

Audit Report

Maryland Department of Health Health Regulatory Commissions

January 2024

Public Notice

In compliance with the requirements of the State Government Article Section 2-1224(i), of the Annotated Code of Maryland, the Office of Legislative Audits has redacted cybersecurity findings and related auditee responses from this public report.



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DEPARTMENT OF LEGISLATIVE SERVICES
MARYLAND GENERAL ASSEMBLY

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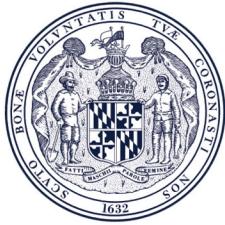
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Victoria L. Gruber
Executive Director

DEPARTMENT OF LEGISLATIVE SERVICES
OFFICE OF LEGISLATIVE AUDITS
MARYLAND GENERAL ASSEMBLY

Gregory A. Hook, CPA
Legislative Auditor

January 25, 2024

Senator Clarence K. Lam, M.D., Senate Chair, Joint Audit and Evaluation Committee
Delegate Jared Solomon, House Chair, Joint Audit and Evaluation Committee
Members of Joint Audit and Evaluation Committee
Annapolis, Maryland

Ladies and Gentlemen:

We have conducted a fiscal compliance audit of the Health Regulatory Commissions of the Maryland Department of Health (MDH) for the period beginning July 9, 2018 and ending September 30, 2022. The Health Regulatory Commissions consists of the following independent commissions:

- Maryland Health Care Commission (MHCC)
- Health Services Cost Review Commission (HSCRC)
- Maryland Community Health Resources Commission (MCHRC)

These three independent commissions are responsible for health-related functions, including directing and administering the State's health planning functions, developing health care cost-containment strategies, reviewing and approving hospital rates, and increasing health care access for low-income, underinsured, and uninsured Marylanders.

Our audit disclosed that MHCC did not have adequate controls over the Maryland Trauma Physicians Services Fund. Specifically, we noted that supervisory reviews of Fund disbursements were not sufficiently comprehensive resulting in improper payments to two trauma centers going undetected. In addition, MHCC did not have formal procedures for recovering overpayments to the trauma centers identified during periodic audits resulting in the failure to recover overpayments. We also noted one individual had excessive controls over the Fund's recordkeeping, collections, and payments.

Furthermore, our audit disclosed certain cybersecurity-related findings. However, in accordance with the State Government Article, Section 2-1224(i) of the

Annotated Code of Maryland, we have redacted the findings from this audit report. Specifically, State law requires the Office of Legislative Audits to redact cybersecurity findings in a manner consistent with auditing best practices before the report is made available to the public. The term “cybersecurity” is defined in the State Finance and Procurement Article, Section 3.5-301(b), and using our professional judgment we have determined that the redacted findings fall under the referenced definition. The specifics of the cybersecurity findings were previously communicated to those parties responsible for acting on our recommendations.

Our audit also disclosed that HSCRC did not obtain approval from the Board of Public Works for contract modifications totaling \$293,000 and MHCC did not always publish contract awards on *eMaryland Marketplace Advantage (eMMA)* within 30 days as required by State law. Specifically, our test of 3 contract awards totaling \$24.4 million, disclosed that MHCC had not posted 2 awards totaling \$16 million to *eMMA*.

Finally, our audit included a review to determine the status of the one MHCC finding contained in our preceding audit report. We determined that the MHCC did not satisfactorily address that finding, which is repeated in this report.

MDH’s response to this audit, on behalf of the Commissions, is included as an appendix to this report. We reviewed the response to our findings and related recommendations, and have concluded that the corrective actions identified are sufficient to address all audit issues. Additionally, in accordance with our policy, we have edited MDH’s response to remove vendor names or products. Finally, consistent with State law, we have redacted the elements of MDH’s response related to the cybersecurity audit findings.

We wish to acknowledge the cooperation extended to us during the audit by the Commissions. We also wish to acknowledge MDH’s and the Commissions’ willingness to address the current audit issues and implement appropriate corrective actions.

Respectfully submitted,

A handwritten signature in black ink that reads "Gregory A. Hook". The signature is written in a cursive, flowing style.

Gregory A. Hook, CPA
Legislative Auditor

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Background Information

Agency Responsibilities

The Health Regulatory Commissions is a budgetary unit of the Maryland Department of Health that comprises three independent commissions established by law: the Maryland Health Care Commission (MHCC), the Health Services Cost Review Commission (HSCRC), and the Maryland Community Health Resources Commission (MCHRC).

MHCC is responsible for directing and administering the State's health planning functions, developing health care cost-containment strategies, and maintaining a database of all non-hospital health care services. HSCRC is responsible for establishing, reviewing, and approving hospital billing rates; monitoring hospital compliance with approved billing rates; collecting data on hospital utilization and quality; and administering the Hospital Uncompensated Care Fund, which compensates hospitals for services provided to individuals unable to pay. MCHRC is responsible for increasing health care access for low-income, uninsured, and underinsured Marylanders by providing grants to community health resources.

According to the State's records, fiscal year 2022 expenditures for the MHCC, HSCRC, and MCHRC totaled approximately \$37.1 million, \$122.5 million, \$22.0 million, respectively (See Figure 1 on the following page).

MHCC operating expenditures are funded by user fees it assesses to hospitals and other users that MHCC supports. MHCC and HSCRC also jointly administer the Maryland Trauma Physician Services Fund, which reimburses trauma physicians who provided uncompensated care and is funded by a \$5 surcharge on all Maryland vehicle registrations. In fiscal year 2022, MHCC's operating expenditures included payments totaling \$11.7 million to designated trauma centers and physicians from the Maryland Trauma Physician Services Fund. In addition, MHCC also paid \$3.6 million to the University of Maryland Medical System's (UMMS) R Adams Cowley Shock Trauma Center as a pass-through grant from the Maryland Emergency Medical System Operations Fund.

HSCRC operating expenditures and the Hospital Uncompensated Care Fund are funded by user fees assessed to hospitals. In fiscal year 2022, HSCRC's operating expenditures included payments totaling \$98.5 million to hospitals from the Hospital Uncompensated Care Fund and a grant totaling \$6.2 million to the Chesapeake Regional Information System for our Patients (CRISP), a non-profit

organization which functions as Maryland's statewide health information exchange.

MCHRC operating expenditures are generally funded primarily through payments made by health care insurers in exchange for a premium tax exemption. In fiscal year 2022, MCHRC's operating expenditures included payments totaling \$21.3 million as grants to various providers to expand access to health care from the Community Health Resources Commission Fund. These grants were also funded with \$14 million in federal funds received in fiscal year 2022 from the American Rescue Plan Act of 2021.

Figure 1
Health Regulatory Commissions Positions, Expenditures, and Funding Sources

	MHCC		HSCRC		MCHRC	
Full Time Equivalent Positions as of June 30, 2022						
	Positions	Percent	Positions	Percent	Positions	Percent
Filled	55	90.2%	44	91.7%	3	60.0%
Vacant	6	9.8%	4	8.3%	2	40.0%
Total	61		48		5	
Fiscal Year 2022 Expenditures						
	Expenditures	Percent	Expenditures	Percent	Expenditures	Percent
Salaries, Wages, and Fringe Benefits	\$ 8,827,039	23.8%	\$ 7,672,378	6.2%	\$ 498,588	2.3%
Technical and Special Fees	186,601	0.5%	440,053	0.4%	86,068	0.4%
Operating Expenses	12,789,519	34.5%	9,659,867	7.9%	159,495	0.7%
Other Expenses ¹	15,297,285	41.2%	104,716,391	85.5%	21,267,236	96.6%
Total	\$37,100,444		\$122,488,689		\$22,011,387	
Fiscal Year 2022 Funding Sources						
	Funding	Percent	Funding	Percent	Funding	Percent
General Fund	\$ 4,000,000	10.8%	\$ 0	0.0%	\$ 0	0.0%
Special Fund	33,100,444	89.2%	122,488,689	100.0%	8,011,387	36.4%
Federal Fund	0	0.0%	0	0.0%	14,000,000	63.6%
Total	\$37,100,444		\$122,488,689		\$22,011,387	

Source: State financial and personnel records

¹ Includes payments made by MHCC from the Maryland Trauma Physician Services Fund (\$11.7 million) and funds provided by MHCC to UMMS's Shock Trauma Center (\$3.6 million); includes payments made by HSCRC from the Hospital Uncompensated Care Fund (\$98.5 million) and funds provided by HSCRC for CRISP (\$6.2 million); and includes grants provided by MCHRC to community health resources (\$21.3 million).

Law Changes

Effective May 30, 2021, Chapter 741, Laws of Maryland 2021, established a process to designate Health Equity Resources Communities (HERCs) to target resources to reduce health disparities, improve health outcomes and access to primary care, promote prevention services, and reduce health care costs and hospital admissions and readmissions in certain geographic areas. This law also required MCHRC to establish the Pathways to Health Equity Program to provide the foundation and guidance for a permanent HERC program and also to provide grants to specific entities through the Pathways to Health Equity Fund, a special non-lapsing fund. The procedures and controls over the Pathways to Health Equity Program grants were subject to review during our current audit.

Effective July 1, 2022, Chapter 713, Laws of Maryland 2022, transferred the administration of the Coordinated Community Supports Partnership (CCSP) Fund from the Maryland State Department of Education (MSDE) to MCHRC and added four positions to MCHRC's existing five positions. The CCSP, in conjunction with MSDE, was tasked with developing coordinated community support partnerships, implementing related grant programs, and other tasks to meet student behavioral health needs. The procedures and controls over MCHRC's grant programs were subject to review during our current audit.

Status of Finding From Preceding Audit Report

Our audit included a review to determine the status of the finding contained in our preceding audit report dated April 5, 2019. We determined that MHCC did not satisfactorily address that finding, which is repeated in this report as Finding 1.

Findings and Recommendations

Maryland Trauma Physician Services Fund

Finding 1

The Maryland Health Care Commission (MHCC) did not have sufficient procedures and controls over the Maryland Trauma Physician Services Fund payments and related collections.

Analysis

The MHCC did not have sufficient procedures and controls over the Maryland Trauma Physician Services Fund payments and related collections. The Fund provides payments to offset the cost of uncompensated medical care provided by trauma physicians to patients at Maryland's designated trauma centers and to offset the trauma centers' on-call expenses. According to MHCC's records, during fiscal year 2022, uncompensated medical care payments and trauma centers' on-call expenses totaled approximately \$1.8 million and \$8.8 million, respectively.

- One individual had unilateral control over the Fund's recordkeeping, payments, and collections relating to uncompensated care. The individual maintained certain Fund records, initiated claim payments, and received checks for claim overpayments, which totaled approximately \$71,000 during fiscal year 2022. Under these conditions, funds could be misappropriated without detection.

A similar condition has been commented upon in our two preceding audit reports, dating back to 2015. In response to our preceding audit report, MHCC indicated that it had not segregated these duties in response to our 2015 report due to employee turnover but had taken corrective action to segregate these duties as of March 2019. However, current MHCC management again advised us during our current audit that the duties were not segregated due to employee turnover.

In addition, we found that MHCC relied on trauma physicians and centers to self-report amounts due to the State without any independent verification. Trauma physician and centers must reimburse MHCC for uncompensated trauma-related costs previously paid by MHCC that were subsequently recovered from a third party, such as an insurance company. MHCC relied on the trauma physicians and centers to self-report the amounts due rather than through an external auditor, which MHCC previously used. According

to MHCC management, it discontinued the use of an external auditor in January 2018. As such, there was a lack of assurance that trauma physicians and centers submitted all the required reimbursements. According to MHCC's records, during fiscal years 2019 to 2022, trauma physician and centers reimbursed MHCC \$412,000 related to third-party recoveries.

- MHCC could not provide documentation that it had pursued and recovered \$304,000 due from trauma physicians and centers identified during our preceding audit. In response to that report, MHCC advised us that it would establish procedures and take timely collection action for overpayments.² During our current audit, MHCC had not established procedures to recover the amounts due such as withholding future payments, sending dunning letters, or forwarding outstanding overpayments to the Department of Budget and Management's Central Collection Unit (CCU).

The Comptroller of Maryland's *Accounting Procedures Manual* requires the segregation of the cash receipts, accounts receivable recordkeeping, and reconciliation functions. State regulations require three written demands for payment be made at 30-day intervals after which the account is to be sent to CCU.

Recommendation 1

We recommend that MHCC

- a. separate the duties for Fund recordkeeping, payment, and collection functions (repeat);**
- b. establish adequate procedures to identify potential overpayments; and**
- c. take timely action to resolve overpayments identified including those noted above (repeat).**

We advised MHCC on accomplishing the necessary separation of duties using existing personnel.

² Due to the lack of external audits identified in the preceding bullet, there were no amounts due from activities during the current audit period.

User Fees

Finding 2

MHCC did not have sufficient procedures and controls over fees assessed on hospitals, nursing homes, insurance companies, and health care practitioners. As a result, user fees for two hospitals totaling \$118,500 were not assessed and nursing homes collectively were under assessed \$717,000.

Analysis

MHCC did not have sufficient procedures and controls over the assessment and collection of fees annually assessed on hospitals, nursing homes, insurance companies, and health care practitioners (in this report, each entity is referred to as a “user”). According to MHCC’s records, annual user fees totaling \$17.9 million were assessed for fiscal year 2023 (see Figure 2). These fees were historically submitted by the user to the Maryland Department of Health (MDH) Finance Office; however, beginning in July 2021, MHCC instructed payees to send payments directly to MHCC and consequently, \$10 million in user fees have been received directly by MHCC from July 2021 through April 2023.

Figure 2
MHCC Fiscal Year 2023 User Fee Assessments by Industry

Industry	Total Assessment	Percentage Allocated
Hospitals	\$ 6,996,130	39.0%
Insurance Companies	4,663,986	26.0%
Nursing Homes	3,408,371	19.0%
Health Care Practitioners	2,870,207	16.0%
Total	\$17,938,694	

Source: MHCC financial records

- MHCC did not have a procedure to ensure the propriety of the assessments on which the billed fees were calculated. The assessments allocate the cost of MHCC operations among the industries subject to MHCC oversight. In accordance with State regulations, MHCC first allocates the cost to the four industries based on its workload distribution calculation³ and then allocates the amount to entities within each industry based on various factors. For example, allocations to hospitals are based on a ratio of the individual hospital’s annual admissions and revenue to the total admissions and revenue for all hospitals. Our review disclosed that assessments for fiscal years 2022 and 2023 continued to use the workload distribution calculated in December 2016, which was applicable for the period from fiscal years 2018 through

³ The workload distribution calculation apportions MHCC operating costs based on support services currently provided by MHCC to each industry.

2021. We determined that this resulted in MHCC under-allocating \$717,000 in costs for fiscal year 2023 to nursing homes, which were instead allocated to hospitals, insurance companies, and health care practitioners.

In addition, our review of user fee assessments for the hospital industry disclosed that the MHCC omitted two hospitals resulting in those costs being spread among the remaining hospitals. Specifically, our comparison of hospitals which were assessed user fees by MHCC in fiscal years 2021 and 2022 to a listing of hospitals maintained by HSCRC disclosed that MHCC did not assess user fees at two hospitals totaling \$118,500. As a result, the amount due from these hospitals was improperly assessed and collected from the other hospitals.

- MHCC also did not properly segregate duties related to these assessments and related collections. Specifically, one employee was unilaterally responsible for calculating user fee assessments, maintaining the related receivable records, and had access to the related collections. Furthermore, users were instructed to submit payments directly to the same employee. Consequently, errors and omissions, such as those previously noted as well as misappropriations of the related funds may not be readily detected. The Comptroller of Maryland's *Accounting Procedures Manual* requires the segregation of the billing, accounts receivable recordkeeping, and cash receipts functions.

Recommendation 2

We recommend that MHCC

- a. perform the fee assessment and workload distribution accurately using current information;**
- b. retroactively assess and refund the aforementioned improperly allocated costs; and**
- c. ensure duties are properly separated including the assessment, accounts receivable, and access to the related collections.**

We advised MHCC on accomplishing the necessary separation of duties using existing personnel.

Information Systems Security and Control

We determined that the Information Systems Security and Control section, including Findings 3 and 4 related to “cybersecurity”, as defined by the State Finance and Procurement Article, Section 3.5-301(b) of the Annotated Code of Maryland, and therefore are subject to redaction from the publicly available audit report in accordance with the State Government Article 2-1224(i). Consequently, the specifics of the following findings, including the analysis, related recommendations, along with MDH’s responses, have been redacted from this report copy.

Finding 3
Redacted cybersecurity-related finding.

Finding 4
Redacted cybersecurity-related finding.

Contracts

Finding 5
HSCRC did not always obtain required Board of Public Works approval for contract modifications prior to execution, and MHCC did not always ensure contract awards were published on *eMaryland Marketplace Advantage (eMMA)*, as required.

Analysis

HSCRC did not always obtain required Board of Public Works (BPW) approval for contract modifications, and MHCC did not always ensure contract awards were published on *eMaryland Marketplace Advantage (eMMA)*,⁴ as required.

- HSCRC did not obtain BPW approval for certain contract modifications over \$50,000, as required. Specifically, our test of all four contract modifications over \$50,000 processed by HSCRC from August 2018 through October 2022 totaling \$1.3 million, disclosed that HSCRC had not obtained BPW approval for two contract modifications totaling \$293,000 as of February 2023. State

⁴ *eMaryland Marketplace Advantage (eMMA)* is an internet-based, interactive procurement system managed by the Department of General Services (DGS). Effective July 2019, DGS replaced *eMaryland Marketplace* with *eMMA*.

laws and regulations require contract modifications that change the amount of the contract by more than \$50,000 to be submitted to BPW for approval.

- MHCC did not always publish contract awards on *eMMA* within 30 days of award as required by State law and procurement regulations for contracts over \$50,000. Our test of three high dollar value professional services contract awards totaling approximately \$24.4 million made during the period from May 2019 through December 2021 disclosed that as of November 2022, two contract awards of \$15.5 million and \$492,000 had not been published for 11 and 19 months, respectively, after the award. MHCC awarded 21 contracts totaling \$29.5 million that were over \$50,000 during our audit period.

Recommendation 5

We recommend that

- a. HSCRC seek the required BPW approval for all contract modifications and retroactively submit the aforementioned contract modifications to the BPW for approval; and**
- b. MHCC publish contract awards on *eMMA* as required, including those noted above.**

Audit Scope, Objectives, and Methodology

We have conducted a fiscal compliance audit of the Health Regulatory Commissions of the Department of Health (MDH) for the period beginning July 9, 2018 and ending September 30, 2022. The Commissions consist of the Maryland Health Care Commission, the Health Services Cost Review Commission, and the Maryland Community Health Resources Commission. The audit was conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

As prescribed by the State Government Article, Section 2-1221 of the Annotated Code of Maryland, the objectives of this audit were to examine the Commissions' financial transactions, records, and internal control, and to evaluate its compliance with applicable State laws, rules, and regulations.

In planning and conducting our audit, we focused on the major financial-related areas of operations based on assessments of significance and risk. The areas addressed by the audit included hospital rate monitoring, the Maryland Trauma Physician Services Fund, grant programs, contract procurement and monitoring, hospital uncompensated care, and accounts receivable. We also determined the status of the finding included in the Commissions' preceding audit report.

Our audit did not include certain support services provided to the Commissions by MDH. These support services (such as payroll, maintenance of accounting records, and related fiscal functions) are generally included within the scope of our audit of MDH's Office of the Secretary and Other Units.

Our assessment of internal controls was based on the Commissions' procedures and controls in place at the time of our fieldwork. Our tests of transactions and other auditing procedures were generally focused on the transactions occurring during our audit period of July 9, 2018 to September 30, 2022, but may include transactions before or after this period as we considered necessary to achieve our audit objectives.

To accomplish our audit objectives, our audit procedures included inquiries of appropriate personnel, inspections of documents and records, tests of transactions, and to the extent practicable, observations of the Commissions' operations. Generally, transactions were selected for testing based on auditor judgment,

which primarily considers risk, the timing or dollar amount of the transaction, or the significance of the transaction to the area of operation reviewed. As a matter of course, we do not normally use sampling in our tests, so unless otherwise specifically indicated, neither statistical nor non-statistical audit sampling was used to select the transactions tested. Therefore, unless sampling is specifically indicated in a finding, the results from any tests conducted or disclosed by us cannot be used to project those results to the entire population from which the test items were selected.

We also performed various data extracts of pertinent information from the State's Financial Management Information System (such as revenue and expenditure data). The extracts are performed as part of ongoing internal processes established by the Office of Legislative Audits and were subject to various tests to determine data reliability. We determined that the data extracted from these sources were sufficiently reliable for the purposes the data were used during this audit. Specific items for testing were selected directly from the Commissions' records. Finally, we performed other auditing procedures that we considered necessary to achieve our audit objectives. The reliability of data used in this report for background or informational purposes was not assessed.

The Commissions' management is responsible for establishing and maintaining effective internal control. Internal control is a process designed to provide reasonable assurance that objectives pertaining to the reliability of financial records; effectiveness and efficiency of operations, including safeguarding of assets; and compliance with applicable laws, rules, and regulations are achieved. As provided in *Government Auditing Standards*, there are five components of internal control: control environment, risk assessment, control activities, information and communication, and monitoring. Each of the five components, when significant to the audit objectives, and as applicable to the Commissions, were considered by us during the course of this audit.

Because of inherent limitations in internal control, errors or fraud may nevertheless occur and not be detected. Also, projections of any evaluation of internal control to future periods are subject to the risk that conditions may change or compliance with policies and procedures may deteriorate.

Our reports are designed to assist the Maryland General Assembly in exercising its legislative oversight function and to provide constructive recommendations for improving State operations. As a result, our reports generally do not address activities we reviewed that are functioning properly.

This report includes findings relating to conditions that we consider to be significant deficiencies in the design or operation of internal control that could adversely affect the Commissions' ability to maintain reliable financial records, operate effectively and efficiently, and/or comply with applicable laws, rules, and regulations. Our report also includes findings regarding significant instances of noncompliance with applicable laws, rules, or regulations. Other less significant findings were communicated to the Commissions that did not warrant inclusion in this report.

State Government Article Section 2-1224(i) requires that we redact in a manner consistent with auditing best practices any cybersecurity findings before a report is made available to the public. This results in the issuance of two different versions of an audit report that contains cybersecurity findings – a redacted version for the public and an unredacted version for government officials responsible for acting on our audit recommendations.

The State Finance and Procurement Article, Section 3.5-301(b), states that cybersecurity is defined as “processes or capabilities wherein systems, communications, and information are protected and defended against damage, unauthorized use or modification, and exploitation.” Based on that definition, and in our professional judgment, we concluded that certain findings in this report fall under that definition. Consequently, for the publicly available audit report all specifics as to the nature of cybersecurity findings and required corrective actions have been redacted. We have determined that such aforementioned practices, and government auditing standards, support the redaction of this information from the public audit report. The specifics of these cybersecurity findings have been communicated to the Commissions and those parties responsible for acting on our recommendations in an unredacted audit report.

MDH's response, on behalf of the Commissions, to our findings and recommendations is included as an appendix to this report. Depending on the version of the audit report, responses to any cybersecurity findings may be redacted in accordance with State law. As prescribed in the State Government Article, Section 2-1224 of the Annotated Code of Maryland, we will advise MDH regarding the results of our review of its response.

Exhibit 1
Listing of Most Recent Office of Legislative Audits
Fiscal Compliance Audits of Maryland Department of Health Units
As of November 2023 (Page 1 of 2)

Name of Audit		Areas Covered	Most Recent Report Date
1	Medical Care Programs Administration	Medical Care Programs Administration	11/02/23
2	Office of the Secretary and Other Units	<ul style="list-style-type: none"> Office of the Secretary Deputy Secretary and Executive Director for Behavioral Health Deputy Secretary for Developmental Disabilities Deputy Secretary for Public Health Deputy Secretary for Health Care Financing and Chief Operating Officer Deputy Secretary for Operations 	10/19/23
3	Chronic Care Hospital Centers	<ul style="list-style-type: none"> Deer's Head Center Western Maryland Hospital Center 	05/10/23
4	Developmental Disabilities Administration	Developmental Disabilities Administration	10/26/22
5	Behavioral Health Administration and Medical Care Programs Administration - Administrative Service Organization for Behavioral Health Services	<ul style="list-style-type: none"> Behavioral Health Administration Medical Care Programs Administration Administrative Service Organization for Behavioral Health Services 	10/25/22
6	Intellectual Disabilities Residential Centers	<ul style="list-style-type: none"> Holly Center Potomac Center Secure Evaluation and Therapeutic Treatment 	10/24/22
7	Regional Institute for Children and Adolescents	<ul style="list-style-type: none"> John L. Gildner Regional Institute for Children and Adolescents Regional Institute for Children and Adolescents – Baltimore 	07/13/22
8	Office of the Chief Medical Examiner	Office of the Chief Medical Examiner	05/12/22
9	Prevention and Health Promotion Administration Office of Population Health Improvement Office of Preparedness and Response, and Office of Provider Engagement and Regulation	<ul style="list-style-type: none"> Prevention and Health Promotion Administration Office of Population Health Improvement Office of Preparedness and Response Office of Provider Engagement and Regulation – Office of Controlled Substances Administration Office of Provider Engagement and Regulation – Prescription Drug Monitoring Program 	02/23/21

Exhibit 1
Listing of Most Recent Office of Legislative Audits
Fiscal Compliance Audits of Maryland Department of Health Units
As of November 2023 (Page 2 of 2)

Name of Audit		Areas Covered	Most Recent Report Date
10	Regulatory Services	<ul style="list-style-type: none"> • 22 Health Professional Boards and Commissions • The Office of Health Care Quality 	01/19/21
11	Vital Statistics Administration	Vital Statistics Administration	11/10/20
12	Pharmacy Services	Pharmacy Services for <ul style="list-style-type: none"> • Medicaid Managed Care Program • Maryland Medicaid Pharmacy Program • Kidney Disease Program • Maryland AIDS Drug Assistance Program • Breast and Cervical Cancer Diagnosis and Treatment Program 	08/31/20
13	Spring Grove Hospital Center	Spring Grove Hospital Center	04/22/20
14	Medical Care Programs Administration – Managed Care Program	Managed Care Program, known as HealthChoice including oversight of the nine private Managed Care Organizations	04/22/20
15	Laboratories Administration	Laboratories Administration	04/10/20
16	Clifton T. Perkins Hospital Center	Clifton T. Perkins Hospital Center	03/17/20
17	Thomas B. Finan Hospital Center	Thomas B. Finan Hospital Center	03/26/19
18	Springfield Hospital Center	Springfield Hospital Center	12/06/18
19	Eastern Shore Hospital Center	Eastern Shore Hospital Center	11/19/18



Wes Moore, Governor · Aruna Miller, Lt. Governor · Laura Herrera Scott, M.D., M.P.H., Secretary

January 19, 2024

Mr. Gregory A. Hook, CPA
Legislative Auditor
Office of Legislative Audits
The Warehouse at Camden Yards
351 West Camden Street, Suite 400
Baltimore, MD 21201

Dear Mr. Hook:

Enclosed, please find the responses to the draft audit report on the Maryland Department of Health – Health Regulatory Commissions for the period beginning July 9, 2018, and ending September 30, 2022.

If you have any questions, please contact Frederick D. Doggett at 410-767-0885 or email at frederick.doggett@maryland.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "LH Scott", written over a light blue horizontal line.

Laura Herrera Scott, M.D.
Secretary

Enclosure

cc: Erin K. McMullen, R.N., Chief of Staff, MDH
Marie Grant, Assistant Secretary for Health Policy, MDH
Michael J. Steffen, Executive Director, Maryland Health Care Commission
Jonathan Kromm, Executive Director, Health Services Cost Review Commission
Mark A. Luckner, Executive Director, Maryland Community Health Resources Commission
Randolph S. Sergeant, Esq., Chair, Maryland Health Care Commission
Joshua M. Sharfstein, M.D., Chair, Health Services Cost Review Commission
Frederick D. Doggett, Director, Internal Controls, Audit Compliance & Information Security, MDH
Deneen Toney, Deputy Director, Audit & Compliance, MDH

Maryland Department of Health Health Regulatory Commissions

Agency Response Form

Maryland Trauma Physician Services Fund

Finding 1

The Maryland Health Care Commission (MHCC) did not have sufficient procedures and controls over the Maryland Trauma Physician Services Fund payments and related collections.

We recommend that MHCC

- a. separate the duties for Fund recordkeeping, payment, and collection functions (repeat);
- b. establish adequate procedures to identify potential overpayments; and
- c. take timely action to resolve overpayments identified including those noted above (repeat).

We advised MHCC on accomplishing the necessary separation of duties using existing personnel.

Agency Response			
Analysis	Factually Accurate		
Please provide additional comments as deemed necessary.			
Recommendation 1a	Agree	Estimated Completion Date:	Complete
Please provide details of corrective action or explain disagreement.	MHCC concurs with the audit finding and has implemented corrective actions. MHCC notes that after the most recent previous audit, the agency took the recommended steps to appropriately segregate duties between two employees. The fiscal analyst performing a key role retired near the end of the audit period without giving standard two-week notice. A hiring process has been completed and a new employee has assumed the duties of the fiscal analyst previously performing those duties.		
Recommendation 1b	Agree	Estimated Completion Date:	03/01.2024
Please provide details of corrective action or explain disagreement.	MHCC concurs with the OLA's recommendation and is reinstituting an audit process that reflects the amount of funds at risk. MHCC currently has a contract out for bid for the audit services. We estimate that the contract will be awarded by March 1. 2024.		

Maryland Department of Health Health Regulatory Commissions

Agency Response Form

Recommendation 1c	Agree	Estimated Completion Date:	Complete
Please provide details of corrective action or explain disagreement.	<p>MHCC will conform with this audit recommendation to resume audits of hospital on-call payments. Trauma center hospitals do not receive uncompensated care payments and are not subject to the repayment request. Trauma center hospitals receive payments for the on-call payments they have made to trauma physicians, orthopedists, anesthesiologists, and neurosurgeons that take trauma call. The MHCC believes the audits of on-call payments will yield few recoveries because the requested on-call payments represent a 40%-50% share of the trauma centers actual on-call payments. The costs for the audits will be absorbed by the Trauma Fund. Though this was a repeat finding, the MHCC corrected the on-call payments identified in FY 2020.</p>		

User Fees

Finding 2

MHCC did not have sufficient procedures and controls over fees assessed on hospitals, nursing homes, insurance companies, and health care practitioners. As a result, user fees for two hospitals totaling \$118,500 were not assessed and nursing homes collectively were under assessed \$717,000.

We recommend that MHCC

- a. perform the fee assessment and workload distribution accurately using current information;**
- b. retroactively assess and refund the aforementioned improperly allocated costs; and**
- c. ensure duties are properly separated including the assessment, accounts receivable, and access to the related collections.**

We advised MHCC on accomplishing the necessary separation of duties using existing personnel

Agency Response	
Analysis	Factually Accurate

Maryland Department of Health Health Regulatory Commissions

Agency Response Form

Please provide additional comments as deemed necessary.			
Recommendation 2a	Agree	Estimated Completion Date:	Complete
Please provide details of corrective action or explain disagreement.	<p>The MHCC concurs with this audit recommendation. The agency has updated the User Fee Assessment Report. The Commission approved the report in December 2023. The update will be posted on the Commission's website and the regulations will be published in the Maryland Register in January 2024 with a 90-day comment period.</p>		
Recommendation 2b	Agree	Estimated Completion Date:	Complete
Please provide details of corrective action or explain disagreement.	<p>The MHCC concurs that two hospitals were inadvertently missed in the most recently completed assessment period. Staff recalculated both years that the hospitals were over assessed due to the non-inclusion of the 2 new hospitals which impacted all other hospital assessments. Hospitals that were over assessed were issued a reduction in their 2024 assessment.</p>		
Recommendation 2c	Agree	Estimated Completion Date:	Complete
Please provide details of corrective action or explain disagreement.	<p>MHCC concurs with this recommendation and has implemented the auditors' suggestions regarding the processing of payments using existing personnel to appropriately segregate duties regarding the processing of payments. MHCC has implemented the auditors' suggestions regarding the processing of payments using existing personnel to appropriately segregate duties regarding the processing of payments. MHCC has implemented a process which meets audit standards using internal staff and ensure the appropriate segregation of duties.</p>		

Maryland Department of Health Health Regulatory Commissions

Agency Response Form

Information Systems Security and Control

The Office of Legislative Audits (OLA) has determined that the Information Systems Security and Control section, including Findings 3 and 4 related to “cybersecurity”, as defined by the State Finance and Procurement Article, Section 3.5-301(b) of the Annotated Code of Maryland, and therefore are subject to redaction from the publicly available audit report in accordance with the State Government Article 2-1224(i). Although the specifics of the following findings, including the analysis, related recommendations, along with MDH’s responses, have been redacted from this report copy, MDH’s responses indicated agreement with the findings and related recommendations.

Finding 3

Redacted cybersecurity-related finding.

Agency Response has been redacted by OLA.

Finding 4

Redacted cybersecurity-related finding.

Agency Response has been redacted by OLA.

Maryland Department of Health Health Regulatory Commissions

Agency Response Form

Contracts

Finding 5

HSCRC did not always obtain required Board of Public Works approval for contract modifications prior to execution, and MHCC did not always ensure contract awards were published on *eMaryland Marketplace Advantage (eMMA)*, as required.

We recommend that

- a. HSCRC seek the required BPW approval for all contract modifications and retroactively submit the aforementioned contract modifications to the BPW for approval; and
- b. MHCC publish contract awards on *eMMA* as required, including those noted above.

Agency Response			
Analysis	Factually Accurate		
Please provide additional comments as deemed necessary.			
Recommendation 5a	Agree	Estimated Completion Date:	10/1/23
Please provide details of corrective action or explain disagreement.	Moving forward, the HSCRC will seek the required BPW approval for all contract modifications and retroactively submit the aforementioned contract modifications to the BPW for approval.		
Recommendation 5b	Agree	Estimated Completion Date:	8/31/23
Please provide details of corrective action or explain disagreement.	MHCC concurs with this recommendation and will continue to devote its available resources to post awards in the required timeframe. MHCC notes that contract input and processing in the eMMA Advantage application includes a complex signoff process with multiple agency and DGS personnel involved which the agency does not control.		

AUDIT TEAM

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