

**Audit Results From
CAFR and Single Audit Procedures**

Department of Finance and Administration

**For the Year Ended
June 30, 2007**

**STATE OF TENNESSEE
COMPTROLLER OF THE TREASURY**

**Department of Audit
Division of State Audit**

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**Department of Finance and Administration
For the Year Ended June 30, 2007**

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Department of Finance and Administration
For the Year Ended June 30, 2007

EXECUTIVE SUMMARY

Findings

- FINDING 1 As noted in prior audit findings in the previous seven audits, TennCare does not redetermine or terminate the TennCare eligibility of Supplemental Security Income (SSI) enrollees who become ineligible for SSI. This is because TennCare still does not have a court-approved plan which would allow TennCare to make a new determination of the eligibility of these enrollees (page 5).
- FINDING 2 TennCare management did not provide for adequate internal controls over access to its interChange computer system. We observed conditions that were in violation of industry-accepted information security practices and bureau procedures (page 7).
- FINDING 3 TennCare failed to timely submit the CMS 372 Reports to the Centers for Medicare and Medicaid Services for the Home and Community-Based Services Waivers for the Mentally Retarded and Developmentally Disabled. One report was submitted almost three months late, and two reports were submitted almost five months late (page 8).
- FINDING 4 For the second consecutive year, the Department of Finance and Administration's Office for Information Resources has not implemented adequate controls over specific areas of information security. The office has not complied with the state's policy regarding user access privileges, thereby increasing the risk that unauthorized individuals could access sensitive state systems and information (page 9).

This report addresses significant deficiencies in internal control and noncompliance issues found at the Department of Finance and Administration during our annual audit of the state's financial statements and major federal programs. For the complete results of our audit of the State of Tennessee, please see the State of Tennessee *Comprehensive Annual Financial Report* for the year ended June 30, 2007, and the State of Tennessee *Single Audit Report* for the year ended June 30, 2007. The scope of our audit procedures at the Department of Finance and Administration was limited. During the audit for the year ended June 30, 2007, our work at the Department of Finance and Administration focused on one major federal program: the Medical Assistance Program. We audited this federally funded program to determine whether the department complied with certain federal requirements and whether the department had an adequate system of internal control over this program to ensure compliance. Management's response is included following each finding.



STATE OF TENNESSEE
COMPTROLLER OF THE TREASURY

State Capitol
Nashville, Tennessee 37243-0260
(615) 741-2501

John G. Morgan
Comptroller

February 12, 2008

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 are the results of certain limited procedures performed at the Department of Finance and Administration as a part of our audit of the *Comprehensive Annual Financial Report* of the State of Tennessee for the year ended June 30, 2007, and our audit of compliance with the requirements described in the U.S. Office of Management and Budget Circular A-133 Compliance Supplement.

Our review of management's controls and compliance with laws, regulations, and the provisions of contracts and grants resulted in certain findings which are detailed in the Findings and Recommendations section.

Sincerely,

John G. Morgan
Comptroller of the Treasury

JGM/sah
07/094



STATE OF TENNESSEE
COMPTROLLER OF THE TREASURY
DEPARTMENT OF AUDIT
DIVISION OF STATE AUDIT
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December 7, 2007

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

Dear Mr. Morgan:

We have performed certain audit procedures at the Department of Finance and Administration as part of our audit of the financial statements of the State of Tennessee as of and for the year ended June 30, 2007. Our objective was to obtain reasonable assurance about whether the State of Tennessee's financial statements were free of material misstatement. We emphasize that this has not been a comprehensive audit of the Department of Finance and Administration.

We also have audited certain federal financial assistance programs as part of our audit of the state's compliance with the requirements described in the U.S. Office of Management and Budget (OMB) Circular A-133 Compliance Supplement. The following table identifies the State of Tennessee's major federal program administered by the Department of Finance and Administration. We performed certain audit procedures on this program as part of our objective to obtain reasonable assurance about whether the State of Tennessee complied with the types of requirements that are applicable to its major federal program.

**Major Federal Program Administered by the
Department of Finance and Administration
For the Year Ended June 30, 2007
(in thousands)**

<u>CFDA Number</u>	<u>Program Name</u>	<u>Federal Disbursements</u>
93.778	Medical Assistance Program	\$4,563,320

Source: State of Tennessee's Schedule of Expenditures of Federal Awards for the year ended June 30, 2007.

The Honorable John G. Morgan
December 7, 2007
Page Two

We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

We have issued an unqualified opinion, dated December 7, 2007, on the State of Tennessee's financial statements for the year ended June 30, 2007. We will issue, at a later date, the State of Tennessee *Single Audit Report* for the same period. In accordance with *Government Auditing Standards*, we will report on our consideration of the State of Tennessee's internal control over financial reporting and our tests of its compliance with certain laws, regulations, and provisions of contracts and grants in the *Single Audit Report*. That report will also contain our report on the State of Tennessee's compliance with requirements applicable to each major federal program and internal control over compliance in accordance with OMB Circular A-133.

As a result of our procedures, we identified certain internal control and compliance issues at the Department of Finance and Administration. Those issues, along with management's response, are described immediately following this letter. We have reported other less significant matters involving the department's internal control and instances of noncompliance to the Department of Finance and Administration's management in a separate letter.

This report is intended solely for the information and use of the General Assembly of the State of Tennessee and management, and is not intended to be and should not be used by anyone other than these specified parties. However, this report is a matter of public record.

Sincerely,

A handwritten signature in black ink that reads "Arthur A. Hayes, Jr." in a cursive script.

Arthur A. Hayes, Jr., CPA
Director

AAH/sah

FINDINGS AND RECOMMENDATIONS

1. **Although TennCare management continues to acknowledge its responsibility to take action in this matter, for the eighth consecutive year TennCare does not have a court-approved plan to redetermine or terminate the TennCare eligibility of SSI enrollees who become ineligible for SSI, thus increasing the costs of the TennCare program**

Finding

As noted in prior audit findings in the previous seven audits, TennCare does not redetermine or terminate the TennCare eligibility of Supplemental Security Income (SSI) enrollees who become ineligible for SSI. This is because TennCare still does not have a court-approved plan which would allow TennCare to make a new determination of the eligibility of these enrollees. According to 1200-13-13-.02(1)(c) of the *Rules of the Tennessee Department of Finance and Administration, Bureau of TennCare*, “The Social Security Administration determines eligibility for the Supplemental Security Income (SSI) Program. Tennessee residents determined eligible for SSI benefits are automatically eligible for and enrolled in TennCare Medicaid benefits.” However, when an individual enrolled in TennCare as an SSI enrollee is terminated from SSI, TennCare does not redetermine or terminate the enrollee’s eligibility. Currently, TennCare does not terminate SSI recipients unless the recipient dies, moves out of state and is receiving Medicaid in another state, or requests in writing to be disenrolled. This issue was first reported in the audit for year ended June 30, 2000. Management’s comment to the most recent prior finding is noted below. Management’s comments for the six prior audit findings are exhibited on page 13 in the appendix to this report.

In the audit finding for the year ended June 30, 2006, we reported that TennCare and the Plaintiff’s attorneys still have not reached an agreement for the Daniels’ class action lawsuit. Management concurred with that finding and stated:

The Deputy Commissioner will continue to work towards a court-approved proposal with Plaintiffs’ counsel. After consultation with Medicaid programs from neighboring states, a verification request form letter has been developed and implemented effective June 7, 2006, by the TennCare Director of Eligibility Services, to disenroll those persons who move out of state and receive Medicaid in another state. TennCare will continue to disenroll those persons who Plaintiffs’ counsel has agreed that we may disenroll.

The *Cluster Daniels et al. vs. the Tennessee Department of Health and Environment et al.* court order states,

. . . defendants are hereby ENJOINED from terminating Medicaid benefits without making a de novo [a new] determination of Medicaid eligibility independent of a determination of SSI eligibility by the Social Security

Administration. The Court further ENJOINS defendants to submit to the Court and to plaintiffs, within thirty (30) days of entry of this Order, the plan by which defendants have implemented de novo determination of Medicaid eligibility. . . .

Furthermore, the court has required that the Medicaid program must determine whether or not the recipient's termination from SSI was made in error.

According to TennCare management, TennCare has approached Plaintiff's attorneys numerous times, and thus far, Plaintiff's attorneys have been unwilling to accept any plan dealing with de novo eligibility determinations for the SSI population. TennCare is in consultation with its attorneys to develop a new eligibility and disenrollment plan for the Daniels population. Until the time that a plan is approved by the court, TennCare plans to continue to abide by current court orders concerning who can be disenrolled.

By not having a court-approved plan that would allow TennCare to determine if terminated SSI recipients are still eligible for TennCare and to terminate ineligible enrollees, TennCare is allowing potentially ineligible enrollees to remain on TennCare until they die, move out of state and receive Medicaid in another state, or request in writing to be disenrolled.

According to the Director of TennCare Infomatics, there were approximately 160,369 non-dual SSI enrollees and approximately 166,032 dual SSI enrollees at June 30, 2007. Dual enrollees are enrollees receiving Medicaid (TennCare) and Medicare benefits. Of these, approximately 61,600 non-dual and 92,000 dual enrollees have lost SSI eligibility but remain on TennCare without a new determination of eligibility because TennCare does not have a court-approved plan. As a result, TennCare does not know how many of the approximately 153,600 would be currently eligible under existing eligibility guidelines.

According to a recent study concerning per capita costs for the TennCare program, the average estimated MCO cost per SSI enrollee for fiscal year 2007 was \$690.09 per month for non-dual enrollees and \$91.94 per month for dual enrollees. Based on these average costs per enrollee, the approximate cost for the 61,600 non-dual and 92,000 dual enrollees who have lost SSI eligibility but remain on TennCare without a new determination of eligibility was \$510 million and \$102 million, respectively. As a result, the total amount paid for these enrollees was approximately \$612 million for the year ended June 30, 2007.

Recommendation

The Director of TennCare, in consultation with the Office of the Attorney General and Reporter, should finalize a plan that would allow TennCare to determine if terminated SSI recipients are still eligible for TennCare and terminate ineligible enrollees, who are costing the state hundreds of millions of dollars. That plan should then be submitted to the court for approval.

The Director should continue to ensure that TennCare complies with all court orders and injunctions that relate to the eligibility of SSI enrollees.

Management's Comment

We concur that the state does not have a court-approved plan that has been agreed to by Plaintiffs' counsel in *Daniels*. The Deputy Commissioner will continue to work towards a court-approved proposal with Plaintiffs' counsel.

Until the *Daniels* lawsuit is resolved, TennCare will continue to disenroll those persons who Plaintiffs' counsel has agreed that we may disenroll, which include enrollees who move out of state and receive Medicaid in that state, upon notification of the enrollee's death, or upon written request by the enrollee.

2. TennCare management failed to provide adequate access controls over the interChange computer system, which increases the risk of fraud or error

Finding

TennCare management did not provide for adequate internal controls over access to its interChange computer system. InterChange, TennCare's Medicaid Management Information System, contains extensive recipient, provider, and payment data files, processes a high volume of transactions, and generates numerous types of reports.

We observed conditions that were in violation of industry-accepted information security practices and bureau procedures. Failure to consistently apply proper access controls over the interChange system increases the risk of fraud, error, and improper access to electronic health records.

The wording of this finding does not identify specific vulnerabilities that could allow someone to exploit TennCare's system. 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 TennCare management with detailed information regarding the specific vulnerabilities we identified as well as our recommendations for improvement.

Recommendation

The Director of TennCare should ensure that these conditions are remedied through procedures that encompass all aspects of effective access controls. The Director should ensure that risks associated with this finding are adequately identified and assessed in the bureau's documented risk assessment. The Director should implement effective controls to ensure compliance with applicable requirements, assign staff to be responsible for ongoing monitoring of the risks and mitigating controls, and take action if deficiencies occur.

Management's Comment

We concur. In order to address this finding, TennCare has implemented a number of procedural and systematic changes, which we believe constitute effective controls to ensure compliance with applicable requirements. The Bureau will revise the documented risk assessment to reflect the specific risks associated with this finding. The Director has assigned responsibility for ongoing monitoring of risks and mitigating controls and will take appropriate action if deficiencies occur.

3. TennCare did not submit timely the CMS 372 Reports for the Home and Community-Based Waivers for the Mentally Retarded and Developmentally Disabled, thus hampering CMS' ability to monitor the waivers' effectiveness, which may result in the state losing the federal waivers to offer TennCare to the affected individuals

Finding

TennCare failed to timely submit the CMS 372 Reports to the Centers for Medicare and Medicaid Services (CMS) for the Home and Community-Based Services (HCBS) Waivers for the Mentally Retarded and Developmentally Disabled. Section 1915(c)(2)(E) of the Social Security Act requires the state to provide to the Secretary of the Department of Health and Human Services (HHS) an annual CMS 372 Report which provides information on the impact of the HCBS Waivers as to the type and amount of medical assistance provided under the state plan and on the health and welfare of the recipients, including TennCare's assurances of health and welfare and of financial accountability under the waiver.

TennCare has three HCBS Waivers for the Mentally Retarded and Developmentally Disabled: the Statewide MR-DD Waiver, the Arlington Waiver, and the Self-Determination Waiver. Each waiver period ended on December 31, 2006. Based on our review, we found that TennCare did not submit the CMS 372 Reports within 181 days after the last day of the waiver period as required by the CMS *State Medicaid Manual*, Section 2700.6 E., "Submittal Procedures for Due Date" or in accordance with the Bureau's policy entitled "Submission of 372 Initial and Lag Reports," which states that reports are due on or before six months after the end of the waiver period. Although the reports for each waiver were due to CMS on June 30, 2007, TennCare submitted the CMS 372 Report for the Self-Determination Waiver on September 25, 2007, which was almost three months late. TennCare submitted the CMS 372 Reports for the Statewide MR-DD Waiver and the Arlington Waiver on November 16, 2007, which was almost five months late. The Director of Developmental Disability Services at TennCare stated staff planned to generate the reports through interChange, TennCare's Medicaid Management Information System. However, the Utilization Manager at TennCare stated staff were in the process of changing the system to add edits for all of the new 200+ waiver services, which became effective January 2005, and that caused a delay in gathering the information needed for the CMS 372 Reports. There was a similar problem in the prior year, but they decided to complete the required reports manually.

When the bureau cannot submit timely federal reports as evidence that the state has met federal monitoring requirements of management's financial accountability and the health and welfare of waiver participants, the state may lose the federal waiver programs.

Recommendation

The Director of TennCare should ensure that CMS 372 Reports for HCBS Waivers for the Mentally Retarded and Developmentally Disabled are submitted timely to CMS. In the event that system generated reports are not feasible, the Director of TennCare should ensure another reasonable method is in place to prepare and submit these reports in a timely manner.

The Director should ensure that other risks of noncompliance, fraud, waste, or abuse are adequately identified and assessed in the bureau's documented risk assessment. The Director should implement effective controls to ensure compliance with applicable requirements, assign staff to be responsible for ongoing monitoring of the risks and mitigating controls, and take action if deficiencies occur.

Management's Comment

We concur. As is noted above, the delay in submitting the 372 reports occurred because extensive amendments in these waivers multiplied the number of services available to eligible beneficiaries and commensurate rates of reimbursement, requiring extensive system modifications to the Medicaid Management Information System (MMIS) first, to generate payment to providers for services delivered under the new waiver definitions and rate reimbursement structures, and second, to ensure accurate reporting of these payments to CMS. (The system had earlier been programmed to generate the 372 reports based on the earlier, much smaller array of waiver services and service rates.) These programming changes have been completed and all 372 reports (including lag reports), **as stated in the finding**, have now been submitted to CMS.

The Bureau of TennCare has notified its Operating Agencies for HCBS waiver programs that, in the future, any modifications to HCBS waivers that require programming modifications to the MMIS must request a future effective date that allows sufficient time to ensure completion of system changes *prior to* the effective date of requested amendments. This will help ensure that all 372 reports are timely generated and submitted to CMS going forward.

4. The Department of Finance and Administration's Office for Information Resources has not implemented adequate controls over information security within three areas

Finding

For the second consecutive year, the Department of Finance and Administration's Office for Information Resources has not implemented adequate controls over information security.

The state's *Enterprise Information Security Policies*, Section 9. Access Control Policy, requires that

Access to the State of Tennessee's information resources shall be granted consistent with the concept of least privilege. All information processing systems owned by the State of Tennessee shall have an appropriate role-based access control system that ensures only legitimate users and/or systems have access to data resources that they are explicitly authorized to use.

Management concurred with the prior-year finding and provided specific descriptions of corrective actions intended to establish and strengthen controls related to the deficiencies noted in the finding. Although some of the issues were corrected, we continued to observe significant conditions in two areas that violated this policy. We also noted one new condition. Failure to consistently comply with this policy to provide such controls increases the risk that unauthorized individuals could access sensitive state systems and information.

The wording of this finding does not identify 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.

Recommendation

The Chief Information Officer (CIO) over the Office for Information Resources should ensure that these conditions are remedied by the prompt development and implementation of effective controls (standards and procedures) to ensure compliance with stated policy. The CIO should ensure that risks associated with this finding are adequately identified and assessed in OIR's documented risk assessment. The CIO should implement effective controls to ensure compliance with applicable requirements, assign staff to be responsible for ongoing monitoring of the risks and mitigating controls, and take action if deficiencies occur. The CIO should also take all other steps available to establish or improve any compensating controls until these conditions are remedied.

Management's Comment

The Office for Information Resources (OIR) concurs that there are inadequate controls within three specific areas of information security relating to process and documentation. OIR has many mitigating controls which are not reflected in this finding. The Omnibus finding cited non-compliance with the *Enterprise Information Security Policies* which were officially released on September 14, 2006. As documented in our 2006 Omnibus finding response, the implementation of these new policies is under way and work is currently ahead of schedule. OIR estimates that this initiative is approximately 50% complete. The numbers cited in this finding support that estimate.

OIR will continue to work toward the goal of policy compliance until it is complete. OIR has taken significant steps to ensure adequate controls over information security are effective. OIR is working on compliance plans internally to help close the gaps between security policy and technology practice and to further refine the definition of risk, adequacy, “secure” and their associated internal control objectives. This action will include the development and implementation of effective controls (standards and procedures) to ensure compliance with stated policy.

OIR maintains several layers of effective security controls which are intended to mitigate technology risks while this work is under way. OIR management takes this work very seriously and is committed to completing this compliance work within the aforementioned timeframe.

STATUS OF PRIOR AUDIT FINDINGS

State of Tennessee *Single Audit Report* for the year ended June 30, 2006

Audit findings pertaining to the Department of Finance and Administration were included in the *Single Audit Report*. The updated status of these findings as determined by our audit procedures is described below.

Resolved Audit Findings

The current audit disclosed that the Department of Finance and Administration has taken action to correct the previous audit findings concerning

- TennCare’s untimely administrative appeals process;
- internal control over TennCare eligibility related to invalid social security numbers; and
- TennCare’s providers not substantiating the medical costs associated with fee-for-service claims.

Repeated Audit Findings

The current audit disclosed that the Department of Finance and Administration has not corrected the previous audit findings concerning

- TennCare’s lack of a court-approved plan for the redetermination of eligibility for individuals who have lost Supplemental Security Income benefits and
- the Office of Information Resources’ failure to implement adequate controls over information security.

These findings are repeated in the *Single Audit Report* for the year ended June 30, 2007.

Most Recent Financial and Compliance Audit

Audit report number 05/046 for the Department of Finance and Administration, issued in February 2007, contained certain audit findings that were not included in the State of Tennessee *Single Audit Report*. These findings were not relevant to our current audit and, as a result, we did not pursue their status as a part of this audit.

OBSERVATIONS AND COMMENTS

MANAGEMENT'S RESPONSIBILITY FOR RISK ASSESSMENT

Auditors and management are required to assess the risk of fraud in the operations of the department. The risk assessment is based on a critical review of operations considering what frauds could be perpetrated in the absence of adequate controls. The auditors' risk assessment is limited to the period during which the audit is conducted and is limited to the transactions that the auditors are able to test during that period. The risk assessment by management is the primary method by which the department is protected from fraud, waste, and abuse. Since new programs may be established at any time by management or older programs may be discontinued, that assessment is ongoing as part of the daily operations of the department.

Risks of fraud, waste, and abuse are mitigated by effective internal controls. It is management's responsibility to design, implement, and monitor effective controls in the department. Although internal and external auditors may include testing of controls as part of their audit procedures, these procedures are not a substitute for the ongoing monitoring required of management. After all, the auditor testing is limited and is usually targeted to test the effectiveness of particular controls. Even if controls appear to be operating effectively during the time of the auditor testing, they may be rendered ineffective the next day by management override or by other circumventions that, if left up to the auditor to detect, will not be noted until the next audit engagement and then only if the auditor tests the same transactions and controls. Furthermore, since staff may be seeking to avoid auditor criticisms, they may comply with the controls during the period that the auditors are on site and revert to ignoring or disregarding the control after the auditors have left the field.

The risk assessments and the actions of management in designing, implementing, and monitoring the controls should be adequately documented to provide an audit trail both for auditors and for management, in the event that there is a change in management or staff, and to maintain a record of areas that are particularly problematic. The assessment and the controls should be reviewed and approved by the head of the department.

FRAUD CONSIDERATIONS

Statement on Auditing Standards No. 99, *Consideration of Fraud in a Financial Statement Audit*, 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, 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.

APPENDIX

Previous Responses From Management to Repeated Audit Finding Included in This Report

Current Finding

Although TennCare management continues to acknowledge its responsibility to take action in this matter, for the eighth consecutive year TennCare does not have a court-approved plan to redetermine or terminate the TennCare eligibility of SSI enrollees who become ineligible for SSI, thus increasing the costs of the TennCare program

Management's Comments

For the Year Ended June 30, 2000

We concur in part. The State is prohibited by court order from disenrolling persons who have been enrolled in TennCare as SSI recipients at any time since November 1987, unless these persons die or move out of state and indicate a wish to be transferred to the Medicaid program in their new state. These individuals are carried on the TennCare rolls as Medicaid eligibles, which means that they have no copayment obligations. Until such time as the State can terminate the

TennCare eligibility of former SSI enrollees, we believe it makes more sense to focus our reverification efforts on those enrollees who could actually be disenrolled from the program.

For the Year Ended June 30, 2001

We concur. The Director of TennCare should ensure that TennCare complies with all court orders and injunctions that relate to the eligibility of SSI enrollees.

The Director will ask the Attorney General to take action to bring this issue back before the court for final disposition. This request will be based, at least in part, upon the decision in Cureton v. Rudolph, in which the United States District Court for the Middle District of Tennessee, Nashville Division, held that the State is bound by disability decisions made by the Social Security Administration. Therefore, an enrollee is not entitled to a State hearing on an allegation of disability which has been declined or revoked by the SSA.

The AG will be asked to present this decision, coupled with assurances that eligibility review will be performed by the Department of Human Services to determine whether the individual qualifies for any other category of TennCare benefits (including the right to appeal if DHS determines that the individual is no longer eligible for any category of benefits) to the Court with a request to set aside or modify its November 13, 1987, Order. A positive finding by the Court could lift the injunction and permit the disenrollment, if appropriate, of those individuals who have been provided continuous Medicaid and TennCare benefits following termination of SSI.

For the Year Ended June 30, 2002

We concur. In an effort to obtain Court approval, the proposal referenced in the finding was submitted to the Attorney General with a request that it be submitted to the Court for approval. The Attorney General has requested additional information regarding systems and programmatic implementation of the proposal. This information is to include such things as a detailed methodology for systems matching to determine current addresses for persons terminated from SSI who have not utilized TennCare benefits. In addition, the Department of Human Services is developing a process to provide the reviews required by the Daniels Order to determine if persons who have been terminated from SSI qualify for other distinct categories of benefit eligibility. The Attorney General will submit the proposal to the Court when the implementation plans are complete. When the Court has reviewed the proposal and approved or modified it, it will be implemented.

For the Year Ended June 30, 2003

We do not concur. TennCare management has approached Plaintiff's attorneys numerous times and thus far, Plaintiff's attorneys have been unwilling to accept any plan dealing with de novo eligibility determinations for the SSI class. TennCare management has been involved in ongoing discussions with the Plaintiff's attorneys regarding all TennCare related lawsuits. While settlement agreements have been reached in several of these cases, the parties have not come to an agreement related to the Daniels' Order. Although it is not possible to determine whether

Plaintiff's attorneys will ever accept a plan submitted by TennCare, TennCare management will continue to work with the Plaintiff's attorneys and when the parties reach an agreement, it will be submitted to the court for approval. TennCare is continuing to terminate these individuals due to death and when the individual is receiving Medicaid in another state or requests termination in writing.

Auditor's Rebuttal

Management has stated "we do not concur," however, nowhere in its response has management taken issue with any statements made in the finding or the recommendation. As stated in the audit finding, management concurred with this repeated condition the past two years and concurred in part with this issue in a finding for year ended June 30, 2000. Management acknowledges in their response that TennCare still does not have a court approved plan to terminate these enrollees. Currently, individuals who have lost their SSI eligibility remain on TennCare for services indefinitely until the individuals die, move out of state and receive Medicaid in another state, or request in writing to be disenrolled. In light of the state's budget problems and the high costs of TennCare to the citizens that ultimately pay these costs, efforts should continue to be made to obtain a court approved plan to allow termination of these enrollees.

For the Year Ended June 30, 2004

We concur. TennCare's position has not changed since the last audit. The Deputy Commissioner will continue to work towards a court-approved proposal with Plaintiff's counsel. TennCare also will continue to disenroll those persons who Plaintiff's counsel has agreed that we may disenroll.

For the Year Ended June 30, 2005

We concur. TennCare's position has not changed since the last audit. The Deputy Commissioner will continue to work towards a court-approved proposal with Plaintiff's counsel. TennCare also will continue to disenroll those persons who Plaintiff's counsel has agreed that we may disenroll.