Presentation to the Joint Standing Committee on Appropriations and Financial Affairs
On Tuesday, September 30, 2014
Major Audit Findings Reported in the State of Maine, Single Audit Report for Fiscal Year 2013
Prepared and Presented by the Office of the State Auditor
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Good morning Chairperson Hill, Chairperson Rotundo, and Honorable Members of the Committee on Appropriations and Financial Affairs. I am State Auditor Pola Buckley, here to provide an overview of the major audit findings reported in the State of Maine Single Audit Report for fiscal year 2013. Our primary activity is to perform the independent audit of the State of Maine financial statements prepared by the Office of the State Controller, and to perform the independent audit of federal programs administered by the State. These audits are performed consistent with generally accepted auditing standards, generally accepted government auditing standards; and the United States, Office of Management and Budget Circular A-133.

For fiscal year 2013, we audited twenty-one federal programs that expended 94% of the $3.0 billion in federal financial assistance received by the State. These federal programs include Medicaid, TANF, Unemployment Insurance, Highway Planning and Construction, and SNAP. We gave an audit opinion on compliance for each of these programs; these audits are required for continuing receipt of federal funds. Federal funds accounted for about 41% of the State's revenue in fiscal year 2013. When you consider the "State share", that in most cases must be expended to match the federal funds, you can see that we audit a significant portion of State activity for compliance.

There were forty-four findings included in our fiscal year 2013 Single Audit Report. A finding may be classified as a Significant Deficiency, a Material Weakness in internal control, or Material Non-compliance, depending on the nature of the finding. Responsibility for a single federal finding can be assigned to more than one agency and relate to more than one compliance area. Findings may refer to the term "Known Questioned Costs" and "Likely Questioned Costs". These terms are normally reserved for the federal share of amounts expended that we believe are unallowable based on federal law and federal regulations.

"Known Questioned Costs" are the amount of questioned costs actually detected by the auditor; usually within a sample. "Likely Questioned Costs" are questioned costs estimated by the auditor by extrapolating the error rate in a sample to the population. Oftentimes, when there are "Questioned Costs", as defined by the federal government for their purposes, there is also corresponding *State spending that we question.* When this situation occurs, we try to include the dollar impact on the State in the narrative of the finding.

A summary of all our federal findings appears on the next page. My points of discussion will be focused on major findings that have a fiscal impact. This fiscal impact may or may not be quantifiable. In either case, I believe they are important findings that need to be addressed by State government.

OFFICE OF THE STATE AUDITOR								
Summary of Fiscal Year 2013 Single Audit Report, Federal Findings								
Joint Standing Committee/ Policy Area	No. of findings that are classified as Material Weaknesses or Material Noncompliance - Note 1		No. of findings that are classified as a Significant Deficiency - Note 1		Total no. of findings- Note 1	Federal Questioned Costs – Note 2		Other Information
	No. of findings	No. of findings that were a prior year finding	No. of findings	No. of findings that were a prior year finding		Known	Likely	
Health and Human Services	0	0	20	15	20	1,068	27,802,769	High incidence of prior year findings (15 out of 20)
Education and Cultural Affairs	1	0	8	3	9	154,940	154,940	
Labor, Commerce, Research, and Economic Development	1	1	2	2	3	Unde-termina-ble	Unde-terminable	
Energy, Utilities and Technology	0	0	1	0	1	none	none	
State & Local Government (DAFS findings)	1	1	16	12	17	1,419,493	1,419,493	High incidence of prior year findings (13 out of 17)
Transportation	0	0	2	2	2	none	none	

Note 1 - Some matters are included in the count of findings more than once. This occurs when OSA has identified more than one policy area as likely to be directly interested in corrective action.
Note 2 – Questioned costs are not duplicated for the reason in Note 1.

Agencies have responded to our findings in writing and their responses are included in our Single Audit Report. Our Report is easily available on our website at www.maine.gov/audit. This report was published at the end of March 2014, so, a more up-to-date status of their corrective action can only be obtained from the auditee. I will be discussing by JSC policy area, what I consider to be major findings, that I believe have the potential of providing the State with a favorable policy and financial impact if resolved. A discussion of all audit findings is not planned for this presentation.

Health and Human Services

Findings for FY13 relate primarily to

1. **Provider** and **client eligibility**
2. **Cost of Care** related to nursing homes and private non-medical institutions
3. **Surveillance** activities to monitor Medicaid expenditures,
4. the **risk assessment process for the electronic information system known as MIHMS** (the Maine Integrated Health Management Solution),
5. and a **backlog of cost settlements** for hospitals and nursing homes.

The **Provider Eligibility** finding involves the federal requirement that DHHS' contractual provisions with providers include the requirement that hospitals, skilled nursing facilities, home health agencies, providers of personal care services, and hospices comply with the advance directive requirements required by the federal government. An *advance directive* is a written instruction relating to the provision of health care when an individual is incapacitated. Federal regulations require that providers educate patients and residents by providing them information concerning their right to make decisions concerning medical care, including the right to accept or refuse medical or surgical treatment and the right to formulate, at the individual's option, advance directives. The DHHS provider agreements do not include this provision. It does not seem logical to me, nor does it seem financially prudent to provide patients care that they do not want, if they are capable of making an informed decision. (13-1106-09, page E-46, first year of finding was FY09)

The **Client Eligibility** finding involves the Income and Eligibility Verification System commonly known as the IEVS data exchange. IEVS is a condition of participation in the following programs:

- TANF
- Medicaid
- Children's Health Insurance Program (CHIP)
- SNAP

DHHS using the Automated Client Eligibility System (ACES) must verify eligibility by systemically and regularly exchanging electronic records with Social Security, the Department of Labor (wage and unemployment compensation), and the Internal Revenue Service. There must be appropriate follow-up as discrepancies are identified. We found that there was a lack of institutional knowledge within OIT regarding the data exchanges and that there was outdated documentation regarding needed procedures. We believe there is potential overspending that should not be overlooked, in both the General Fund and in federal grant funding because of this internal control weakness. During the year under audit, the servicing structure between DHHS and OIT did not hold any person or group accountable for the IEVS process. Also, there was no DHHS/OIT project manager

accountable for this activity. (13-1111-02, page E-70, first year of finding was FY08); (13-1111-01, page E-67, first year of finding was FY12)

Cost of Care, as we all know is the portion that a long term care resident may be required to pay toward their own care at a nursing home or private non-medical institution. The Office of the State Auditor has identified multiple issues regarding Cost of Care:

1. *inaccurate calculation* of the amount that should be deducted from payments made by DHHS to both nursing homes and private non-medical institutions. In a sample of 60 assessments that included 30 nursing home and 30 PNMI monthly assessments, there were 9 errors ranging in absolute value from $1 to $100, (13-1106-01, page E-30)

2. *inconsistent deduction* from payments made by DHHS to the facility. In a sample of 30 payments to nursing homes and 30 payments to private non-medical institutions for which a Cost of Care deduction should have been made, providers were overpaid by 14.1% for nursing homes and 49.1% for private non-medical institutions (PNMIs). (13-1106-02, page E-33, first year of finding was FY10)

	Nursing Homes (Recovery is responsibility of HMS, a DHHS contractor)	PNMIs (Recovery is direct responsibility of OMS personnel)
Payments in Sample	$32,632	$25,081
Payments in Error within Sample – $, Overpaid	$4,611	$12,313
Payments in Error within Sample – %, Overpaid	14.1%	49.1%

3. *inadequate DHHS procedures to account for and recover overpayments.* The State's procedures to recover overpayments are limited by ineffective recordkeeping and collection methods, and the fact that not all providers cooperate with the State. The process used to account for overpayments is time-consuming and untimely. We observed a ten month time lag in computing the PNMI receivable balance of $27 million for December 2012. As of June 30, 2013, this *PNMI receivable balance had increased to $36.4 million* according to a summary prepared by DAFS and DHHS, and only pertains to private non-medical institutions. *We do not know the receivable balance associated with Nursing Homes' Cost of Care.* (13-1106-12, page E-51, first year of finding was FY12)

Surveillance activities of Medicaid expenditures is required in order to have received enhanced federal funding for the Maine Integrated Health Management Solution (MIHMS) system. The federal government approved and required the use of the J-SURS software module for the State of

Maine Medicaid program. The most important sub-component of the J-SURS software is Report Generator. J-SURS was specifically designed to perform the most essential surveillance activities and includes large scale data mining, analytics, and exception reporting. The J-SURS module should be used continuously to detect anomalies and focus reviews on Medicaid provider and recipient claim profile data in aggregate with their peer groups. Instead, new cases are predominately selected in a non-systematic manner to determine whether a problem can be identified. This lack of systematic analysis results in a narrow field of surveillance activity. (Finding 13-1106-04, page E-37)

The **risk assessment process for the electronic claims processing and information system known as MIHMS** needs significant improvement. OSA reported three findings that report our concerns:

1. The fiscal agent that operates the MIHMS system engaged an outside specialist to perform what is referred to as an SSAE 16 report, consistent with the contract between DHHS and the fiscal agent. The purpose of this SSAE 16 report is to evaluate and test electronic controls established within the fiscal agent's technological infrastructure and software. The State did receive a copy of a report, but this report did not include the fiscal agent's corrective action plan regarding the exceptions noted in the report. The corrective action plan is an integral part of the engagement and should have been communicated to DHHS in writing. (13-0906-02, page E-29)
2. Access controls need to be improved. In the area of physical security and information security, access control is the selective restriction of an individual's or resource's access to a place or other resource. The act of accessing may mean deleting, entering, or using information. For security reasons, we have limited our discussion to responsible DHHS and OIT personnel. (13-1106-06, page E-41, first year of finding was FY11)
3. According to 45 CFR 95.621 electronic information systems must be subject to periodic risk analysis and biennial system security reviews. These activities were not performed and should include security coverage of the physical perimeter, equipment, software, data, telecommunications, personnel, contingency plans, and emergency preparedness. (13-1106-10, page E-47, first year of finding was FY11)

A **backlog of cost settlements** for hospitals and nursing homes is also problematic.

On September 16, 2013, DHHS paid $490 million to thirty-nine **hospitals** and thus substantially eliminated a three year backlog of cost settlements. The Code of Federal Regulations states that "The Medicaid agency must provide for periodic audits of the financial and statistical records of participating providers". It is our position that the requirement for periodic audits anticipates the systematic and timely completion of audits. In the audit finding, the Cause was identified as the Maine DHHS, Division of Audit not finalizing the required cost settlements with the U.S. Department of Health and Services because of a lack of available funding. We all know that the problem with available funding is not the fault of the DHHS Division of Audit; the matter, however, became their problem until it was resolved. (13-1106-13, page E-53, first year of finding was FY10).

Our Office is completing a special project soon that will hopefully illuminate the issue of hospital cost settlements.

In addition, the MaineCare benefits manual states that reviews of **nursing home** cost reports, including financial statements shall be completed within 180 days after receipt of an acceptable filing. A test of eighteen nursing facility desk reviews issued during fiscal year 2013 revealed that sixteen were not completed within the 180 days after receipt of an acceptable filing, and that the untimeliness ranged from 198 to 643 days. (13-1106-14, page E-54, first year of finding was FY10)

Fifteen of the twenty FY13 findings were prior year findings, going as far back as fiscal year 2006.

Education and Cultural Affairs

Findings for 2013 related primarily to allowable activities and costs, cash management, State matching of federal funds, subrecipient monitoring, and reporting.

Among these findings, of most concern is:

- that the Department of Education does not have adequate procedures to determine **whether subrecipients (i.e. school districts) have earned the federal cash paid to them** on a reimbursement basis. (13-1200-01, page E-83, finding started for FY09)

Labor, Commerce, Research, and Economic Development

Forty-six percent of all unemployment compensation payments were made to an individual who had not submitted a work search log for the corresponding work week. In fiscal year 2013 payments that were not supported by work search logs amounted to $121 million. Due to the nature of the finding it is not possible to estimate the true amount that was paid to individuals who were really not looking for work. State and federal law indicates that benefits should not be paid to individuals who do not actively seek work, and in our view, properly designed controls should be in place and operating effectively to mitigate the risk of improper claims. (13-1302-01, page E-99, finding started for FY11)

State and Local Government

The fifteen DAFS findings for 2013 relate primarily to allowable costs and activities, cash management, OIT risk analysis for MIHMS, OIT support of IEVS functionality, and eligibility.

Among these findings, of most concern to us are:

1. State overpayments to nursing homes and private non-medical institutions for a resident's share of their **cost of care** (considered to be a *joint responsibility* between the Department of Administrative and Financial Services and the Department of Health and Human Services),

13-1106-01, page E-30;
13-1106-02, page E-33, finding started in FY10;
13-1106-12, page E-51, finding started in FY12.

2. the **timing of cash draws** from the federal government for SNAP administration, (13-1108-01, page E-63, finding started in FY12)

3. According to 45 CFR 95.621 electronic information systems must be subject to **periodic risk analysis and biennial system security reviews**. These activities were not performed and should include security coverage of the physical perimeter, equipment, software, data, telecommunications, personnel, contingency plans, and emergency preparedness (considered to be a *joint responsibility* between the Department of Administrative and Financial Services and the Department of Health and Human Services), (13-1106-10, page E-47, finding started for FY11).

4. weaknesses in the implementation of the **Income and Eligibility Verification System (IEVS) used to determine continuing eligibility** for federal financial assistance (considered to be a *joint responsibility* of the Office of Information Technology, Department of Administrative and Financial Services and the Department of Health and Human Services), (13-1111-01, page E-67, finding started in FY12)

5. **forty-six percent of weekly unemployment benefits are made to persons who do not return work search logs** to the Department of Labor (considered to be a *joint responsibility* of the Office of Information Technology, Department of Administrative and Financial Services and the Department of Labor), (13-1302-01, page E-99, finding started in FY11)

Improvements in the IEVS system, and properly designed and administered controls over unemployment compensation benefits, and ensuring that the State does not overpay nursing homes and private non-medical institutions, will in my view, improve the economic climate. It will save the State and federal government money and improve productivity.

Our audit reports are available on the Office of the State Auditor website at www.maine.gov/audit.

Thank you for the opportunity to speak to you today, and to all those who assist us during our audit.