



DEPARTMENT OF HEALTH AND HUMAN SERVICES  
OFFICE OF GOVERNMENT AFFAIRS

ROY COOPER  
GOVERNOR

MANDY COHEN, MD, MPH  
SECRETARY

BEN POPKIN  
ASSISTANT SECRETARY FOR LEGISLATION

March 30, 2017

**SENT VIA ELECTRONIC MAIL**

The Honorable Phil Berger, Co-Chair  
Joint Legislative Commission on  
Governmental Operations  
North Carolina General Assembly  
Room 2007, Legislative Building  
Raleigh, NC 27601

The Honorable Tim Moore, Co-Chair  
Joint Legislative Commission on  
Governmental Operations  
North Carolina General Assembly  
Room 2304, Legislative Building  
Raleigh, NC 27601

Dear Chairmen:

North Carolina General Statute §143B-216.51(g) requires the Department of Health and Human Services' Office of Internal Auditor to monitor implementation of monitor the implementation of the Department's response to any audit of the Department conducted by the State Auditor pursuant to law and to issue a report to the Secretary on the status of corrective actions implemented no later than six months after the State Auditor publishes any audit report pursuant to law. The law also requires that a copy of this report be filed with the Joint Legislative Commission on Governmental Operations pursuant to the General Statute. In accordance with the requirement found in General Statute §143B-216.51(g), please find the attached reports.

Should you have any questions regarding the report, please contact Chet Spruill, Director of the Office of the Internal Auditor, at 919-855-3662.

Sincerely,

Ben Popkin  
Assistant Secretary for Legislation

cc:	Chet Spruill	Denise Thomas	Marjorie Donaldson	Kolt Ulm
	Theresa Matula	Rod Davis	Joyce Jones	Pam Kilpatrick
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*Office of the Internal Auditor*  
HEALTH AND HUMAN SERVICES

Follow-up Assessment of the INV–2015-0401  
Office of Medicaid Management Information Systems Services  
Investigative Audit

Issued by the Office of the State Auditor  
May 13, 2015

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**February 17, 2016**

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## North Carolina Department of Health and Human Services Office of the Internal Auditor

Pat McCrory  
Governor

Richard O. Brajer  
DHHS Secretary

Chet Spruill, CPA  
OIA Director

Secretary Richard O. Brajer  
N.C. Department of Health and Human Services  
Adams Building, 101 Blair Drive  
Raleigh, NC 27603

The Office of the Internal Auditor (OIA) has conducted a follow-up assessment of the findings and recommendations identified in the investigative audit of the North Carolina Department of Health and Human Services-Office of Medicaid Management Information Systems Services, INV-2015-0401. The report was issued by the Office of the State Auditor (OSA) on May 13, 2015.

### Conclusion

OIA observed sufficient evidence to conclude that the Department of Health and Human Services (DHHS) has taken appropriate corrective action to reduce the risks identified in 3 of the 6 findings noted in OSA's audit report. While management did not implement all of OSA's recommendations as given for these three findings, and no action was required by the DHHS on some of the recommendations, in our opinion, the corrective action taken in relation to each of those three findings was adequate to reduce the risk that the finding would continue to exist in subsequent periods. DHHS has initiated efforts to minimize the risks identified in the remaining 3 of 6 findings noted in OSA's audit report. In our opinion, the corrective action taken in relation to each of those three findings does reduce the risk that the finding would continue to exist in subsequent periods. However, subsequent testing of the implemented policy is necessary. Therefore, we consider the remaining three findings partially resolved. A summary of each of OSA's findings and recommendations and OIA's observed results are included in Appendix A.

### Objective

The objective of our follow-up assessment was to evaluate whether DHHS has taken appropriate corrective action in response to OSA's findings and recommendations. Our follow-up assessment was conducted pursuant to G.S. 143B-216.51(g). The General Statute requires OIA to issue a report to the Secretary on the status of corrective actions taken by the Department of Health and Human Services no later than six months after the State Auditor publishes any audit report pursuant to law. A copy of this report shall also be filed with the Joint Legislative Commission on Governmental Operations pursuant to the General Statute.

### Scope

The scope of our follow-up assessment encompasses the review of all activities directed toward the resolution of the risks associated with the findings and recommendations as provided by OSA, as well as management's action plan from the original audit report.

## Methodology

In order to form an opinion on the current status of each of the six findings identified, we performed the following functions:

- We reviewed OSA's audit report in order to gain a better understanding of the findings.
- We discussed with DHHS management the basis for any findings and the corrective actions which were to be implemented.
- We conducted subsequent tests to evaluate whether corrective actions taken by the Department were implemented and reduce the risk that the finding would continue to exist in subsequent periods.

We express our appreciation to the management and staff of the Department of Health and Human Services for their cooperation and assistance provided during this follow-up assessment.

Respectfully submitted,

*Chet*

Chet Spruill  
Director, Office of the Internal Auditor

## APPENDIX A

### SUMMARY OF OSA'S FINDINGS AND RECOMMENDATIONS AND OIA'S FOLLOW-UP RESULTS

#### **1. OSA FINDING AND RECOMMENDATION #1 - AT LEAST \$1.6 MILLION WASTED THROUGH EXCESSIVE WAGES AND COMMISSIONS, UNJUSTIFIED OVERTIME, AND HOLIDAY PAY TO INELIGIBLE EMPLOYEES**

From July 1, 2011, through June 30, 2014, the Office of Medicaid Management Information Systems Services (OMMISS) wasted at least \$1,667,164 by paying: (1) \$807,741 to temporary employees at rates that exceeded their qualifications; (2) \$598,673 to temporary staffing agencies for commissions that exceeded the rates charged by the state-operated temporary staffing service; (3) \$234,724 to employees for unjustified overtime; and (4) \$26,026 for holiday pay to ineligible employees.

The OMMISS Director's abuse of her authority through the hiring process caused these excessive costs. According to the Department's Chief Information Officer (CIO), all hiring and signature authorization for temporary employees remained with the OMMISS Director and managers. (Paraphrased)

#### OSA recommended DHHS should:

- a. Provide adequate oversight of personnel actions including salary administration, hiring, and overtime related to temporary employees.
- b. Use Temporary Solutions to fill its temporary employee needs.
- c. Seek legal counsel to determine whether any unjustified payments including holiday pay can be collected from temporary employees.
- d. Revise its contracts with private temporary staffing agencies to cease paying holiday leave to temporary employees.

#### Agency Response

DHHS disagrees with the sum identified in this finding and contends it is overstated. Management acknowledged 5 of 12 temporary employees OSA identified as being unqualified and overpaid. Those workers were identified and terminated. Management contends that the OSA calculation improperly included amounts in their calculation that should not have been applied such as; seven employees who management believed were properly qualified, excess commissions paid to the private agencies, and what OSA considered "significant and unjustified" overtime. Management's response restated the amount of questionable costs as \$146,889 but agreed that DHHS should provide proper oversight related to salary administration and engagement of temporary workers.

Management agreed that oversight of overtime hours is an important management responsibility and that DHHS has adequate policies and procedures in place to support management review and approval of overtime hours.

In response to OSA's recommendation to use Temporary Solutions, provide adequate oversight of personnel actions related to salary administration and hiring, and revise its existing with private temporary staffing agencies to cease paying holiday pay, management stated that; DHHS has since developed an internal policy to avoid such instances in the future.

In addition, management stated that it will follow OSA's recommendation to seek legal counsel to determine if there is any legal recourse that DHHS can take related to recovery of any inappropriately paid holiday pay. (Paraphrased)

### Auditor Response

“In its response, the Department focuses on the lack of a statewide policy regarding the selection and compensation of temporary workers as justification for their actions. However, the lack of adequate state policies does not alleviate management’s obligation to act responsibly as stewards of state resources.”

### OIA Follow-up Results

The Department’s Division of Human Resources created a revised Temporary Worker Policy to ensure consistency in the oversight of personnel actions such as salary administration and hiring decisions. This new policy was distributed May 6, 2015 to all division/facility directors via human resources memorandum with implementation date of May 7, 2015.

OIA reviewed the new policy, and confirmed that the policy requires the use of Temporary Solutions for all temporary staffing needs and includes provisions that any exceptions to the use of Temporary Solutions must receive prior approval from the Central HR Office.

Temporary Solutions policies prohibit the payment of any holiday pay for temporary employees. Under the new Department policy, when Temporary Solutions is not used, a Memorandum of Understanding is now required with the approved staffing agency that also specifically prohibits such payments.

We reviewed two instances where divisions had requested exception approvals according to the new policy. Because the policy provides for a deadline of December 31, 2015 for current contracts to comply, no further testing was performed.

OIA contacted DHHS General Counsel, who advised that the Attorney General’s office has been contacted for the issues related to inappropriate payment of holiday pay and other fringe benefits. According to the Department’s Chief Legal Counsel, “Based on the facts that were shared with me from the Department’s investigation (both HR and OIA), my evaluation led me to conclude that it is unlikely that legal recourse would recover any funds.” Even though the Attorney General’s office has yet to submit a response, the Department’s Legal Counsel’s conclusion, based upon an evaluation of the facts in the case, is sufficient to resolve this portion of the finding.

Because the new internal policy that DHHS has developed will not be fully implemented until December 31, 2015, further test procedures will need to be performed once that occurs.

OIA considers this finding partially resolved.

## **2. OSA FINDING AND RECOMMENDATION # 2 - OMMISS DIRECTOR ENGAGED IN OR ALLOWED NEPOTISM**

The Office of Medicaid Management Information Systems Services (OMMISS) employed at least 11 separate groups of family members, including family members of the OMMISS Director. In addition, at least 15 individuals had personal connections to the OMMISS Director. At least 7 of those 15 were not qualified and/or received unjustified pay rates. (Paraphrased)

### OSA recommended the Department should:

- a. Implement policies and procedures that prevent nepotism or even the appearance of nepotism.
- b. Comply with state hiring policies to ensure that only the most qualified applicants are hired.
- c. Have the CIO and the Department’s Human Resources division review all hiring decisions (including temporary employees), to ensure that employees are qualified and paid at the appropriate rate.

### Agency Response

DHHS management disagreed with the OSA finding that the OMMISS Director engaged in “Nepotism” as defined in state regulations. Management stated that it adheres to the state-wide policy in effect regarding nepotism but acknowledged and agreed that some of the hiring practices at OMMISS should be avoided.

DHHS has undertaken the development of an internal policy to address many of the issues identified by this investigation. DHHS agrees that the Department’s Human Resources Division should be more involved in the process of the engagement of temporary workers and the new DHHS internal policy includes this in the process. (Paraphrased)

### Auditor Response

“The report explicitly states that the relationships within OMMISS did not violate the existing state policy but clearly includes at least three other definitions of “nepotism” that apply to the connections cited in the report. Again, no agency is prohibited from implementing more stringent policies when current state policies may fall short in the prudent management of the State’s resources.”

### OIA Follow-up Results

The Department disagrees with the OSA assertion that the Director engaged in nepotism as defined in the report. The existing policy related to nepotism is based upon the state-wide nepotism policy and is currently in place.

The Department’s Division of Human Resources created a revised Temporary Worker Policy that includes provisions to ensure compliance with state personnel policies related to hiring decisions and salary administration. The policy also provides for the review and approval of hiring temporary employee’s qualifications either by Temporary Solutions or, if an exception to the use of Temporary Solutions is approved, by the Department’s Human Resource division. This new policy was distributed May 6, 2015 to all division/facility directors via human resources memorandum with implementation date of May 7, 2015.

We reviewed two instances where divisions had requested exception approvals according to the new policy. However, we were unable to perform further testing because the policy provides for a deadline of December 31, 2015 for current contracts to comply. Because the new internal policy that DHHS has developed will not be fully implemented until December 31, 2015, further test procedures will need to be performed once that occurs.

OIA considers this finding partially resolved.

### **3. OSA FINDING AND RECOMMENDATION #3 - OMMISS DIRECTOR RECEIVED UNAUTHORIZED COMPENSATORY TIME THAT MAY RESULT IN INFLATED RETIREMENT BENEFITS**

From January 1, 2013, to October 31, 2014, the Office of Medicaid Management Information Systems Services (OMMISS) Director received 2,120.5 compensatory hours, despite her position reclassification that prohibited her from earning compensatory time. Maintaining a significant compensatory leave balance allowed the OMMISS Director to accumulate large vacation and sick leave balances.

Because the OMMISS Director retired effective February 1, 2015, her retirement benefits may have increased as a result of the accumulated vacation and sick leave balances. The vacation leave balances would have been payable to the OMMISS Director when her employment ended and the sick leave balance would have added to her length of service with the State. (Paraphrased)



OSA recommended the Department should:

- a. Direct the CIO to more closely monitor, review, and approve in the State's online payroll system, the work time and leave of employees who directly report to him.
- b. Fully investigate the OMMISS Director's compensatory time balance and adjust her compensatory time, vacation leave, and sick leave balances and any associated retirement benefits for any leave taken after January 1, 2013.

#### Agency Response

DHHS disagrees with the finding. The employee retired effective February 1, 2015, prior to the issuance of the OSA report. DHHS' review of this employee's accrued compensatory time confirms her retirement benefits were not affected or inflated.

In addition, management disagrees with OSA recommendation that the CIO "more closely monitor, review and approve in the State online payroll system." The CIO currently and at all times herein, carefully monitored the time of each employee he directly supervised. The CIO reviews the time for each of his direct reports and after review, either approves or disapproves the submitted time. (Paraphrased)

#### Auditor Response

"If the OMMISS Director had not been allowed to earn compensatory time, she would have had to use vacation leave or sick leave. Therefore, she would have retired with less service time which would have resulted in a reduced retirement benefit."

#### OIA Follow-up Results

During the DHHS internal investigation, OIA confirmed that CIO does review the time for each of his direct reports. However, after approval of the time, he directs his administrative assistant to make the approval of the time in the State's Online BEACON system. Based upon inquiry of other employee's in similar executive positions, this practice is common. The OSA recommendation did not offer any alternative method for the CIO to more "closely monitor, review and approve..." The CIO's review of work time and leave of those employees that directly report to him is adequate.

OIA obtained and reviewed the Department's Division of Human Resources review of the OMMISS Director's accrued compensatory time and vacation and sick leave balances associated with her retirement benefits after January 1, 2013. This analysis confirmed that her retirement benefits were not affected or inflated.

DHHS provided this documentation to OSA, evidencing the fact the retirement benefits of the former OMMISS Director were not affected by any disputed compensatory time. The former OMMISS Director retired effective February 1, 2015.

OIA considers this finding resolved.

#### **4. OSA FINDING AND RECOMMENDATION # 4 - REPORTS TO GENERAL ASSEMBLY OMITTED AT LEAST \$260,000 OF OVERTIME AND COMPENSATORY TIME**

The Department of Health and Human Services (Department) submitted monthly reports to the General Assembly that misrepresented the total amount of overtime and compensatory time worked and paid on the Medicaid Management Information Systems replacement project. Without accurate and complete information, the General Assembly cannot hold the Department accountable and make better informed decisions regarding the amount and cost of overtime and compensatory time charged to the project. (Paraphrased)

OSA recommended the Department should:

- a. Comply with Session Law by including on the monthly reports to the General Assembly the total amount of overtime and compensatory time related to the Medicaid Management Information Systems replacement project.
- b. Provide to the General Assembly revised reports that correct the omissions of previous monthly reports.

#### Agency Response

DHHS agreed that prior submitted reports omitted some compensatory time. An error was made by DHHS and the Office of State Human Resources (OSHR) in the process of approving compensatory time and the reporting of that time to the General Assembly.

However, DHHS disagreed with OSA finding that the overtime related to temporary workers was required to be included in the report. DHHS believed that temporary worker overtime was not needed on the reports. Management stated that DHHS would seek clarification from the General Assembly as to whether DHHS should submit a supplemental report regarding the overtime paid to temporary workers during the relevant reporting periods. (Paraphrased)

#### Auditor Response

“The Department’s response acknowledges that it re-submitted reports to the General Assembly when it “discovered the previously submitted reports were understated.” However, the Department became aware that the reports were understated only after being informed by OSA during this investigation. In addition, the “amended reports” still do not include temporary employees or Department employees working in other divisions.”

#### OIA Follow-up Results

On March 5, 2015, DHHS filed revised reports with OSHR and the legislature that included accurate compensatory hours earned by the OMMISS Director from the inception of the reporting requirement. However, overtime hours for temporary workers were not included on the revised report and management did not seek clarification from the General Assembly as to the need to furnish that information on the reports.

On June 12, 2015, management sent a letter to the General Assembly seeking clarification as to the need to include temporary workers’ overtime hours. Management reiterated its belief that these hours were not needed on the report. Management could not locate any response to their request for clarification. However, the corrected report was accepted by the General Assembly as filed without further comment.

Because the OMMISS office is no longer active, the statutory requirement for the reports no longer exists and therefore no subsequent reports were required to be filed. On August 18, 2015, DHHS notified the General Assembly that there was no longer a need for the reports to be provided and that the statutory requirement has been fulfilled.

OIA considers this finding resolved.

### **5. OSA FINDING AND RECOMMENDATION # 5 - STATE REGULATIONS FOR HIRING INFORMATION TECHNOLOGY SERVICES CONTRACTORS VIOLATED**

The Office of Medicaid Management Information Systems Services (OMMISS) violated Session Law by hiring at least four information technology staff and contractors without the required approval by the Office of Information Technology Services (ITS). OMMISS hired these employees directly through private temporary staffing agencies and personal service contracts. (Paraphrased)

OSA recommended the Department should:

- a. Adhere to requirements outlined in Session Law 2011-145 (House Bill 200) regarding contracting for information technology personal services.
- b. Ensure all staff is aware of, understands, and is follows hiring regulations.

#### Agency Response

Based upon the primary job duties of three of the four temporary workers, DHHS believes these positions did not require sourcing through the information technology (IT) supplemental staffing process administered by the Office of Information Technology Services (ITS) per Session Law 2011-145. These temporary workers were engaged to provide duties such as: contract monitoring, process management coordination or administrative coordination; none of which are IT professional roles. The DHHS review of the actual duties and responsibilities revealed that while these temporary workers were providing services in support of the OMMISS IT project, the services they provided were not of an IT professional nature that would be subject to the ITS approval process

The DHHS agrees with the OSA finding as to the fourth temporary worker. However, these four temporary workers are no longer employed by DHHS. DHHS' new internal policy will strengthen DHHS' process for assuring compliance with the requirements outlined in Session Law 2011-145. (Paraphrased)

#### Auditor Response

“The Department rationalizes (while admitting failure to follow policy) that the hiring of the fourth temporary employee was acceptable because the private temporary staffing agency utilized was on an approved list. Whether or not the temporary staffing agency was on an approved list is irrelevant. The relevant issue is whether hiring the fourth employee required approval by ITS. Again, the Department failed to comply with the state regulation requiring approval by ITS.”

#### OIA Follow-up Results

OIA reviewed the new internal policy and language included that excludes short-term IT staffing vendors from the policy. The policy directs hiring managers to the ITS approved vendors' list and ITS approval process outlined in Session Law 2011-145. In addition, the policy states that “the DHHS HR office will request a quarterly report of IT temporary workers in Divisions/Facilities/Offices via ITS or the applicable DHHS IT Liaison”

Management indicated that no reports have yet been requested. They are allowing divisions up to the full implementation deadline of December 31, 2015 to comply. Because the new internal policy that DHHS has developed will not be fully implemented until December 31, 2015, further test procedures will need to be performed once that occurs

OIA considers this finding partially resolved.

### **6. OSA FINDING AND RECOMMENDATION # 6 - LACK OF ADEQUATE OVERSIGHT OF OMMISS DESPITE FINDINGS IN PRIOR AUDIT REPORTS**

The Office of the State Auditor (OSA) notified the Department of Health and Human Services (Department) in prior years about the lack of effective management and oversight of the Office of Medicaid Management Information Systems Services (OMMISS). Despite these prior notifications, the Department failed to take steps to prevent and detect abuse and waste of state resources. (Paraphrased)

OSA recommended that the Department should develop and implement procedures to ensure the proper administrative oversight of the Office of NCTracks, the successor organization to OMMISS.

### Agency Response

DHHS disagreed with this finding. To the contrary, DHHS has increased the oversight of OMMISS as evidenced by creating the role of the agency's first CIO in February 2013, in response to previous OSA reports. DHHS will continue to seek opportunities and implement procedures to ensure even stronger administrative oversight of the Office of NCTracks, the successor organization to OMMISS. (Paraphrased)

### Auditor Response

"The Department's response does not address the wasteful expenditures, noncompliance with laws and regulations, and lack of oversight identified in the report. Instead, the Department focused on increased oversight from hiring a CIO and the success and magnitude of the NCTracks project. Simply hiring a CIO does not guarantee proper oversight of a function, especially if the CIO does not implement sufficient policies and procedures to ensure proper oversight."

### OIA Follow-up Results

The OSA finding was related to prior OSA reports that were addressed by management at the time. OSA recommendations did not suggest any alternative procedures to ensure proper administrative oversight. Management did not identify any specific changes to its administrative oversight, only that they would continue to seek opportunities to ensure stronger oversight when identified.

OIA considers this finding resolved.