

Audit Report

Maryland Department of Health Medical Care Programs Administration

November 2023

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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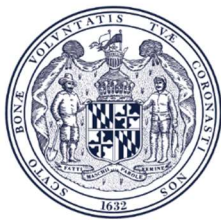
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DEPARTMENT OF LEGISLATIVE SERVICES
OFFICE OF LEGISLATIVE AUDITS
MARYLAND GENERAL ASSEMBLY

Victoria L. Gruber
Executive Director

Gregory A. Hook, CPA
Legislative Auditor

November 2, 2023

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 Maryland Department of Health (MDH) – Medical Care Programs Administration (MCPA) for the period beginning August 1, 2018 and ending March 31, 2022. MCPA administers the Medical Assistance Program (Medicaid), which provides low-income Maryland residents with access to a broad range of health care benefits that are financed by State and federal funds. During fiscal year 2022, MCPA expenditures totaled approximately \$14.1 billion, of which the majority related to Medicaid.

This audit includes MCPA's primary functions such as monitoring of recipient and provider eligibility, the Medicaid Management Information System (MMIS II) security and controls, third party insurance recoveries, and payments for Medicaid recipients in hospitals, nursing facilities, in-home and community-based settings. This activity accounted for approximately \$4.3 billion in expenditures for fiscal year 2022. Our Office conducts separate audits of MCPA's Managed Care Program, the Behavioral Health Administration's Administrative Service Organization, and the Maryland Pharmacy Program, which collectively account for the majority of the State's \$14.1 billion in Medicaid expenditures.

Our audit disclosed that referrals of potential third-party health insurance information were not investigated and recorded in MMIS II, which could result in MCPA improperly paying claims that should have been paid by a third party. For example, we found that only 180,000 (12 percent) of the 1.5 million referrals received from MCPA's third-party liability vendor during the period from January 2021 through June 2022 were recorded in MMIS II. As a result, claims paid for the recipients represented by the remaining 1.32 million referrals were not subject

to MCPA review to determine whether any portion of the claim should have been paid by another entity.

MCPA did not have effective processes to identify, prevent, and recover questionable Medicaid payments. Specifically, MCPA did not refer instances of questionable Medicaid recipient eligibility to the Department of Human Services and Local Health Departments (LHDs) for investigation and did not have effective processes to identify and investigate payments made on behalf of incarcerated and deceased recipients. For example, we identified approximately 18,000 claims totaling \$3.6 million paid on behalf of 5,615 recipients for which the date of service occurred after the recipient's date of death. MCPA also did not ensure that changes to recipient eligibility information were processed timely and accurately.

Our audit disclosed that MCPA did not perform adequate oversight of hospital claims, nursing facilities, the in-home Community First Choice (CFC) program, and the community-based Medical Day Care program. For example, MCPA did not ensure that recipients in the CFC program received personal assistance services in accordance with their plans of service. LHDs are responsible for performing nurse monitoring visits to evaluate the quality of personal assistance services provided. However, as of November 2022, 19 percent of CFC recipients were more than 60 days overdue for a nurse monitoring visit, including 901 recipients who were more than one year overdue.

MCPA also did not monitor the contractor responsible for ensuring that Medicaid recipients receiving services from nursing facilities required the level of care rendered and did not have a process to ensure that patient-related ventilator claims submitted by nursing facilities were valid. In addition, MCPA did not adequately monitor its hospital claims audit contractor and had not pursued recovery of improper claims identified by the vendor totaling \$6.9 million. MCPA also did not conduct required audits of Medical Day Care and Supports Planning providers.

Our audit also disclosed certain deficiencies relating to information systems security and control. 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.

As further explained on page 11, MDH experienced a broad security incident resulting from a ransomware attack. Although we were generally able to obtain information needed to satisfy our audit objectives and related conclusions, certain records related to 4 of the 10 findings in this audit report were not available at the time of our review due to this incident. Additional comments can be found in the respective findings, which include recipient eligibility and program oversight functions.

Finally, our audit also included a review to determine the status of the 11 findings contained in our preceding audit report. For the non-cybersecurity-related findings we determined that MCPA satisfactorily addressed 3 of those 9 findings. The remaining 6 findings are repeated in this report.

We determined that MCPA's accountability and compliance level was unsatisfactory, in accordance with the rating system we established in conformity with State law. The primary factors contributing to the unsatisfactory rating were the significance of our audit findings and the number of repeat findings. As noted in Figure 2, MCPA had a 14.1 percent vacancy rate. Although our audit did not attempt to identify the specific impact of this vacancy rate on MCPA operations, we believe that it may have contributed, at least in part, to the findings in this report (including one finding where MCPA specifically cited limited staff resources as a contributing cause) and the resulting rating.

MDH's response to this audit, on behalf of MCPA, is included as an appendix to this report. We reviewed the response and noted agreement to our findings and related recommendations and while there are other aspects of the response which will require further clarification, we do not anticipate that these will require the Joint Audit and Evaluation Committee's attention to resolve. In addition, 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 MDH and MCPA. We also wish to acknowledge MDH's and MCPA's 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 style with a large, stylized 'G' and 'H'.

Gregory A. Hook, CPA
Legislative Auditor

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* Denotes item repeated in full or part from preceding audit report

Background Information

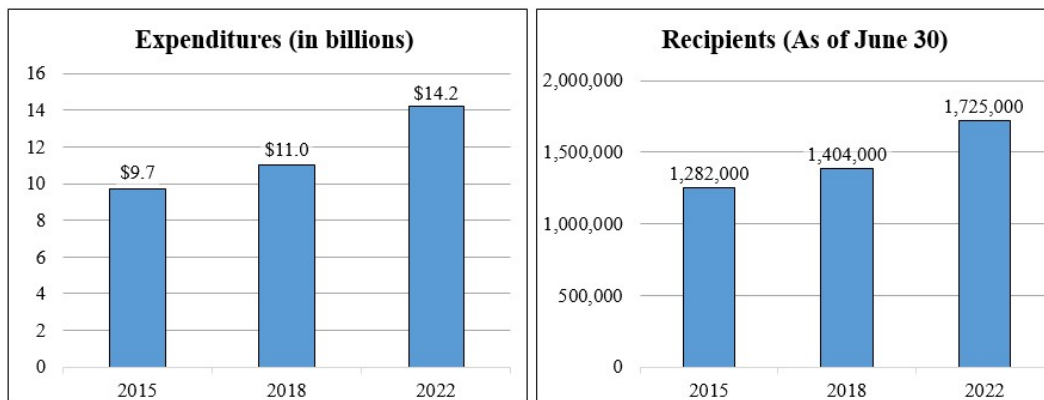
Agency Responsibilities and Audit Scope

The Medical Care Programs Administration (MCPA) of the Maryland Department of Health (MDH) operates under both Title XIX of the federal Social Security Act (Medicaid) and State law. Medicaid is a joint federal and state entitlement program for low-income individuals (recipients). The program is administered by the states, which are required to provide healthcare coverage to all applicants who meet the program's eligibility criteria.

In its capacity as Maryland's administering agency, MCPA is responsible for enrolling the healthcare providers (such as physicians), establishing program regulations, setting provider payment rates, reviewing and paying provider claims, and obtaining federal reimbursement for eligible costs. MDH has agreements with the Department of Human Services (DHS) and the Maryland Health Benefit Exchange (MHBE) delegating its responsibility to them for Medicaid recipient eligibility determinations.

According to State records, as of June 30, 2022, Medicaid enrollment totaled 1.7 million recipients and MCPA's expenditures during fiscal year 2022 totaled approximately \$14.1 billion (see Figures 1 and 2), of which the majority related to Medicaid services (see Figure 3).

Figure 1
MCPA Expenditures and Medicaid Recipient Count
(Fiscal Years 2015 to 2022)



Source: State accounting records, MCPA records

However, as explained in Figure 3, the majority of these expenditures are subject to review and testing in three other OLA audits.¹ As noted in Figure 2, \$9.3 billion (66 percent) of these expenditures were federally funded.

Figure 2
MCPA Positions, Expenditures, and Funding Sources

Full-Time Equivalent Positions as of June 30, 2022		
	Positions	Percent
Filled	531	85.9%
Vacant	87	14.1%
Total	618	
Fiscal Year 2022 Expenditures		
	Expenditures	Percent
Salaries, Wages, and Fringe Benefits	\$ 55,824,164	0.4%
Technical and Special Fees	5,339,864	0.0%
Operating Expenses	14,086,320,037	99.6%
Total	\$14,147,484,065	
Fiscal Year 2022 Funding Sources		
	Funding	Percent
General Fund	\$ 4,003,763,613	28.3%
Special Fund	718,980,211	5.1%
Federal Fund	9,337,698,527	66.0%
Reimbursable Fund	87,041,714	0.6%
Total	\$14,147,484,065	

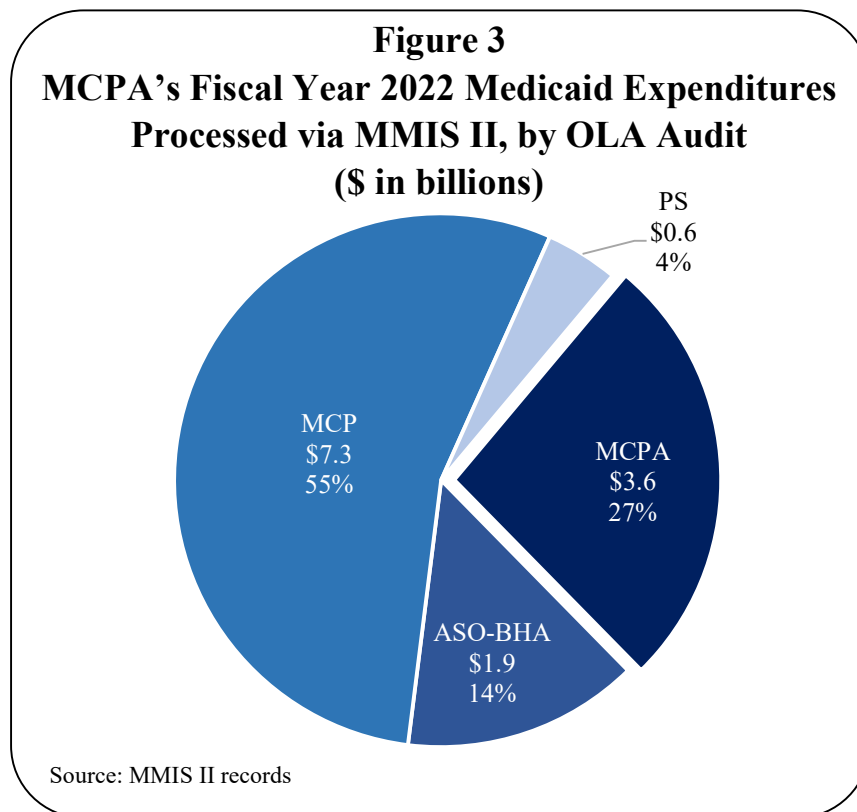
Source: State financial and personnel records

Individuals qualifying for cash assistance through either the Temporary Cash Assistance program or the federal Supplemental Security Income program automatically qualify for Medicaid benefits. Those eligible for Medicaid through these programs make up most of the Medicaid population and are referred to as “categorically needy” although there are other individuals that are considered categorically needy due to other circumstances (such as children residing in foster care). The remaining individuals are referred to as “medically needy,” meaning they cannot meet the cost of needed medical care but are generally self-supporting

¹ The increase in the number of Medicaid recipients and the related expenditures is primarily due to Medicaid eligibility determinations being suspended during the COVID-19 public health emergency.

in other respects. Individuals may apply for Medicaid in person, through the mail, or online.

MCPA uses a federally certified computerized system, the Medicaid Management Information System (MMIS II), implemented in 1995, to pay provider claims and to process paid claims for federal reimbursement. According to MCPA records, during fiscal year 2022, MMIS II was used to process transactions totaling approximately \$13.4 billion. This Medicaid activity is currently covered under four separate audits² as depicted in Figure 3.

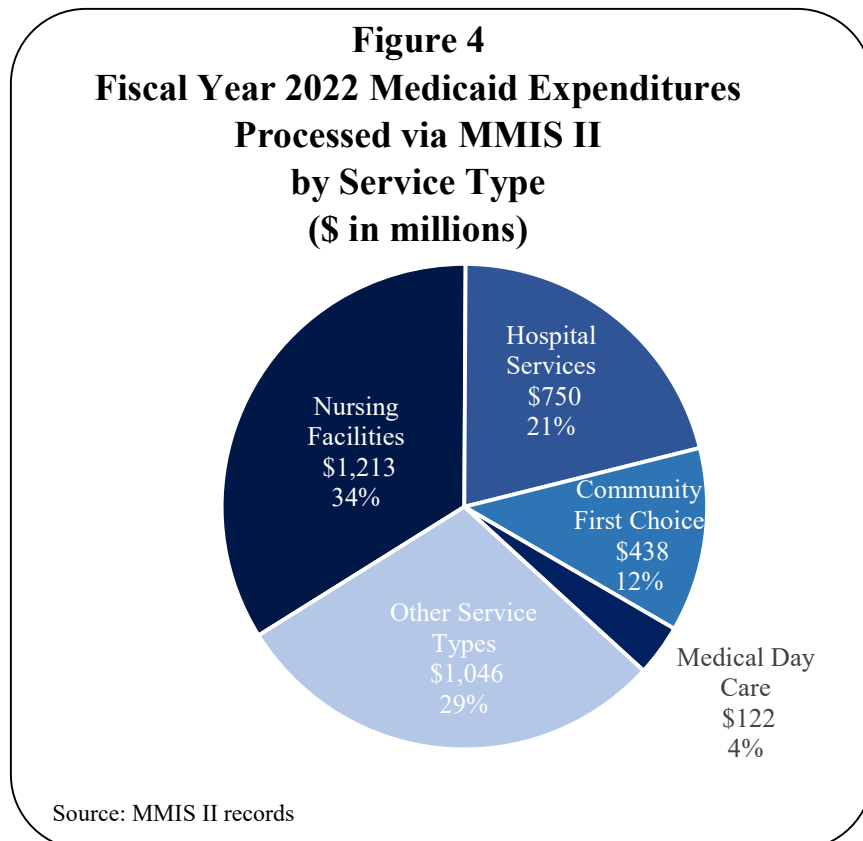


The audit scope for this audit included MCPA's primary administrative functions, including expenditures for \$4.3 billion of MCPA's activity during fiscal year 2022 (approximately \$3.6 billion processed through MMIS II, as noted in Figure 3, and \$699 million in expenditures processed outside of MMIS II). In this regard, this audit of MCPA excluded the following Medicaid services that are reviewed under three separate OLA audits (See Exhibit 1 on page 32):

² In addition to the other three audits, the recovery of the federal share of program costs is reviewed during our audit of the MDH Office of the Secretary and Other Units.

- **Managed Care Program (MCP)** – MCPA contracts with Managed Care Organizations to provide a wide variety of services to enrolled Medicaid recipients in exchange for specified capitation payments.
- **Administrative Service Organization for Behavioral Health Services (ASO-BHA)** – MCPA contracts with an ASO that is responsible for providing benefit management services to Medicaid recipients enrolled in the Behavioral Health System.
- **Pharmacy Services (PS)** – MCPA provides pharmaceutical benefits to Medicaid recipients.

Specifically, we reviewed procedures and controls over activities that would impact all MCPA expenditures including MCPA’s monitoring of MMIS II security and controls, recipient and provider eligibility, and third-party insurance recoveries. In addition, based on our assessments of significance and risk, we reviewed procedures and conducted testing unique to nursing facilities, hospital services, and the in-home Community First Choice and community-based Medical Day Care programs, which collectively accounted for \$2.5 billion of the fiscal year 2022 expenditures processed in MMIS II for the scope of this audit (see Figure 4).



Ransomware Security Incident

In December 2021, MDH experienced a broad security incident resulting from a ransomware attack³. This incident affected the entire MDH computer network and disrupted information technology operations for all MDH servers and end user computers, resulting in substantial impact on all MDH business operations including MCPA. MDH notified the Department of Information Technology's (DoIT) Office of Security Management, which initiated incident response measures. Various other parties were informed of this incident or engaged for recovery efforts. DoIT concluded that no evidence existed indicating that sensitive or regulated information had been improperly acquired. In June 2022, MDH received \$40.4 million from the State Reserve Fund to cover the costs of its remediation, recovery, and security modernization efforts related to the incident. The incident, response measures, and related controls were subject to review as part of our recent audit of the MDH Office of the Secretary and Other Units.

Although we were generally able to obtain information needed to satisfy our audit objectives and related conclusions, certain records related to Findings 2, 3, 7, and 8 in this report were not available at the time of our review due to the incident (see additional comments in the respective findings).

Potential Liability to the Federal Government

In our January 26, 2023 special report on *Statewide Review of Budget Closeout Transactions for Fiscal Year 2022*, we noted that MDH had a potential federal liability of approximately \$52 million⁴ for which State general funds may be needed. MDH reported the potential federal liability to the Comptroller of Maryland – General Accounting Division during the fiscal year 2022 closeout process.

The obligation relates to unspent funds for the Rebalancing Fund Demonstration which is associated with the MCPA Money Follows the Person (MFP) program. By participating in the Rebalancing Demonstration, the State agreed to accept federal funds covering 75 percent of its MFP program expenditures, with the

³ As defined by the federal Department of Homeland Security's Cybersecurity and Infrastructure Security Agency, ransomware is an ever-evolving form of malware designed to encrypt files on a device, rendering any files and the systems that rely on them unusable. Malicious actors then demand ransom in exchange for decryption.

⁴ The closeout report identified total potential liabilities to the federal government of approximately \$86.2 million as of June 30, 2022, which also included \$34.2 million in unresolved longstanding disallowed federal fund claims related to the MDH Developmental Disabilities Administration.

remaining 25 percent supported by State funds, instead of the more traditional 50 percent federal and 50 percent State funding arrangement used in many other federal assistance programs. However, the 25 percent savings that the State realized from the enhanced federal reimbursement rate is required to be spent on additional MFP program expenditures.

The aforementioned \$52 million potential liability represents this enhanced funding received for which the required additional MFP expenditures had not been made as of June 30, 2022. The Rebalancing Fund Demonstration was to end September 30, 2020; however, the federal Centers for Medicare and Medicaid Services extended the program until September 30, 2025.

Status of Findings From Preceding Audit Report

Our audit included a review to determine the status of the 11 findings contained in our preceding audit report on MCPA dated November 7, 2019. As disclosed in Figure 5 on the following page, for the non-cybersecurity-related findings, we determined that MCPA satisfactorily addressed 3 of those 9 findings. The remaining 6 findings are repeated in this report.

Figure 5
Status of Preceding Findings

Preceding Finding	Finding Description	Implementation Status
Finding 1	MCPA did not sufficiently address errors noted in medical necessity determinations made by its utilization control agent vendor and did not ensure the vendor conducted timely continued stay reviews of nursing facilities.	Repeated (Current Finding 5)
Finding 2	MCPA did not monitor the vendor responsible for conducting credit balance audits of hospitals and nursing facilities to ensure the audits were conducted timely and properly, and the contract did not include provisions to assess liquidated damages for noncompliance with contract requirements.	Not Repeated
Finding 3	MCPA did not require nor obtain comprehensive, independent reviews of the automated systems used by two vendors to ensure sensitive data, including personally identifiable information and protected health information, were properly safeguarded.	Status Redacted ⁵
Finding 4	MCPA did not sufficiently document its review of investigations of questionable recipient eligibility and did not take adequate follow-up action when errors were identified in changes to critical eligibility information.	Repeated (Current Finding 2)
Finding 5	MCPA did not ensure that all referrals of potential third-party health insurance information were timely and properly investigated.	Repeated (Current Finding 1)
Finding 6	MCPA had conducted virtually no audits of hospital claim payments since calendar year 2007.	Not Repeated
Finding 7	MCPA had not established appropriate oversight to ensure that all Community First Choice program recipients received required daily living assistance services.	Repeated (Current Finding 4)
Finding 8	MCPA did not audit all Medical Day Care program providers as required by its policy, and the related audit policy and procedures were not sufficiently comprehensive.	Repeated (Current Finding 7)
Finding 9	MCPA did not have an established process to ensure ventilator care claims submitted by nursing facilities were valid, as required by State regulations.	Repeated (Current Finding 6)
Finding 10	Claims that were suspended by automated edits within the Medicaid Management Information System (MMIS II) and subsequently reviewed and paid were not subject to sufficient supervisory review and approval.	Not Repeated
Finding 11	MCPA did not have sufficient procedures and controls to restrict access to MMIS II. For example, 727 MMIS II active users could view the names and social security numbers of 3.5 million active and inactive Medicaid recipients.	Status Redacted ⁵

⁵ Specific information on the current status of this cybersecurity-related finding has been redacted from the publicly available report in accordance with State Government Article, Section 2-1224(i) of the Annotated Code of Maryland.

Findings and Recommendations

Third-Party Liability

Finding 1

The Medical Care Programs Administration (MCPA) did not ensure that all referrals of potential third-party health insurance information were investigated and recorded in the Medicaid Management Information System (MMIS II), which could result in MCPA improperly paying claims that should have been paid by a third party.

Analysis

MCPA did not ensure that referrals of third-party health insurance information were investigated and recorded into MMIS II, which could result in MCPA improperly paying claims that should have been paid by a third party. Federal and State regulations provide that Medicaid shall be the payer of last resort and that it shall only be used to pay costs not covered by others, such as third-party insurers.

MCPA receives referrals of other potentially liable parties from several sources including its third-party liability vendor, Managed Care Organizations (MCOs), the Department of Human Services (DHS), and the Maryland Health Benefit Exchange (MHBE). Referrals from the third-party liability vendor are to be recorded directly in MMIS II so that claims submitted for these individuals will be suspended for manual review and approval. Federal regulations require MCPA to follow up on the potential third-party insurance information obtained within 60 days. Our review of MCPA's procedures for processing referrals received from the third-party liability vendor and the MCOs disclosed the following:

- MCPA did not verify that all referrals received from the third-party liability vendor were recorded in MMIS II. Third-party insurance coverage identified by the vendor was automatically interfaced into MMIS II monthly. Although MCPA advised that it verified that all of the referrals were interfaced, it could not document these efforts, and our review disclosed that only 180,000 (12 percent) of the 1.5 million referrals the vendor submitted between January 2021 and June 2022 were actually recorded in MMIS II. For example, the insurance information for 84,672 recipients provided by the vendor in January 2022 was not interfaced into MMIS II as of November 2022.

Our analysis⁶ of fee-for-service claims for these recipients with dates of service between February and December 2022 identified 431,443 claims totaling \$103.1 million that were paid entirely by MCPA. Since the recipients' insurance information was not properly recorded in MMIS II, these claims were not subject to review by MCPA to determine whether any portion of the claim should have been paid by another entity. We judgmentally selected 5 claims from this period totaling \$78,000 and requested MCPA to determine whether the claim should have been paid by the recipient's third-party insurance. MCPA had not yet investigated these claims as of September 11, 2023.

- MCPA could not document that it investigated all MCO referrals of possible third-party insurance, including 64,700 referrals noted in our prior report. Specifically, MCPA did not track the referrals and could not readily determine the number of referrals received from the MCOs or whether they had been investigated and recorded in MMIS II. Based on records submitted by the MCOs, we identified approximately 176,000 referrals from the MCOs during fiscal year 2022. Our judgmental test of 135 referrals received during two months (September 2021 and February 2022) disclosed that 86 referrals were not investigated and recorded in MMIS II as of November 2022.

In addition, MCPA could not document that it had investigated and resolved the backlog of 64,700 referrals from the MCOs older than 60 days noted in our preceding audit report. MDH's response, on behalf of MCPA, to that report indicated that it planned to eliminate the backlog by December 31, 2020. During our current audit, MCPA advised that, as of October 2022, the backlog had decreased to 5,700 referrals. However, we could not verify the accuracy of this assertion due to MCPA's inability to determine the number of MCO referrals recorded in MMIS II and the failure to track the resolution of the noted referrals. Compounding the issue are the aforementioned results of our current testing that again demonstrated that all recently reported referrals had not been recorded in MMIS II.

Recommendation 1

We recommend that MCPA ensure that

- a. all third-party health insurance information provided by its third-party liability vendor are interfaced with MMIS II, and**
- b. all MCO insurance referrals are recorded into MMIS II timely (repeat).**

⁶ Our analysis was based on recipients with open insurance spans and excluded recipients who only had vision and/or dental insurance coverage.

Review of Questionable Activity

Finding 2

MCPA did not have effective processes to identify, prevent, and recover questionable Medicaid payments, including \$7.1 million in payments on behalf of incarcerated and deceased recipients.

Analysis

MCPA did not have effective processes to identify, prevent, and recover questionable Medicaid payments, including \$7.1 million in payments on behalf of incarcerated and deceased recipients between July 2018 and April 2022. MCPA has several automated and manual processes to identify questionable Medicaid activity such as benefit recipients who are deceased, are missing social security numbers, or are receiving benefits in another state. Instances of questionable recipient eligibility information or activity are to be investigated and resolved by DHS or the Local Health Departments (LHDs) upon referral from MCPA, or in-house by MCPA employees. MCPA is responsible for overseeing the resultant investigative efforts to ensure the proper corrective actions were taken, such as removing eligibility for continued participation in Maryland's Medicaid program or recovering erroneously paid benefits.

Missing Social Security Numbers

As of July 2022, MCPA had not referred instances of recipients with missing social security numbers (SSNs) to DHS and the LHDs for investigation since November 2021 and could not document the results of those entities' investigations, including the specific supporting documentation that had been reviewed, for pre-November 2021 referrals. A similar condition regarding the lack of supporting documentation was commented upon in our preceding audit report.

MDH's response to that preceding audit report indicated that, effective May 2019, it had implemented an automated system to track and document investigations. However, during our current audit MCPA management advised that the ransomware security incident previously mentioned in this report disrupted its access to the above referenced automated system. Accordingly, MCPA was unable to generate reports of recipients with missing SSNs for DHS and LHD review and could not support the results of the investigations that may have been performed prior to November 2021. As of July 2022, MCPA could not reasonably estimate when it would resume these reviews.

Recipients Receiving Benefits in Other States

MCPA did not review DHS and LHD investigations of recipients who were also receiving Medicaid benefits in other states to ensure the proper corrective action was taken (such as recovery of improper payments). A similar condition was commented upon in our preceding audit report. MDH's response to that preceding audit report indicated that, effective May 2019, it implemented an automated system to track and document investigations. However, as previously noted, the ransomware security incident disrupted access to the automated system. While MCPA advised us that DHS and the LHDs continued to investigate these recipients, MCPA was unable to access the aforementioned automated system to obtain support for the results of the investigations.

MCPA did not pursue an alternative method to pursue the results of these reviews and could not readily provide us with the number of recipients identified by this process. However, based on a report we obtained from MCPA, there were 11,376 instances requiring investigation during April 2022 alone. The need for MCPA to monitor these reviews is evidenced by our October 2022 audit report of DHS' Family Investment Administration (FIA) which noted that FIA did not take timely or appropriate corrective action for 43 of the 46 questionable Medicaid-eligible recipients we tested, including recipients receiving Medicaid benefits in another state.

Fee-for-Service Payments for Incarcerated Recipients

MCPA did not have a process to identify, prevent, and recover fee-for-service payments related to incarcerated recipients, resulting in approximately \$3.5 million in such payments during fiscal years 2019 to 2022. Under federal and State regulations, Medicaid only covers certain fee-for-service claims (primarily inpatient hospital care) while a recipient is incarcerated⁷.

Our Data Analytics Unit independently obtained incarceration records⁸ (including the periods of incarceration based on dates of inmate intake, transfer, and release) from the Maryland Department of Public Safety and Correctional Services (DPSCS) for the 4-year period of fiscal year 2019 to 2022. We then matched this data to MMIS II claims with service dates between July 2018 and April 2022 and identified fee-for-service payments (excluding inpatient hospital claims which are

⁷ These individuals' healthcare costs are generally paid by the Maryland Department of Public Safety and Correctional Services (DPSCS). In addition, incarcerated individuals are allowed to maintain Medicaid eligibility during periods of incarceration; however, these recipients are required to be disenrolled from Managed Care Organizations (MCO) and payments for ineligible services should be prevented. Capitation payments to MCOs are included within the scope of our audit of MCPA's Managed Care Program.

⁸ We determined that the incarceration records we received from DPSCS were sufficiently reliable for the purposes of our OLA match.

eligible to be covered by Medicaid) totaling \$3.5 million for 1,954 recipients who were incarcerated at the time of service. MCPA had not previously identified or investigated these payments and as of November 2022 had taken no action to recover these funds.

Payments on Behalf of Deceased Recipients

MCPA could not document its efforts to identify and remove deceased individuals from Medicaid. MCPA advised that it performed a monthly match of Medicaid recipient records to the federal Social Security Administration (SSA) and MDH Vital Statistics Administration (VSA) death records. MCPA forwards these results to DHS and LHDs to verify the recipients are deceased and disenroll the recipient from Medicaid to prevent future payments on behalf of these individuals. Our review disclosed that as of July 1, 2022 MCPA could not document that this match was performed from August 1, 2018 through March 31, 2022, and that it monitored the related DHS and the LHD investigations. MCPA attributed the lack of documentation to the aforementioned ransomware security incident.

Furthermore, MCPA did not investigate payments where a date of service was after the recipient's date of death according to SSA or VSA records. We performed a match between MMIS II claims with service dates between July 2018 and April 2022 and the VSA death records as of May 2022. Our match identified approximately 18,000 claims totaling \$3.6 million associated with 5,615 recipients which we believe warrant further

investigation to determine if the payments should be recovered (see Figure 6).

Figure 6
Medicaid Payments with a Date of Service after Date of Death

Claim Type	Number of Recipients	Number of Payments	Payment Amount
Capitation	1,270	2,505	\$2,343,523
Fee-for-Service	4,345	15,205	1,219,509
Total	5,615	17,710	\$3,563,032

Source: OLA match using MMIS II and VSA records.

At our request, MCPA investigated 20 of these recipients with potentially improper claims totaling \$317,000 and determined that 15 recipients were deceased prior to the medical service represented by the claims, but were still actively enrolled in Medicaid as of January 2023. MCPA had not yet investigated potentially improper payments totaling \$245,000 associated with these 15 individuals as of January 2023.

Recommendation 2

We recommend that MCPA establish effective processes over questionable Medicaid payments. Specifically, MCPA should

- a. ensure that instances of recipients with missing SSNs are referred to DHS and the LHDs for investigation;**
- b. sufficiently document its reviews of investigations of questionable recipient eligibility (including instances of recipients missing SSNs or receiving Medicaid benefits in other states) to support that proper corrective action was taken (repeat);**
- c. establish a process to identify, prevent, and recover improper fee-for-service payments related to incarcerated recipients; and**
- d. document its efforts to identify and remove deceased recipients from Medicaid and to investigate and pursue the recovery of improper payments after the recipients' dates of death, including those noted in the analysis.**

Recipient Eligibility

Finding 3

MCPA did not ensure that changes to recipient Medicaid eligibility information were processed timely and accurately.

Analysis

MCPA did not ensure that changes to recipient Medicaid eligibility information were processed timely and accurately. MCPA is notified via automated reporting processes when recipient information in MMIS II differs from information on DHS' and MHBE's own recipient systems, and MCPA staff manually update MMIS II with the correct information based on its investigation. Our review disclosed that approximately 93,000 (58 percent) of the 161,000 notifications received between February 2022 and January 2023 had not been resolved as of February 2023. MCPA advised that this condition occurred as a result of the aforementioned ransomware security incident.

MCPA also did not ensure that errors in changes made to recipient eligibility information were subsequently corrected. MCPA's supervisory review of 1,957 changes made to eligibility information between May and October 2021 identified 239 changes that were not consistent with supporting documentation and consequently required correction. However, our test of 25 of these changes disclosed that 5 were not subsequently corrected in MMIS II after MCPA's supervisory review.

Recommendation 3

We recommend that MCPA ensure recipient eligibility information is updated timely and accurately, and that errors to recipient eligibility information in MMIS II are corrected.

Program Oversight

Background

MCPA is responsible for ensuring that Maryland Medicaid recipients receive high quality services and for verifying the propriety of the related provider payments. Based on our assessment of significance and risk we reviewed MCPA's oversight of nursing facilities, hospital services, Community First Choice (CFC), and Medical Day Care, and its oversight of contractors that assist in the administration and monitoring of these programs.⁹

Specifically, we reviewed MCPA's oversight of the contractors that it uses to conduct audits of hospital claims to identify overpayments (such as from duplicate bills and unauthorized charges) and to conduct patient credit balance audits to identify amounts due to the State for claims paid to hospitals and nursing facilities by both the State and third parties (such as insurance companies). We also reviewed MCPA's oversight of the contractors that it uses to conduct nursing facility cost settlements to identify underpayments or overpayments, and to conduct utilization reviews (including continued stay and medical eligibility reviews) of Medicaid recipients receiving services from hospitals and nursing facilities.

Finding 4

MCPA had not established adequate oversight to ensure that all CFC program recipients received personal assistance services in accordance with their plans of services.

Analysis

MCPA had not established adequate oversight to ensure that all CFC program recipients received personal assistance services in accordance with their plans of services. CFC is a community-based Medicaid waiver program in which elderly or disabled individuals who would otherwise live in a nursing facility are able to live in their own homes. CFC recipients receive assistance with daily living

⁹ The CFC program provides services to eligible recipients that are intended to enable them to remain at home, while the Medical Day Care program provides various support services to functionally disabled adults which provides individuals the opportunity to receive medical care during the day in a community-based setting.

activities from personal assistance providers, under agreements with MCPA, in accordance with a plan of service. LHDs are responsible for evaluating the quality of personal assistance services provided to the CFC recipients with the use of nurse monitors under contract to the LHDs. According to State records, during fiscal year 2022, MCPA paid CFC providers approximately \$432.2 million, of which \$387.1 million and \$6.6 million were for personal assistance and nurse monitoring providers (through the LHDs), respectively.

Our review disclosed that MCPA had not established a process to ensure that nurse monitors were properly evaluating the quality of personal assistance services provided. According to MCPA records, there were 10,082 recipients receiving personal assistance services as of November 2022. Our analysis of recipient data in MDH's Long Term Services and Supports system disclosed that 1,873 recipients (19 percent) were more than 60 days overdue for their nurse monitoring visit, including 901 recipients who were more than one year overdue for a visit. According to MCPA's records, the Baltimore City LHD was responsible for 821 of the 901 one-year overdue recipients, and at least 10 percent of recipients at 9 other LHDs were more than 60 days overdue.

A similar condition was noted in our preceding audit report, including the long overdue monitoring visits by the Baltimore City LHD. In response to that report, MCPA advised that it implemented a process to follow-up with LHDs that had a significant number of recipients who were more than 30 days overdue for a monitoring visit. However, MCPA could not document that it had addressed the issue of untimely monitoring visits with the responsible LHD (including the Baltimore City LHD), and we found the follow-up process implemented was not effective because the monitoring report that MCPA relied on for this purpose was not focused on recipients who were more than 30 days overdue, as it did not identify the length of the delays (just that there was a delay). Consequently, MCPA did not identify that the aforementioned 1,873 recipients were significantly overdue.

Recommendation 4

We recommend that MCPA

- a. establish a process to ensure that all CFC recipients are monitored by nurses (repeat), and**
- b. develop a plan to address the longstanding instances of non-compliance for the aforementioned LHD.**

Finding 5

MCPA did not monitor the utilization control agent contractor to ensure continued stay reviews of Medicaid recipients receiving services from nursing facilities were performed timely.

Analysis

MCPA did not monitor its utilization control agent (UCA) contractor to ensure continued stay reviews (CSRs) of Medicaid recipients receiving services from nursing facilities were performed timely. CSRs ensure that recipients required the level of care provided and ultimately billed to Medicaid by nursing facilities. The contract required the UCA to perform quarterly CSRs of recipients during their first year in a nursing facility and annually thereafter. MCPA did not track the CSRs performed for each recipient to ensure the UCA completed all required reviews.

Our analysis of 13,930 Medicaid recipients, who resided in nursing facilities and should have received at least one CSR during calendar year 2021¹⁰, disclosed that 2,387 recipients (17 percent) had not received a CSR anytime during calendar year 2021. As a result, MCPA did not have assurance that these recipients required the level of care provided and that the related payments were proper. According to MCPA records, MCPA made payments totaling \$165.2 million to nursing facilities for these 2,387 recipients for nursing facility services during calendar year 2021.

Since MCPA did not monitor the UCA for timely completion, it was not aware of the missing CSRs and therefore could not properly determine whether to assess liquidated damages against the UCA. The current contract at the time of our audit provided MCPA the ability to assess liquidated damages up to 0.5 percent of the monthly invoice amount.

A similar condition was commented upon in our preceding audit report in which we noted that MCPA did not sufficiently address errors in medical necessity determinations made by the UCA or ensure the UCA conducted timely CSRs of nursing facilities. MDH's response to that report indicated that it would implement the recommended corrective actions by the end of calendar year 2019. Although MCPA implemented procedures to address errors in medical necessity

¹⁰ Specifically, our analysis focused on recipients with a first date of service between January and August 2021 and at least four months of claims during calendar year 2021. In this context, the first date of service represents the earliest date in calendar year 2021 that the recipient received services from the nursing facility; many of these recipients also received nursing facility services prior to January 2021.

determinations, it still did not have a process to ensure that CSRs were conducted timely at nursing facilities.

Recommendation 5

We recommend that MCPA monitor the UCA vendor to ensure CSRs are performed timely and assess liquidated damages as permitted by the contract (repeat).

Finding 6

MCPA did not have an established process to ensure costly recipient ventilator care claims submitted by nursing facilities were valid, as required by State regulations.

Analysis

MCPA did not have a process to ensure nursing facility recipient ventilator care claims, which totaled approximately \$54.7 million in calendar year 2021, were valid. According to MCPA records, as of January 2022, 16 nursing facilities were authorized to provide ventilator care services to Medicaid patients at an average daily reimbursement rate of \$797. MCPA did not validate the ventilator care claims submitted by these facilities to ensure they were supported and proper.

State regulations require MCPA to periodically validate that the days paid for ventilator care recipients are supported by medical records and to recoup payments for days that are not supported. At our request, MCPA obtained and reviewed 10 ventilator claims from 5 nursing facilities totaling \$243,000 and concluded that the claims were properly supported.

A similar condition was commented upon in our preceding audit report. Although MDH's response to that report indicated that it planned to include ventilator care validations in the scope of its next UCA contract, MCPA had neither awarded the new contract during our audit period nor conducted its own validations.

Recommendation 6

We recommend that MCPA establish procedures to periodically validate ventilator care claims submitted by nursing facilities, as required by State regulations, and recoup any claim payments that are determined to be unsupported or improper (repeat).

Finding 7

MCPA did not conduct the required audits of Medical Day Care (MDC) and Supports Planning providers, and the related audit policy and procedures were not sufficiently comprehensive.

Analysis

MCPA did not audit all MDC and Supports Planning providers as required by its policy, and the MDC audit policy and procedures were not sufficiently comprehensive. MDC is a community-based group program that offers eligible Medicaid recipients health, social, and personal support in a day-care setting in accordance with their individualized plans of care as an alternative to institutional care. Supports Planners develop service plans for recipients in the CFC program that identify the personal assistance services each recipient requires with daily living activities. According to MCPA records, during calendar year 2021, MCPA paid 115 MDC and 27 Supports Planning providers approximately \$126.7 million and \$37.8 million, respectively, for these services.

MDC Provider Audits

MCPA did not conduct all of the required biennial audits of MDC providers as required by its policy. The audits either confirm program compliance by providers or identify issues, such as allegations of conditions affecting the health or welfare of recipients that had not been reported to the appropriate authorities as required. According to its records, MCPA made payments to 97 of the 115 MDC providers in each year during calendar years 2018 through 2021. Our review disclosed that MCPA had not conducted the two required audits for 79 (81 percent) of the 97 providers over the four years. Specifically, the two required audits were not conducted for 18 providers and one of the required audits had been conducted for the other 61 providers.

In addition, we determined the audits that were performed were not sufficiently comprehensive. We reviewed 12 of the 46 audits conducted between calendar years 2018 and 2021 for which documentation was readily available.¹¹ Our review disclosed that 8 audits excluded at least 1 year of claims activity, including 1 audit performed in November 2020 that excluded claims activity for the 6-year period from December 2011 through December 2017. We also noted that MCPA could not explain the basis of selection for claims tested during the 12 audits, including 7 audits for which MCPA also did not document the number of claims tested. Finally, MCPA did not have a process to expand testing when the audits identified program compliance issues or overpayments.

¹¹ Although MCPA records indicated that 111 audits were performed during this period, as of October 2022, MCPA could not provide documentation for 65 of these audits due to the ransomware security incident previously mentioned in this report.

Similar conditions were commented upon in our preceding audit report. MDH's response to that report indicated that it would audit at least half of the MDC providers each year (and thus audit each provider once every two-year period) and would update its audit procedures to address the noted deficiencies by June 30, 2020. As noted above, MCPA had not completed the required number of audits or implemented the recommended enhancements to its audit procedures.

Supports Planning Provider Audits

As of October 2022, MCPA had not audited any Support Planning providers since fiscal year 2019. MCPA policy provides for annual audits of these providers and that non-compliant providers submit quality improvement plans and monthly updates on their progress to address the deficiencies identified by the audits. Our review of the 2019 audits found that they had identified deficiencies (such as the providers' failure to perform required criminal background checks of employees) and resulted in 10 providers being deemed non-compliant.

Recommendation 7

We recommend that MCPA

- a. audit MDC providers (repeat) and Supports Planning providers in accordance with its policy;**
- b. ensure that all MDC provider claims since the previous audit are subject to testing (repeat); and**
- c. enhance its MDC audit policy to establish audit scope requirements and testing methodology, including a requirement to expand audit testing when significant deficiencies are identified (repeat).**

Finding 8

MCPA did not adequately monitor the hospital claims audit contractor and had not collected or recovered improper claims identified by the contractor totaling \$6.9 million.

Analysis

MCPA did not adequately monitor the Medicaid hospital claims audit contractor and did not pursue recovery of \$6.9 million in improper claims identified by its contractor. Hospital claims audits are required by the federal Patient Protection and Affordable Care Act (enacted in 2010) and provide assurance that hospital services provided to Maryland Medicaid recipients were necessary and not excessive. In June 2019, MCPA procured a contractor to perform these audits that would be paid a percentage of the improper payments recovered. According to MCPA records, hospital services totaled approximately \$787.5 million in fiscal year 2021, and as of July 2022, the audit contractor had been paid \$477,000.

- MCPA did not obtain certain deliverables required by the audit contract. For example, the contract required the vendor to provide a plan detailing steps MCPA should take in order to reduce the occurrence of future improper hospital claims payments. As of August 2022, MCPA had not obtained this plan. We noted that the contract did not specify a separate fee for this deliverable, and therefore, it would appear to have been included in the aforementioned fee paid to the vendor.
- MCPA did not always pursue recovery of overpayments identified by the audit contractor. Specifically, as of August 2022 MCPA had not pursued recovery of improper payments totaling \$6.9 million that were reported by the contractor between 2 months to 2 years prior. MCPA advised us that the reason that it had not initiated collection actions over these funds was because of limited staff resources and the impact of the aforementioned ransomware security incident.

Recommendation 8

We recommend that MCPA

- adequately monitor the hospital claims audit contractor, including obtaining all deliverables as required by the contract; and**
- pursue recovery of overpaid claims identified by the audit contractor in a timely manner.**

Information Systems Security and Control

We determined that the Information Systems Security and Control section, including Findings 9 and 10 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 9
Redacted cybersecurity-related finding.

Finding 10
Redacted cybersecurity-related finding.

Audit Scope, Objectives, and Methodology

We have conducted a fiscal compliance audit of the Maryland Department of Health (MDH) – Medical Care Programs Administration (MCPA) for the period beginning August 1, 2018 and ending March 31, 2022. The audit scope for this audit included MCPA’s primary administrative functions and excluded the procedures and controls over the Managed Care Program, the Behavioral Health Administration’s Administrative Service Organization, and the Maryland Pharmacy Program, which are reviewed under three separate audits (as previously explained in the Background Information Section of this report).

The audit was conducted in accordance with generally accepted government auditing standards except for certain requirements related to obtaining sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. Specifically, as described on page 11, certain records related to four findings were not available at the time of our review due to a ransomware security incident (additional comments are included in the respective findings).

Generally accepted government auditing 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. Except for the records that were unavailable as described above, 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 MCPA’s 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 Medicaid Management Information System (MMIS II) and other information systems security and controls, recipient and provider eligibility, third party insurance recoveries, nursing facilities, hospital services, Community First Choice, and Medical Day Care. We also determined the status of the findings contained in our preceding audit report.

Our audit did not include certain support services provided to MCPA by MDH. These support services (such as payroll, purchasing, maintenance of accounting records, and related fiscal functions) are included within the scope of our audit of

the MDH – Office of the Secretary and Other Units. Our audit also did not include an evaluation of internal controls over compliance with federal laws and regulations for federal financial assistance programs and an assessment of MCPA's compliance with those laws and regulations because the State of Maryland engages an independent accounting firm to annually audit such programs administered by State agencies, including MCPA.

Our assessment of internal controls was based on agency 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 August 1, 2018 to March 31, 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, inspection of documents and records, tests of transactions, and to the extent practicable, observations of MCPA's operations. Generally, transactions were selected for testing based on audit 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 this source were sufficiently reliable for the purposes the data were used during the audit.

We also extracted data from MMIS II (such as claims payments and recipient information) for the purpose of selecting test items and performing data analytics. We performed various tests of the relevant data and determined that the data were sufficiently reliable for the purposes the data were used during the audit. 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.

MCPA's 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 MCPA, 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 MCPA's 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 MCPA 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 MCPA and those parties responsible for acting on our recommendations in an unredacted audit report.

As a result of our audit, we determined that MCPA's accountability and compliance level was unsatisfactory. The primary factors contributing to the unsatisfactory rating were the significance of the audit findings and the number of repeat findings. Our rating conclusion has been made solely pursuant to State law and rating guidelines approved by the Joint Audit and Evaluation Committee. The rating process is not a practice prescribed by professional auditing standards.

The response from MDH, on behalf of MCPA, 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 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 September 2023 (Page 1 of 2)

Name of Audit		Areas Covered	Most Recent Report Date
1	Chronic Care Hospital Centers	<ul style="list-style-type: none"> Deer's Head Center Western Maryland Hospital Center 	05/10/23
2	Developmental Disabilities Administration	Developmental Disabilities Administration	10/26/22
3	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
4	Intellectual Disabilities Residential Centers	<ul style="list-style-type: none"> Holly Center Potomac Center Secure Evaluation and Therapeutic Treatment 	10/24/22
5	Regional Institutes 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
6	Office of the Chief Medical Examiner	Office of the Chief Medical Examiner	05/12/22
7	Prevention and Health Promotion Administration - Office of Population Health Improvement - Office of Preparedness and Response - 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
8	Regulatory Services	<ul style="list-style-type: none"> 22 Health Professional Boards and Commissions Office of Health Care Quality 	01/19/21
9	Vital Statistics Administration	Vital Statistics Administration	11/10/20

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

Name of Audit		Areas Covered	Most Recent Report Date
10	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
11	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 	07/14/20
12	Spring Grove Hospital Center	Spring Grove Hospital Center	04/22/20
13	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
14	Laboratories Administration	Laboratories Administration	04/10/20
15	Clifton T. Perkins Hospital Center	Clifton T. Perkins Hospital Center	03/17/20
16	Health Regulatory Commissions	<ul style="list-style-type: none"> • Maryland Health Care Commission • Health Services Cost Review Commission • Maryland Community Health Resources Commission 	04/05/19
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

APPENDIX



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

October 27, 2023

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 – Medical Care Programs Administration (MCPA) for the period beginning August 1, 2018, and ending March 31, 2022.

The report identifies a number of areas for improvement in MCPA policies and procedures. As the report notes, some of the findings can be attributed to staffing challenges and challenges relating to the 2021 network security incident. As you will see from our responses, MDH and MCPA are taking a number of actions to address these findings and strengthen MCPA.

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 "Laura Herrera Scott".

Laura Herrera Scott, M.D., Secretary
Maryland Department of Health

Enclosures

cc: Erin K. McMullen, R.N., Chief of Staff, MDH
Marie Grant, Assistant Secretary for Health Policy, MDH

Ryan B. Moran, Dr. P.H., Deputy Secretary, Health Care Financing, MDH
Tricia Roddy, Deputy Director, Medicaid, MDH
Frederick D. Doggett, Director, Internal Controls, Audit Compliance & Information
Security, MDH
Deneen Toney, Deputy Director, Audit & Compliance, MDH
Warren Waters, Jr., Chief of Staff, Health Care Financing, MDH

Maryland Department of Health Medical Care Programs Administration

Agency Response Form

Third Party Liability

Finding 1 The Medical Care Programs Administration (MCPA) did not ensure that all referrals of potential third-party health insurance information were investigated and recorded in the Medicaid Management Information System (MMIS II), which could result in MCPA improperly paying claims that should have been paid by a third party.

We recommend that MCPA ensure that

- a. all third-party health insurance information provided by its third-party liability vendor are interfaced with MMIS II, and
- b. all MCO insurance referrals are recorded into MMIS II timely (repeat).

Agency Response			
Analysis	Factually Accurate		
Please provide additional comments as deemed necessary.			
Recommendation 1a	Agree	Estimated Completion Date:	1/1/2024
Please provide details of corrective action or explain disagreement.	MDH is actively working on a plan of correction with a third party liability vendor and information technology staff to address the carrier text file interface. MCPA staff requested and received a master code file that was reviewed and sorted before being sent to the vendor for additional reviews. Any data discrepancies will be reconciled. MCPA staff have also requested a master file of codes that the vendor utilizes to have them added to the system. When the file is updated, MDH will conduct testing to ensure the interface is working as expected.		
Recommendation 1b	Agree	Estimated Completion Date:	Complete
Please provide details of corrective action or explain disagreement.	MCPA has hired and trained three contractual employees to address this finding. The backlog for 2019-2021 has been addressed, and the 2022 backlog was resolved by September 30, 2023. Continued progress on automating the referral process using the 270/271 format should resume once the carrier code file referenced above is resolved.		

Maryland Department of Health Medical Care Programs Administration

Agency Response Form

Review of Questionable Activity

Finding 2

MCPA did not have effective processes to identify, prevent, and recover questionable Medicaid payments, including \$7.1 million in payments on behalf of incarcerated and deceased recipients.

We recommend that MCPA establish effective processes over questionable Medicaid payments. Specifically, MCPA should

- a. ensure that instances of recipients with missing SSNs are referred to DHS and the LHDs for investigation;**
- b. sufficiently document its reviews of investigations of questionable recipient eligibility (including instances of recipients missing SSNs or receiving Medicaid benefits in other states) to support that proper corrective action was taken (repeat);**
- c. establish a process to identify, prevent, and recover improper fee-for-service payments related to incarcerated recipients; and**
- d. document its efforts to identify and remove deceased recipients from Medicaid and to investigate and pursue the recovery of improper payments after the recipients' dates of death, including those noted in the analysis.**

Agency Response			
Analysis	Factually Accurate		
Please provide additional comments as deemed necessary.	MCPA Policy experienced a work stoppage due to significant system disruptions, which were caused by the MDH security incident on 12/4/21. During the security incident, MCPA was not able to complete normal operations and was without system access until April 2022. Once access was reinstituted, workaround processes commenced to identify, prevent, and recover questionable Medicaid payments as appropriate.		
Recommendation 2a	Agree	Estimated Completion Date:	Complete
Please provide details of corrective action or explain disagreement.	Once the security incident was resolved, MDH resumed the review process. MCPA completed a comprehensive review of recipient cases with missing SSNs prior to the system incident. MCPA is now reviewing the missing SSN cases on a monthly cycle, and cases are being sent to the local health departments and the Department of Human		

Maryland Department of Health Medical Care Programs Administration

Agency Response Form

	Services for corrective action. MCPA continues to monitor the corrective action cases on a monthly basis.		
Recommendation 2b	Agree	Estimated Completion Date:	03/30/2024
Please provide details of corrective action or explain disagreement.	Once the security incident was resolved, MCPA began implementing a workaround process. MCPA will utilize a standalone platform that will be implemented in March 2024 and will allow document reviews of investigations of questionable recipient eligibility to support that proper corrective action is taken timely.		
Recommendation 2c	Agree	Estimated Completion Date:	03/31/2024
Please provide details of corrective action or explain disagreement.	Since the last audit, MDH has continued to improve efforts to identify and prevent questionable Medicaid payments on behalf of incarcerated recipients by adding a weekly manual review process of near-matches for DOB and SSN. Moreover, MCPA is actively working with DPSCS to receive comprehensive incarceration data to accurately identify all incarcerated recipients. The ability to prevent improper fee-for-service payments related to incarcerated recipients remains challenging for the current MMIS infrastructure. MDH is the process of procuring a new modular MMIS. Therefore, the ability to identify, prevent, and recover Fee For Service payments to incarcerated individuals can be incorporated into the requirements for the new claims and /or eligibility modules.		
Recommendation 2d	Agree	Estimated Completion Date:	Complete
Please provide details of corrective action or explain disagreement.	<p>MCPA runs the Death Match Report monthly and shares it with DHS, which investigates and initiates the closing in the system of record. Monthly, MCPA reviews a sample of cases. Cases needing to be closed are sent to DHS and the Local Departments of Health to initiate closing. MCPA monitors the corrective action plans monthly to ensure the closings are initiated. The process was stopped during the security incident but resumed on 07/2022.</p> <p>Additionally, due to the Public Health Emergency, the Centers for Medicare & Medicaid Services would not allow MCPA to close cases on households where the primary household member was deceased, as it would close the entire household. Redeterminations on these households have recommenced, and the primary deceased member is being removed from the household at their redetermination.</p> <p>Of the 15 cases that OLA identified that were deceased prior to medical services being rendered or capitation payments made on behalf of the</p>		

Maryland Department of Health Medical Care Programs Administration

Agency Response Form

	consumer, MCPA determined two of the consumers remain alive and active. One case was unable to be closed because there was a minor child in the household and per COVID-19 Public Health Emergency rules, the case was required to remain active. This case is marked for further review during the household's next renewal cycle. 12 cases were found to be deceased and to date, all payments made after the consumer's date of date have been successfully recouped.
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Recipient Eligibility

Finding 3 MCPA did not ensure that changes to recipient Medicaid eligibility information were processed timely and accurately.

We recommend that MCPA ensure recipient eligibility information is updated timely and accurately, and that errors to recipient eligibility information in MMIS II are corrected.

Agency Response			
Analysis	Factually Accurate		
Please provide additional comments as deemed necessary.			
Recommendation 3	Agree	Estimated Completion Date:	12/31/23
Please provide details of corrective action or explain disagreement.	<p>MCPA experienced work stoppage due to significant system disruptions, which were caused by the MDH security incident on 12/4/21. During the security incident, MCPA was not able to complete normal operations and was without system access until April 2022, at which time the certification turnaround document (CTAD) review resumed. MCPA will continue to ensure recipient eligibility information in MMIS is updated timely, and that errors to recipient eligibility information in MMIS II are updated to reflect current recipient statuses. Additionally, MCPA has developed remote working protocols that will allow staff to continue conducting Medicaid services and reviews during adverse working conditions.</p> <p>MCPA continues to work under Standard Operating Procedure #18-07, Revised 7/16/2021, to detail the process for reporting and processing CTADs. To determine that CTADs are completed accurately, management is responsible for reviewing and evaluating a minimum of</p>		

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	20 case samples each month. Additionally, reports are used in the Division of Recipient Eligibility Programs (DREP) to track the number of CTAD documents sent to the unit and processed on a monthly basis.
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Program Oversight

Finding 4 MCPA had not established adequate oversight to ensure that all CFC program recipients received personal assistance services in accordance with their plans of services.
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We recommend that MCPA

- a. establish a process to ensure that all CFC recipients are monitored by nurses (repeat), and
- b. develop a plan to address the longstanding instances of non-compliance for the aforementioned LHD.

Agency Response			
Analysis	Factually Accurate		
Please provide additional comments as deemed necessary.			
Recommendation 4a	Agree	Estimated Completion Date:	12/31/23
Please provide details of corrective action or explain disagreement.	<p>This finding is specific to CFC participants who are receiving personal assistance services and are therefore required to also receive nurse monitoring at the minimum frequency noted in COMAR 10.09.84.20 (twice annually, with at least one in-person visit).</p> <p>MCPA has established a process to ensure that eligible participants receive the nurse monitoring service at the minimum frequency. As of October 2023, approximately five percent of eligible participants had not received the service, which was a significant decrease from the previous audit findings released in 2019.</p> <p>Since the time of the original finding, MCPA developed and implemented a Nurse Monitoring Agreement, which establishes clear standards for the service, its delivery, and its continuous monitoring both</p>		

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	the Local Health Departments (LHDs) providing nurse monitoring and MCPA. Since the original finding, new tools were also developed and implemented in the Department's data management system, <i>LTSSMaryland</i> , to focus specifically on the population of participants that had not received the service of nurse monitoring, despite being eligible.		
Recommendation 4b	Agree	Estimated Completion Date:	Complete
Please provide details of corrective action or explain disagreement.	The Nurse Monitoring Agreement, written in collaboration with the LHDs, is completed and has been implemented. The LHDs are currently following the standards established in the Agreement while the Department is pursuing signed agreements from all LHDs.		

Finding 5
MCPA did not monitor the utilization control agent contractor to ensure continued stay reviews of Medicaid recipients receiving services from nursing facilities were performed timely

We recommend that MCPA monitor the UCA vendor to ensure CSRs are performed timely and assess liquidated damages as permitted by the contract (repeat).

Agency Response			
Analysis	Factually Accurate		
Please provide additional comments as deemed necessary.			
Recommendation 5	Agree	Estimated Completion Date:	Complete
Please provide details of corrective action or explain disagreement.	<p>MCPA agrees with the recommendation and will continue to monitor the UCA vendor.</p> <p>A three-point plan was developed to improve CSR timeliness and completion has been in place since 2019. Specifically, MCPA developed improved approaches for assuring CSRs get completed by the UCA, scheduled joint (UCA & MCPA) meetings resulting in a revised standard operating procedure, and wrote more targeted and active approaches to CSRs into the RFP for the next UCA to prevent similar issues under future procurements. The new contract with these approaches was awarded in June 2023 and its operations will begin in 2024.</p>		

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Finding 6

MCPA did not have an established process to ensure costly recipient ventilator care claims submitted by nursing facilities were valid, as required by State regulations.

We recommend that MCPA establish procedures to periodically validate ventilator care claims submitted by nursing facilities, as required by State regulations, and recoup any claim payments that are determined to be unsupported or improper (repeat).

Agency Response			
Analysis	Factually Accurate		
Please provide additional comments as deemed necessary.			
Recommendation 6	Agree	Estimated Completion Date:	Complete
Please provide details of corrective action or explain disagreement.	<p>MCPA agrees that ventilator audits should be conducted, and recoupment should occur for any claims that are unsupported. The UCA will begin conducting these audits in early to mid-2024. As a short-term solution, the Department began conducting ventilator audits internally in September 2023.</p> <p>Upon the prior finding, MCPA wrote the ventilator audit process into the new requirements for the UCA contract. The award for the new contract was announced in June 2023 and is currently undergoing implementation; operations are due to begin in early 2024.</p>		

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Finding 7

MCPA did not conduct the required audits of Medical Day Care (MDC) and Supports Planning providers, and the related audit policy and procedures were not sufficiently comprehensive.

We recommend that MCPA

- a. audit MDC providers (repeat) and Supports Planning providers in accordance with its policy;**
- b. ensure that all MDC provider claims since the previous audit are subject to testing (repeat); and**
- c. enhance its MDC audit policy to establish audit scope requirements and testing methodology, including a requirement to expand audit testing when significant deficiencies are identified (repeat).**

Agency Response			
Analysis	Factually Accurate		
Please provide additional comments as deemed necessary.			
Recommendation 7a	Agree	Estimated Completion Date:	12/31/24
Please provide details of corrective action or explain disagreement.	<p>MDH agrees with this finding. Unfortunately, longstanding staff attrition and insufficient resource capacity challenges, in addition to prioritizing program operations during the COVID-19 public health emergency resulted in a delay in annual audits. The next steps related to specific audits are as follows:</p> <p>Supports Planning Providers - The next annual audit of the 27 Supports Planning Agencies will commence on January 1, 2024, and will conclude on or before December 31, 2024. MCPA will ensure that annual audits are conducted each year thereafter in accordance with its policy.</p> <p>MDC Audits - Identical to the aforementioned challenges, the MDC program will leverage next year's schedule of audits to ensure each provider is audited for compliance.</p>		
Recommendation 7b	Agree	Estimated Completion Date:	12/31/24

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Please provide details of corrective action or explain disagreement.	<p>Supports Planning Agency (SPA) - Review of submitted claims is included in the annual audit process. MCPA will ensure that claims are tested during the next audit cycle and thereafter. The audit timeframe will be clearly documented to help prevent an overlap in claims testing or any associated data integrity issues.</p> <p>MDC - The MDC Program has updated its auditing tool to require all auditing staff document the time period of the previous attendance audit and resume attendance auditing from that period to ensure no time periods are skipped or missed while auditing each provider. The standard operating procedure (SOP) was also updated. The MDC team has received updated training and will continue to engage in monthly audit meetings to ensure competency and employ standardization among staff, reinforce best practices, discuss findings, auditing progress, technical assistance, and any other feedback from the team.</p>		
Recommendation 7c	Agree	Estimated Completion Date:	Complete
Please provide details of corrective action or explain disagreement.	<p>Since this audit, the MDC program established an SOP that directs an expansion of audits (i.e., extrapolation) based on specific deficiencies (e.g., instances or trends of noncompliance with requisite attendance and reimbursement policies). Findings, risk controls, mitigation strategies, and best practices are discussed during audit meetings.</p>		

Finding 8
MCPA did not adequately monitor the hospital claims audit contractor and had not collected or recovered improper claims identified by the contractor totaling \$6.9 million.

We recommend that MCPA

- a. adequately monitor the hospital claims audit contractor, including obtaining all deliverables as required by the contract; and**
- b. pursue recovery of overpaid claims identified by the audit contractor in a timely manner.**

Agency Response			
Analysis	Factually Accurate		
Please provide additional comments as deemed necessary.			
Recommendation 8a	Agree	Estimated Completion Date:	Complete

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Please provide details of corrective action or explain disagreement.	MDH has a report that includes recommendations from the vendor for reducing and preventing improper payments issued on claims and establishing a criterion for identifying error prone providers for heightened scrutiny. In addition, the Department has recovered overpayments identified by the contractor. The Department has already set up regular monthly meetings with the hospital audit contractor, with one quarterly meeting to include the Office of Inspector General for Health.		
Recommendation 8b	Agree	Estimated Completion Date:	Complete
Please provide details of corrective action or explain disagreement.	Once the security incident was resolved MCPA recouped these payments in full.		

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Information Systems Security and Control

The Office of Legislative Audits (OLA) has determined that the Information Systems Security and Control section, including findings 9 and 10 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 9
Redacted cybersecurity-related finding.

Agency Response has been redacted by OLA.

Finding 10
Redacted cybersecurity-related finding.

Agency Response has been redacted by OLA.

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