cell phone in question.

Subsequent to our interview with the Administrator, we obtained the cellular phone/pager log from the former Procurement Officer/Telecommunications Liaison with the Department of Mental Health and Mental Retardation, who maintained the phone/pager log during that time. The log clearly recorded that the state cell phone number in question was permanently assigned to the Administrator on October 21, 2003, and was not a pooled phone on November 7, 2003, the date in question.

In this instance, as with the others cited above, it is not possible to independently determine the exact facts surrounding this travel request. However, the lack of documentation combined with the Administrator’s misrepresentations related to the assignment of her state-provided cell phone call into question the entire travel claimed. In particular, at a minimum, the

\$214.08 for the 669 miles claimed on November 7, 2003, and for which the Administrator requested reimbursement on March 17, 2003, is questionable.

July 23, 2004 (672 miles)

The Administrator submitted a claim for reimbursement for official state travel for the period July 23 and 24, 2004. She signed her travel claim and dated it August 4, 2004. Her travel claim showed a trip on July 23, 2004, from Nashville to Memphis to Crossville to Gallatin to Nashville for 672 total miles and \$235.20 in mileage expense. The Administrator received payment for this travel claim.

We showed the Administrator the cell phone usage records for her state cell phone which showed that on July 23, 2004, eleven calls originated from the source towers located in the Murfreesboro, Nashville, and Antioch areas between the hours of 8:30 a.m. and 4:00 p.m. There were no calls before 8:30 a.m. or after 4:00 p.m. The Administrator's travel claim did not record departure and arrival times.

The Administrator at first stated that she could not explain why her travel claim showed a trip that conflicted with her cell phone records. Then, the Administrator stated that her calendar entries might cast light on her activities of July 23, 2004. The Administrator stated that she recorded her travel in a spiral bound 8-1/2 x 11 inch calendar notebook. She reviewed with us her calendar notebook entries for that day. After reviewing her calendar notebook entries, the Administrator admitted that she had not in fact made a trip on July 23, 2004. She directed our attention to a notation in her handwriting on her calendar that recorded an appointment with a medical doctor at 9:00 a.m. in Murfreesboro, Tennessee. The Administrator stated that she had scheduled a post-operation appointment with her doctor and that she had kept that appointment. The Administrator stated that the trip that she recorded on her travel claim as occurring on July 23, 2004, must have occurred on another date, but she could not recall the date.

After the interview, we contacted the Administrator and asked for a complete copy of her calendar. As discussed further below, the Administrator, through her attorney, responded that she could not locate her calendar because an unknown person had taken it.

The Administrator should have known that she did not make a trip from Nashville to Memphis to Crossville to Gallatin to Nashville on July 23, 2004. The Administrator should have had detailed contemporaneous knowledge of her travel because she submitted her travel claim on August 4, 2004, only 12 days after the purported trip date. In addition, the Administrator clearly recalled her doctor's appointment, as recorded by her in her calendar notebook. Moreover, the Administrator could not provide an alternative date for the trip that she supposedly made.

In this instance, as with the others cited above, it is not possible to independently determine the exact facts surrounding this travel request. However, the lack of documentation combined with the Administrator's statements that she had not made the claimed trip on July 23 but must have made the trip on some other unknown date call into question the entire travel claimed. In particular, at a minimum, the \$235.20 for the 672 miles claimed on July 23, 2004, and for which the Administrator requested reimbursement on August 4, 2004, is questionable.

August 6, 2004 (662 miles)

The Administrator submitted a travel claim for travel for the period August 4 through the 7, 2004. She signed her travel claim and dated it August 29, 2004. Her travel claim recorded a trip on August 6, 2004, from Nashville to Jackson to Pulaski to Fayetteville to Madisonville to Nashville for 662 total miles and \$231.70 in mileage expense. The Administrator had received payment for this travel claim.

We provided the Administrator with cell phone usage records for her state-provided cell phone that showed that on August 6, 2004, twelve calls originated from the source towers located in Nashville and Antioch between the hours of 7:57 a.m. and 8:59 a.m. There were also nine calls between the hours of 2:18 p.m. and 7:49 p.m. in the Nashville and Murfreesboro area. There were no calls before 7:57 a.m. or after 7:49 p.m. The Administrator's travel claim did not record departure and arrival times.

The Administrator stated that she could not explain the discrepancy between her travel claim and the cell phone records.

In this instance, as with others cited above, it is not possible to independently determine the exact facts surrounding this travel request. However, the lack of documentation combined with the Administrator's statements that she could not explain the discrepancy between her travel claim and the information relative to her state-provided cell phone call into question the entire travel claimed. In particular, at a minimum, the \$231.70 for the 662 miles claimed on August 6, 2004, and for which the Administrator requested reimbursement on August 29, 2004, is questionable.

Subsequent Statement by the Administrator Relative to Her State Cell Phone Usage

The Administrator sent information to the DMRS Deputy Commissioner, dated May 10, 2005, that provided an additional explanation for the conflicts between her travel claims and the cell phone usage records, which we had questioned in our interview with her on May 5, 2005.

The Administrator stated that in January 2004 she had turned in her state-provided cell phone for repairs, and that she had been told that the phone was a pooled phone. She further stated that the phone was to be placed in the cabinet by a Community Operations Coordinator (Coordinator) and she was welcome to get it on an as-needed basis.

We subsequently interviewed the Coordinator identified by the Administrator. The Coordinator stated that she was not in charge of pooled state cell phones. The Coordinator also stated that she knew of some pooled state cell phones, but did not know if the Administrator's state cell phone was pooled at that time. The Coordinator further stated that she did not know anything about a cabinet and that she did not put any state cell phones in a cabinet. She stated that she had voluntarily picked up the Administrator's state cell phone from the Administrator and brought it to the central office several times for repairs, because she lived near the central office and she had offered to drop the Administrator's cell phone off for repairs when needed.

The Coordinator further stated the Administrator's state cell phone was not her responsibility to track or monitor.

In addition to stating that her state cell phone was actually a pooled phone and that the Coordinator controlled the pooled cell phones, the Administrator stated that the state cell phone in question was available to more people than just herself. The Administrator stated that she believed the state cell phone in question had been used by the State Director for Residential Support and Provider Development Services for a period of time during the summer of 2004 when his state cell phone was not working. The Administrator further stated that she believed that other Federal auditors and state staff, whom she did not identify, may also have used her state cell phone. The relationship between the Administrator and Federal auditors is discussed below.

We subsequently interviewed the State Director for Residential Support and Provider Development Services identified by the Administrator. During our interview with the State Director, he stated that he never had a state cell phone number with the prefix (202), the prefix number assigned to the Administrator.

Based on presently available information, the Administrator misrepresented that her state cell phone was a pooled phone, that the Coordinator was responsible for pooled phones, and that the State Director had used her state-assigned cell phone during the summer of 2004. Based on documentation of state cell phone assignments, the Administrator's state cell phone was assigned to her on October 21, 2003, prior to the cell phone calls questioned above.

The Administrator's Explanations for Her Extensive Travel

During our interview with the Administrator on May 5, 2004, we asked her to explain the extensive amount of travel she had claimed. The Administrator initially stated that her high-volume travel was due to the fact that she accompanied and assisted federal auditors during the time period in question. The Administrator initially asserted that she had in fact driven each mile for which she had claimed reimbursement. During our interview with the Administrator, she acknowledged only that she had double-billed one trip on March 28, 2004, discussed above.

The Administrator stated that her responsibilities associated with the Federal Office of the Inspector General (OIG) auditors with the U.S. Department of Health and Human Services were to accompany them to provider agency offices and to a service recipient's home to make sure that the service recipient was an actual living human being and to assist the OIG auditors in obtaining records. The Administrator stated that the OIG auditors traveled wherever they needed to go in Tennessee to obtain records. The Administrator stated that the OIG auditors would typically gather documents first and then visit service recipients. The Administrator stated that the OIG auditors would review daily notes, timesheets, training files, and personnel records to make sure they conformed to policy.

The Administrator stated that after the OIG auditors had completed their work in Tennessee and had returned to their home offices, they would contact her and request her to obtain additional records from provider agencies. The Administrator further stated that the OIG

auditors would only give her the service recipients' names one name at a time for her to go to the provider agency, to view the service recipient, and to obtain the required records. The Administrator stated that the names provided to her by the OIG auditors were spread out all over the state.

We asked the Administrator why she returned to the Nashville area almost daily while purportedly physically traveling with the OIG auditors. The Administrator stated that the OIG auditors had a contract with a hotel in the Brentwood, Tennessee, area, and that they informed her that they scheduled their travel so that they would return to that hotel each night. The Administrator stated that since she accompanied the OIG auditors, and they returned to their Brentwood hotel each evening, therefore, she, too, returned to Nashville each evening.

The Administrator stated that she traveled primarily with one OIG auditor in particular.

We had contacted the OIG auditor identified by the Administrator before our interview with the Administrator because the OIG auditor had also been identified by other DMRS staff. The OIG auditor was based in Birmingham, Alabama. The OIG auditor told us that the Administrator accompanied her on only one day in the afternoon. The OIG auditor stated that she could not pinpoint the actual day, or the month, that she and the Administrator traveled together. Although the OIG auditor did not have a specific memory of the vehicle used, she thought that she and the Administrator had traveled together in the Administrator's vehicle. The OIG auditor stated that the OIG auditors did not follow a schedule that required them to return to their Brentwood hotel every night. The OIG auditor further stated that she had no recollection of requesting the Administrator to obtain any documentation for her after their half-day together. According to the OIG auditor, it would not have been necessary for the Administrator to obtain documents related to the OIG work.

The OIG auditor provided us the name of a second OIG auditor, also based in Birmingham, Alabama, with whom the Administrator traveled on official state business. We had contacted the second OIG auditor before our interview with the Administrator because the OIG auditor had also been identified by other DMRS staff. The second OIG auditor confirmed that he had done some traveling with the Administrator. He stated that based on his recollection the Administrator traveled with him at most a week in September 2003 and another week in March 2004. He stated that he could not pinpoint the actual days of their travel together. The OIG auditor stated that he recalled that the Administrator drove her own car in September 2003, but rode with OIG auditors in their rental car in March 2004. The OIG auditor stated that because their work was only in the Middle Tennessee area, and not all over the state, they returned to their Brentwood-area hotel each evening. The OIG auditor further stated that the Administrator may have been asked to obtain some additional records on OIG's behalf but that such activities on the part of the Administrator would have been extremely limited in nature. The second OIG auditor stated that the OIG staff did not parcel out work to the Administrator on a name-by-name basis.

Thus, based on the limited information available to us, it is impossible to determine the exact travel days, or the total number of travel days, when the Administrator was accompanying the OIG auditors. However, the Administrator's days of travel associated with OIG activities,

based on the information provided by the two OIG auditors, appeared to be substantially less than the number of days recorded by the Administrator on her travel claims. Of the Administrator's 63 travel claims in question, she recorded the reason for her travel as "OIG" on 17 (27%). For another 9 (14%) travel claims, the Administrator recorded her reason for her travel as "OIG" and other activities, such as "mediation training," "ordinary course of business," "CMS [Centers for Medicaid and Medicare] training," "core team training," and "core team writing group." Her 17 travel claims with "OIG" as the reason for travel included a total of 79 days of travel. The total days involved with her travel claims that included a combination of OIG and other activities, noted above, were 51.

Based on the statements of the OIG auditors, it is evident that the Administrator misrepresented that the OIG auditors asked her to obtain substantial additional documentation subsequent to their in-state reviews.

When presented with the information that the OIG auditors could recall traveling with her for fewer days than she claimed, and also that the OIG auditors asserted that they did not ask her to do much additional work for them, the Administrator amended her rationale for her extensive travel. The Administrator stated that she also did a substantial amount of work for the DMRS Deputy Commissioner.

The Administrator acknowledged that she did not keep a log or record of those assignments or their resolution. The DMRS Deputy Commissioner, also, acknowledged that he did not formally track his assignments to the Administrator or their resolution. The DMRS Deputy Commissioner told us that the Administrator functioned as a trouble shooter for him and he would give her tasks, such as complaints about quality of care, and the Administrator would take care of them for him. The Deputy Commissioner expressed shock and surprise at the mileage claimed by the Administrator.

The Administrator Was Uncooperative With the Review

As noted below, during the course of our review, the Administrator failed to take appropriate action to provide information that would have aided our review. Although we formally asked for detailed information relating to four areas, the Administrator was unresponsive. Specifically, the Administrator

- failed to provide information that would have enabled us to determine her vehicle usage;
- stated that there was a witness who could verify her travel, but then would not identify the witness;
- alleged that she had been harassed on the job before the issue of her mileage reimbursements came to light, but the information she provided related to alleged harassment that supposedly occurred after she had been interviewed about her questionable travel reimbursements; and

- failed to provide any information related to her work activities and travel that would assist in verifying that she had been at work and had traveled the miles claimed on official state business.

These matters are discussed in more detail below.

The Administrator Failed to Authorize the Release of Her Vehicle Maintenance Records to Us

During our interview with the Administrator on May 5, 2004, we requested that she make available to us the vehicle maintenance records for all the vehicles she indicated that she drove on work-related matters for the time period in question. At that time, the Administrator agreed to provide us her vehicle maintenance records. We were particularly interested in the mileage for her Yukon, which she identified as the primary vehicle used for her state travel.

On May 13, 2004, the Administrator sent us documents that contained limited information related to her vehicles. The documents did not contain the information we were seeking, which was the mileage on her Yukon (the vehicle she stated she drove most of the time) when she took it in for service and the dates her Yukon was not available to her because it was out of service. With the mileage information and the dates of service, we intended to determine the number of miles the Administrator had driven between service dates and to match that information with the mileage she claimed on her travel claims.

Because the information provided to us was not useful for our purposes, the DMRS Deputy Commissioner, by a letter dated May 20, 2005, specifically requested that the Administrator authorize her vehicle dealer to provide us her vehicle maintenance records.

By letter dated June 9, 2005, the Administrator's attorney responded to the DMRS Deputy Commissioner. That letter stated, in part, that it was doubtful that the Administrator could obtain the cooperation of her car dealer in view of the fact that she was involved in a controversy regarding repeated maintenance problems with her Yukon. According to the attorney's letter, to the extent that his office could persuade the vehicle dealer to voluntarily provide the information, without a subpoena, we could submit the attorney's letter (on behalf of the Administrator) as authorization for that release.

We contacted the vehicle dealer and spoke to both the service manager and the general manager. We also faxed the attorney's letter to the dealership. Both the service manager and the general manager stated that her attorney's letter was not sufficient for them to release the Administrator's records because their interpretation of the service recipient privacy laws was that the service recipient had to directly authorize the dealership to release the records, and that the authorization had to be in writing.

Since the dealership officials requested direct written authorization by the Administrator, the DMRS Deputy Commissioner, by letter dated July 28, 2005, specifically requested that the Administrator authorize, in writing, the dealership to release her vehicle maintenance records to the auditors. As of October 31, 2006, fifteen months later, the Administrator has not provided the requested written authorization.

Because it has been clear from May 20, 2005, the date of the Deputy Commissioner's first letter to the Administrator, that we needed her vehicle maintenance records provided to us independently by the dealership, and because the Administrator has not taken the appropriate affirmative steps to effectuate the disclosure of the required information, the Administrator has in effect impeded the investigative process, contrary to Section 8-4-109, *Tennessee Code Annotated*, which requires state officials and employees to cooperate with the Comptroller of the Treasury in any audit or investigation.

The Administrator Failed to Identify a Potential Witness

In a letter dated June 9, 2005, to the DMRS Deputy Commissioner, the Administrator's attorney stated, in part, that the Administrator indicated that she had a passenger with her who could confirm her high-volume driving, which was always in one of the Administrator's vehicles, "for about a third of the time (possibly more)."

In a written response, dated June 30, 2005, the DMRS Deputy Commissioner requested the name of the individual. We intended to interview the individual to confirm or disconfirm the Administrator's representations related to her travel. Although the Administrator, through her attorney, initially mentioned the existence of a relevant witness, the Administrator subsequently has not been forthcoming with any further information related to the purported witness.

As of October 31, 2006, sixteen months later, the Administrator has not provided the identity of the supposed witness.

The Administrator Alleged Prior Harassment, but the Documents She Provided Indicate the Alleged Harassment Occurred After Her Travel Claims Were Questioned

In a letter dated June 9, 2005, the Administrator's attorney stated, in part, that the Administrator indicated that the DMRS Deputy Commissioner was aware that the Administrator had been subject of some unusual harassment, due to the Administrator's vocal criticism of inadequate policies and practices. The Administrator's attorney stated that the Administrator's complaints regarding anonymous notes, and more overt harassment, had been ignored. The Administrator's attorney stated that as the parent of a disabled child, the Administrator was apparently perceived as an aggressive advocate for the rights of the impaired. The Administrator's attorney also stated that after the Administrator had been placed on administrative leave with pay following our interview with her, the Administrator received an unsolicited letter (postmarked May 23, 2005) with a page from her daily calendar (February 8 and February 9). The Administrator's attorney enclosed the calendar page with his letter.

The Administrator's attorney stated that it appeared clear that the same individual who was responsible for instituting the unwarranted investigation pertaining to the Administrator's travel time had undertaken efforts to block her ability to easily establish her travel schedule by taking her daily calendar.

In response, by letter dated June 30, 2005, the DMRS Deputy Commissioner requested documentation of any harassment complaints. Subsequently, the Administrator provided two letters, dated June 2 and June 10, 2005, to the DMRS Deputy Commissioner. The DMRS

Deputy Commissioner transmitted the two letters to the DMRS Director of Civil Rights for further review. The dates on the letters occurred after our interview with the Administrator on May 5, 2005. Thus, the Administrator did not provide any documentation related to any harassment alleged to have occurred prior to her being questioned about her travel reimbursement. The DMRS Civil Rights Director told us that she did not intend to proceed further without additional information from the Administrator, which had not been provided as of October 31, 2006. The DMRS Civil Rights Director told us that she had not initiated contact with the former Administrator or her attorney.

The Administrator's Trips Over 500 Miles in a Single Day

By letter to the Administrator's attorney dated May 20, 2005, the Deputy Commissioner provided the Administrator a schedule and requested an explanation for the claimed travel. The Administrator's attorney responded by letter dated June 9, 2005, that the Administrator needed her calendar to respond appropriately, but her calendar had been taken by an unknown person. The Administrator's calendar was last seen in her possession during our interview with her. Evidence of work performed, to the extent to which it existed, could have been made available by DMRS staff to the Administrator for her review at her request. The Administrator had not made such a request as of October 31, 2006.

In spite of the direct questions we raised with the Administrator about her travel, including increased skepticism about the Administrator's repeated misstatements about key issues, and direct requests for more information, the Administrator failed to provide any additional evidence to establish that the travel she claimed had in fact occurred and was directly related to official state business. As noted in the separate sections on questioned costs above, it is not possible to independently determine the exact facts surrounding the unreasonable travel requests, the lack of documentation, the inconsistent statements of the Administrator, and the contradictory statements of otherwise reliable third parties in DMRS and with OIG call into question the entire travel claimed. Until supporting evidence has been submitted by the Administrator and confirmed by the auditors, the entire \$12,743.90 for the 38,188 miles claimed is questioned. As of October 31, 2006, the Administrator has not provided any information related to her mileage claims.

Division Action

On August 31, 2005, a letter, signed by both the F&A Commissioner and the DMRS Deputy Commissioner, was sent by certified mail to the Administrator's home address that terminated her employment effective as of the date of the letter. The letter stated, "Effective today, you are being dismissed from your Executive Service position with the Division of Mental Retardation Services." The letter did not include a reason for the termination.

The Administrator's personnel file was coded not for rehire by the Department of Finance and Administration, which included the Division of Mental Retardation Services (DMRS).

Referral

On June 22, 2006, the issues identified above were referred to the District Attorney General's Office for the 20th Judicial District (Davidson County).

Internal Control Weaknesses

Our review disclosed several significant internal control weaknesses:

- The Deputy Commissioner did not track the status of assignments that he gave to the Administrator and did not require the Administrator to submit periodic status reports detailing her work on behalf of the division. There was no effort to correlate the Administrator's travel claims and work hours with evidence of work performed.
- The Deputy Commissioner did not carefully review the travel claims submitted to him by the Administrator. If he had, he would have noted the apparent excessive mileage. At that point, he should have questioned the Administrator regarding the apparent excessive mileage or turned the matter over to the Internal Auditor for the Department of Finance and Administration and the Comptroller's Office.
- The division's Fiscal Office staff did not carefully review the travel claims submitted by the Administrator and approved by the Deputy Commissioner. If fiscal staff had conducted such a review, they would have noted the apparent excessive mileage. At that point, they should have questioned the Deputy Commissioner regarding the mileage claimed for reimbursement or turned the matter over to the Internal Auditor for the Department of Finance and Administration and the Comptroller's Office.

Recommendations

Our review resulted in the following recommendations:

1. The DMRS Deputy Commissioner should initiate appropriate action to recover the state funds paid to the former DMRS Administrator for mileage reimbursements and work time that cannot be verified.
2. The DMRS Deputy Commissioner should track assignments that he gives to his subordinates and should require periodic status reports detailing the work accomplished on behalf of the division.
3. The DMRS Deputy Commissioner should carefully review all travel claims submitted to him for his signature. If he notes questionable items, he should question the employee and refer the matter to F&A's Internal Auditor and the Comptroller's Office.

4. DMRS Fiscal Office staff should carefully review travel claims submitted to them for payment. If they note questionable items, they should inform the DMRS Deputy Commissioner, the DMRS Fiscal Director, F&A's Internal Auditor, and the Comptroller's Office.
5. DMRS staff should carefully review the former Administrator's travel claims for the entire period of her employment with the division for possible improprieties.
6. DMRS Fiscal Office staff should implement analytical review procedures to detect possible overbilling related to travel reimbursement claims.
7. Staff of TennCare Bureau's Long Term Care Division should carefully review the former Administrator's travel claims for the entire period of her employment with the division for possible improprieties.

Management's Comment

Management concurs with the internal control weaknesses identified in this investigation and is working to implement the investigators' recommendations.

Because this case has been referred by the Comptroller of the Treasury to the Attorney General's Office and the District Attorney General's Office for the 20th Judicial District, DMRS management believes it would be inappropriate for the DMRS to attempt to recover funds from the former administrator for mileage reimbursements and work time that cannot be verified, until the case is closed by those offices.

OBSERVATIONS AND COMMENTS

FRAUD CONSIDERATIONS

Statement on Auditing Standards No. 99 promulgated by the American Institute of Certified Public Accountants requires auditors to specifically assess the risk of material misstatement of an audited entity's financial statements due to fraud. The standard also restates the obvious premise that management, and not the auditors, is primarily responsible for preventing and detecting fraud in its own entity. Management's responsibility is fulfilled in part when it takes appropriate steps to assess the risk of fraud within the entity and to implement adequate internal controls to address the results of those risk assessments.

During our audit, we discussed these responsibilities with management and how management might approach meeting them. We also increased the breadth and depth of our inquiries of management and others in the entity as we deemed appropriate. We obtained formal assurances from top management that management had reviewed the entity's policies and procedures to

ensure that they are properly designed to prevent and detect fraud and that management had made changes to the policies and procedures where appropriate. Top management further assured us that all staff had been advised to promptly alert management of all allegations of fraud, suspected fraud, or detected fraud and to be totally candid in all communications with the auditors. All levels of management assured us there were no known instances or allegations of fraud that were not disclosed to us.

TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Section 4-21-901, *Tennessee Code Annotated*, requires each state governmental entity subject to the requirements of Title VI of the Civil Rights Act of 1964 to submit an annual Title VI compliance report and implementation plan to the Department of Audit by June 30 each year. The Department of Finance and Administration filed its compliance reports and implementation plans on June 30, 2004.

Title VI of the Civil Rights Act of 1964 is a federal law. The act requires all state agencies receiving federal money to develop and implement plans to ensure that no person shall, on the grounds of race, color, or origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal funds. The Tennessee Title VI Compliance Commission is responsible for monitoring and enforcement of Title VI.

APPENDIX

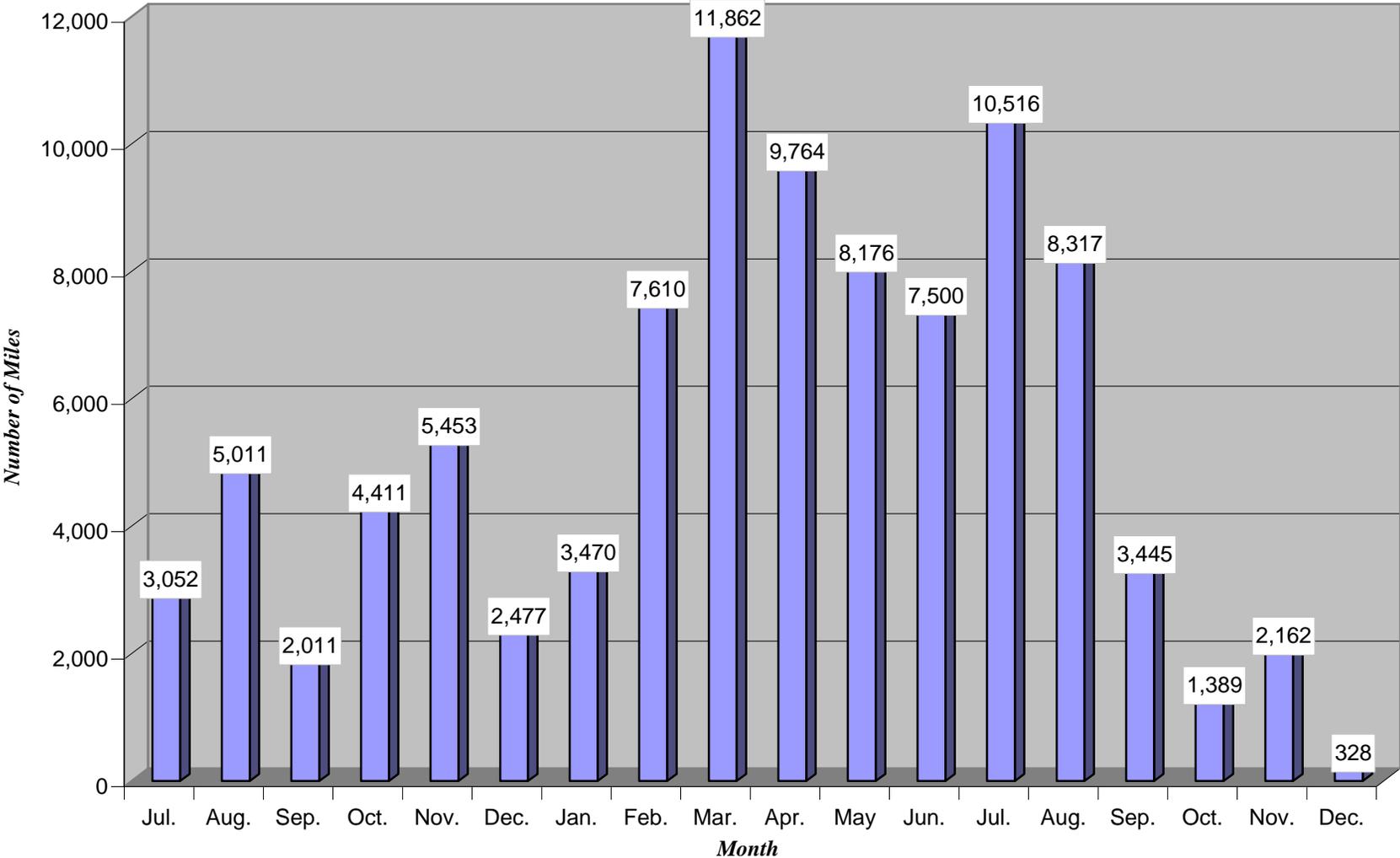
ALLOTMENT CODES

Department of Finance and Administration allotment codes

317.01	Division of Administration
317.02	Division of Budget
317.03	Office for Information Services
317.04	Insurance Administration
317.05	Division of Accounts – Internal Service Fund
317.06	Criminal Justice Programs
317.07	Resource Development and Support
317.10	Capital Projects and Real Property Management
317.11	Commission on National and Community Services
317.12	Office of TennCare Inspector General
317.13	TennCare Advisory Commission
317.15	State Health Planning Division
317.16	Automated Court System Hardware Replacement
317.17	Enterprise Resource Planning

317.30 Management Information Systems Fund
317.86 Tennessee Insurance System
317.90 Private Purpose Trust Funds
317.97 Telephone Billing
317.99 Division of Accounts – Other
318.01 Office of Health Services
318.65 TennCare Administration
318.66 TennCare Services
318.67 Waivers and Crossover Services
318.68 Long-Term Care Services
344.01 Mental Retardation Administration
344.02 Community Services
344.10 Arlington Developmental Center
344.11 Clover Bottom Developmental Center
344.12 Greene Valley Developmental Center
344.20 West Tennessee Regional Office
344.21 Middle Tennessee Regional Office
344.22 East Tennessee Regional Office
344.50 Major Maintenance
344.81 Developmental Disabilities Council

Exhibit 1: DMRS Administrator, Total Traveled Miles Per Month, July 2003 - Dec. 2004*



* Through Dec. 3, 2004

Source: Administrator's Travel Claims

Exhibit 2: Trips With Over 500 Miles in a Single Day

<u>No.</u>	<u>Date</u>	<u>1,000+ miles</u>	<u>Rate</u>	<u>Amount</u>
1	Sunday, March 28, 2004	1,367	0.32	\$437.44
2	Monday, March 29, 2004	1,325	0.32	424.00
3	Thursday, February 05, 2004	1,094	0.32	\$350.08
4	Sunday, June 13, 2004	1,092	0.35	382.20
	Total	4,878		\$1,593.72

<u>No.</u>	<u>Date</u>	<u>900+ miles</u>	<u>Rate</u>	<u>Amount</u>
1	Saturday, July 17, 2004	922	0.35	\$322.70
	Total	922		\$322.70

<u>No.</u>	<u>Date</u>	<u>800+ miles</u>	<u>Rate</u>	<u>Amount</u>
1	Friday, March 26, 2004	898	0.32	\$287.36
2	Saturday, July 10, 2004	895	0.35	313.25
3	Saturday, July 31, 2004	851	0.35	297.85
	Total	2,644		\$898.46

<u>No.</u>	<u>Date</u>	<u>700+miles</u>	<u>Rate</u>	<u>Amount</u>
1	Saturday, July 03, 2004	799	0.35	\$279.65
2	Saturday, April 03, 2004	797	0.32	255.04
3	Thursday, April 08, 2004	792	0.32	253.44
4	Saturday, August 07, 2004	768	0.35	268.80
5	Thursday, July 15, 2004	742	0.35	259.70
6	Thursday, November 20, 2003	759	0.32	242.88
7	Saturday, April 24, 2004	724	0.32	231.68
8	Sunday, May 09, 2004	724	0.35	253.40
	Total	6,105		\$2,044.59

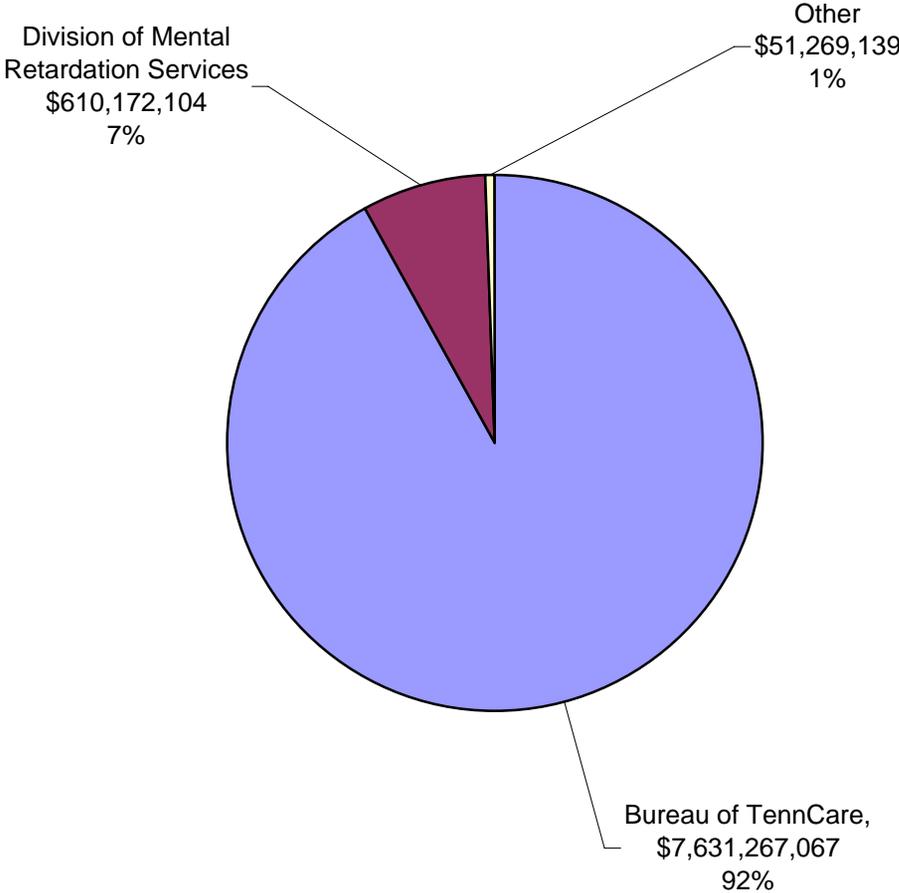
<u>No.</u>	<u>Date</u>	<u>600+ miles</u>	<u>Rate</u>	<u>Amount</u>
1	Friday, May 14, 2004	697	0.35	\$243.95
2	Friday, April 16, 2004	681	0.32	217.92
3	Monday, December 29, 2003	680	0.32	217.60
4	Friday, July 23, 2004	672	0.35	235.20
5	Friday, November 07, 2003	669	0.32	214.08
6	Friday, July 02, 2004	669	0.35	234.15
7	Tuesday, October 07, 2003	665	0.32	212.80
8	Friday, August 06, 2004	662	0.35	231.70
9	Saturday, June 26, 2004	651	0.35	227.85
10	Monday, November 10, 2003	650	0.32	208.00
11	Monday, August 23, 2004	648	0.35	226.80

12	Thursday, March 25, 2004	646	0.32	206.72
13	Sunday, July 11, 2004	635	0.35	222.25
14	Tuesday, March 30, 2004	634	0.32	202.88
15	Sunday, April 25, 2004	631	0.32	201.92
16	Wednesday, March 24, 2004	629	0.32	201.28
17	Sunday, May 16, 2004	615	0.35	215.25
	Total	<u>11,134</u>		<u>\$3,720.35</u>

<u>No.</u>	<u>Date</u>	<u>500+ miles</u>	<u>Rate</u>	<u>Amount</u>
1	Monday, April 05, 2004	590	0.32	\$188.80
2	Friday, February 06, 2004	584	0.32	186.88
3	Tuesday, June 01, 2004	580	0.35	203.00
4	Friday, April 09, 2004	567	0.32	181.44
5	Monday, May 17, 2004	562	0.35	196.70
6	Friday, October 17, 2003	562	0.32	179.84
7	Saturday, July 24, 2004	561	0.35	196.35
8	Thursday, November 18, 2004	558	0.35	195.30
9	Friday, August 22, 2003	557	0.32	178.24
10	Wednesday, December 31, 2003	557	0.32	178.24
11	Friday, April 30, 2004	548	0.32	175.36
12	Friday, May 07, 2004	547	0.35	191.45
13	Wednesday, November 19, 2003	532	0.32	170.24
14	Wednesday, August 11, 2004	532	0.35	186.20
15	Wednesday, April 07, 2004	531	0.32	169.92
16	Saturday, May 01, 2004	527	0.35	184.45
17	Thursday, September 16, 2004	525	0.35	183.75
18	Monday, August 16, 2004	523	0.35	183.05
19	Thursday, July 03, 2003	521	0.32	166.72
20	Friday, January 02, 2004	519	0.32	166.08
21	Wednesday, February 04, 2004	515	0.32	164.80
22	Friday, February 13, 2004	506	0.32	161.92
23	Wednesday, August 18, 2004	501	0.35	175.35
	Total	<u>12,505</u>		<u>\$4,164.08</u>
	Grand Total	<u>38,188</u>		<u>\$12,743.90</u>

Source: Administrator's Travel Claims

Department of Finance and Administration
General Fund Expenditures
Fiscal Year Ended June 30, 2004 (Unaudited)



Division of Mental Retardation Services Expenditures

Fiscal Year Ended June 30, 2004 (Unaudited)

