



**MIKE HARMON**  
**AUDITOR OF PUBLIC ACCOUNTS**

November 29, 2018

Bernard "Deck" Decker  
Office of Administrative & Technology Services  
Cabinet for Health and Family Services  
275 E. Main Street, 4E-C  
Frankfort, KY 40601

RE: Summary of Exam Results

Dear Mr. Decker:

The Auditor of Public Accounts (APA) has completed a special examination of the Child Care Assistance Program (CCAP). Earlier this year, your office approached the APA with concerns regarding certain financial and administrative activities by a former subrecipient [Child Care Council of Kentucky (CCC)]. This letter summarizes the procedures performed in response to your concerns and communicates the results of those procedures.

To assess your concerns, we performed limited procedures to evaluate the facts and circumstances of the activities in question, focusing on certain expenses, operations, and eligibility determinations made for CCAP during the period of July 1, 2013 through June 30, 2018. The procedures performed included interviewing various Cabinet for Health and Family Services (CHFS) staff members and contract employees regarding the administrative functions and information systems associated with the program. We reviewed the procurement process for relevant contracts, as well as the monitoring and reconciliation processes related to the subrecipient. We tested a sample of both payments specifically made to the subrecipient and payments made during the transition phase of the last contract to various entities. We also performed testing of the eligibility determination process and analyzed the transition process at the conclusion of the contract.

The purpose of this review was not to provide an opinion on financial statements or activities, but to review specific issues brought to our attention and provide recommendations to address deficiencies discovered during the examination. In response to the specific scope shared with you in our letter dated March 15, 2018, we made the following determinations:



- **Determine whether eligibility determinations made under CCAP were accurate.**

During the period under examination, eligibility determinations were made in two different information systems – Kentucky Integrated Child Care System (KICCS) (July 1, 2013 – September 30, 2017) and Benefind (October 1, 2017 – June 30, 2018).

The former subrecipient utilized KICCS to make eligibility determinations during the examination period. Testing to verify eligibility determination in KICCS was not performed. Auditors were not able to confirm a complete population, nor were they able to reconcile payment amounts in KICCS to payment amounts in the statewide accounting system, eMARS. Without the ability to trace benefits paid to the specific individual participants, eligibility testing could render unreliable results. After the end of our fieldwork, CHFS notified the APA that it has since reconciled KICCS to eMARS. However, the reconciliation has not been independently verified.

The auditors reviewed a sample of 63 cases entered in Benefind by CHFS employees and determined that not all required information was received or filed correctly in the electronic case folder of the Worker Portal. More specifically, auditors found:

- One case without a signed application on file.
- One case without proof of residency or evidence of the living situation.
- One case where providers received payment more than 90 days prior to receiving a signed application.
- One case where a child was claimed for 17 full days in two daycares during a transition of providers.

These errors could lead to benefits being paid on behalf of ineligible participants, resulting in federal questioned costs.

- **Determine whether eligibility error rates were on target for individual processors and in the aggregate.**

Eligibility error rates were calculated annually during the Department for Community Based Services (DCBS) monitoring process and never exceeded the error rate established by the relevant contract. However, each contract during the examination period set the error rate extremely high making it quite easy to meet. In addition, the contracts covering fiscal year (FY) 2017 and FY 2018 listed the same case processing error rates as were established in the FY 2015 and FY 2016 contract. This suggests that the former subrecipient was not given a strong incentive to improve the error rates as their experience improved over time. The high error rates then in turn limited CHFS's ability to hold the former subrecipient accountable for more reasonable performance measures. The table below shows, by fiscal year, the maximum error rate allowed by the contract and the actual rate of occurrence.

**Error Rates by Fiscal Year: Maximum vs. Actual**

<b>Fiscal Year*</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>
<b><i>Contract-stated Maximum Error Rate</i></b>	<b>80%</b>	<b>50%</b>	<b>45%</b>	<b>50%</b>
Actual Calculated Rate for Area #1	33%	20%		
Actual Calculated Rate for Area #2	38%	19%		
Actual Calculated Rate for Area #3	26%	17%		
Actual Calculated Rate for Area #4	29%	19%		
Actual Calculated Rate for Area #5	43%	27%		
Actual Aggregate Calculated Rate			17%	11%

Source: CCAP contracts with the former subrecipient and monitoring reports, both provided by CHFS staff  
 \*CHFS- DCBS did not monitor the contract for FY18.

- **Determine the disposition of significant assets purchased by the vendor.**

The former subrecipient was compliant in submitting inventory reports by February 1<sup>st</sup> of each year, as required by contract. However, evidence did not support that CHFS regularly evaluated the reports or followed up on any discrepancies noted.

Although the contract between CHFS and the former subrecipient stated that the subrecipient would be responsible for submitting appropriate forms if there was a change in the status of assets (transfers, disposals, etc.), CHFS did not receive nor maintain the required forms other than those received during the period of time after the closing of the contract when inventory was being retrieved from the subrecipient for transfer or disposal. Although supporting documentation was not provided to reflect that the assets were transferred or disposed of during the examination period, auditors noted numerous instances of items appearing on one or more inventory reports only to be missing from subsequent year reports.

According to CHFS staff, the former subrecipient did not request to purchase any new furniture or equipment valued over \$500 during the examination period and went through the Commonwealth Office of Technology (COT) to replace their computers in the year prior to the start of our examination period. Although supporting documentation was not provided to reflect that the assets were added during the examination period, auditors noted numerous items not appearing on the February 1, 2013 inventory record that did appear on subsequent inventory reports.

- **Determine the reasonableness of contract charges for vendor personnel and other charges submitted.**

Starting in FY 2015, the Division of Child Care (DCC) began monitoring the monthly invoices and supporting documentation for the former subrecipient. Consequently, it was determined during a meeting between DCC and the Division of Administrative and

Financial Management (DAFM), that additional monitoring of the accounting records by the DAFM during the annual contract performance review was not necessary.

Based on federal compliance requirements related to allowable costs for CCAP, auditors noted no exceptions within a sample of 200 personnel-related and other expenditures specifically reimbursed to the former subrecipient during the examination period. CCAP was added to the Benefind information system on October 1, 2017, and DCBS staff were told through staff meetings and department wide emails that eligibility determinations would not be made by the now former subrecipient after this date. However, in a second sample of 35 payments made to various vendors during the last nine months of the examination period (October 1, 2017 through June 30, 2018), nine were noted as payments to the former subrecipient for expenditures related to eligibility determinations during the last three months of the contract (October 1, 2017 through December 31, 2017). A CHFS employee indicated that there "was no restriction on reimbursements during the October 1, 2017 through Dec 31, 2017 time period." The contract terms for this period did not specify what the subrecipient would be responsible for during this transition time and CHFS did not amend the contract. CHFS, however, did inform child care providers and the subrecipient that, effective October 1, 2017, CCAP eligibility and enrollment would be made through a DCBS worker, not the subrecipient.

Auditors also observed that CHFS reimbursed the subrecipient \$540 for the cost of vehicle registration in December 2017. It's unclear why vehicle registration would have been reimbursed when the contract with the subrecipient ended that same month.

- **Determine whether CHFS oversight and contract monitoring was appropriate.**

The CHFS Office of Inspector General (OIG) performed desk reviews on single audit reports and DAFM performed annual monitoring reviews of the former subrecipient in FY 2014, FY 2015, FY 2016, and FY 2017. Based on the modified contract period and the subrecipient's work responsibilities being limited for FY 2018, DAFM management decided not to monitor that fiscal year's contract. Additionally, as stated earlier, starting in FY 2015, DAFM no longer monitored accounting records during their annual visits to the subrecipient.

DAFM's monitoring of the contract focused on both service activity and administrative/fiscal issues. DAFM staff noted no exceptions related to service activity in any of the four fiscal years reviewed, but did note one exception in each of the FY 2014, FY 2015, and FY 2016 reviews regarding administrative/fiscal issues, including expenditures that should have been disallowed in the FY 2014 review. No exceptions were noted in FY 2017 related to administrative/fiscal issues or service activity. Corrective Action Plans were submitted for FY 2014, FY 2015, and FY 2016, and disallowed costs were repaid to CHFS in response to the fiscal issues noted in FY 2014's review.

DAFM did not perform monitoring procedures on the contract or perform a site visit in FY 2018. In the years the former subrecipient was monitored, it appears that it appropriately followed up with DAFM's findings.

- **Determine whether vendor complied with HIPAA in carrying out the contract.**

No evidence was provided that the former subrecipient had violated HIPAA confidentiality requirements. Additionally, if the former subrecipient was detected as having violated HIPAA requirements by CHFS, the agency had a responsibility to notify the subrecipient of this determination. There was no evidence provided indicating that CHFS had expressed concerns about this issue or other confidentiality violations to the subrecipient.

In general, HIPAA rules required that a covered entity has a written business associate contract with each business associate that establishes specifically what the business associate had been engaged to do and requires the business associate to comply with HIPAA requirements to protect the privacy and security of protected health information. The former subrecipient had limited access to protected health information, but a Business Associate Agreement was executed in conjunction with only two of the four contracts in effect during our examination period, with the remaining two contracts containing only a HIPAA Confidentiality Compliance clause in the contract. Execution of such agreements was the responsibility of CHFS.

- **Other areas of concern during the examination that related to the CCAP program, the former subrecipient, or CHFS.**

*Procurement and Other Contract-Related Issues.* There were four contracts in effect during the period examined: Contract #1 covered the period July 1, 2012 through June 30, 2014; Contract #2 covered the period July 1, 2014 through June 30, 2016; Contract #3 covered the period July 1, 2016 through December 31, 2016; and Contract #4 covered the period January 1, 2017 through December 31, 2017. Contracts #1 and #2 were procured correctly; however, there were numerous issues with the procurement process involving the last two contracts, both of which were executed without following a Request for Proposals (RFP) process.

CHFS staff stated renewal language in Contract #2 permitted the renewal of Contract #3 without an RFP. However, the original RFP only allowed for Contracts #1 and #2, and did not allow for one-year renewal options. Therefore, the procurement process was circumvented by extending the contract beyond what was anticipated by the original RFP. Other bidders knowing of the possibility of further extensions beyond FY 2016 may have decided to respond to the original solicitation in a different manner.

CHFS staff also indicated that a change occurring to the Kentucky Revised Statute (KRS) that governed procurement as it relates to Memorandum of Agreements (MOAs) effected the approach to Contracts #3 and #4; however, nothing in KRS 45A.690 to KRS 45A.725 or FAP 111-44-00 exempted MOAs from the requirements of bidding.

Depending on who we spoke to, a change in relationship with the subrecipient occurred (or didn't) that caused them to be treated as a contractor instead of a subrecipient by some subgroups within CHFS. This confusion can also be observed in the differences between Contracts #3 and #4. For example, Contract #4 did not include language related to federal audit reporting requirements. According to some staff members, this was simply an oversight, but other staff members admitted that CHFS had not used the proper criteria to determine if the subrecipient was a subrecipient or a contractor.

In the fiscal years in which CHFS correctly identified the subrecipient, the Schedule of Subrecipients (SEFA-6) for FY 2014 and FY 2015 could be reconciled to the eMARS report of payments made to the subrecipient; however, CHFS was unable to reconcile the FY 2016 SEFA-6 amount to the eMARS report of payments made to the subrecipient. Also, the amount reported on the SEFA-6 for FY 2017 was not the full amount paid to the subrecipient in FY 2017. According to CHFS staff, the payments from contracts for FY 2016 and FY 2017 were not considered subrecipient payments based on the services being provided. CHFS acknowledged they didn't report all amounts paid in FY 2017 to the subrecipient as required by the Federal Funding Accountability and Transparency Act (FFATA) or SEFA-6.

*Transition Requirements.* CHFS did not obtain all CCAP files from the subrecipient until May 15, 2018, or 135 days after the contract ended. The final contract with the subrecipient required that the subrecipient work with CHFS for 90 calendar days to develop and assist in the implementation of a transition plan which includes the transfer of all physical data, files, software, hardware, archived files, equipment and any/all property purchased with funds connected to CCAP. While the transfer process lasted longer than 90 calendar days, it was unclear as to which party was at most fault for the delay.

### **Recommendations**

Based on the limited procedures performed, we are providing the following recommendations to address weaknesses found in the administration of CCAP.

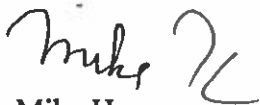
- CHFS should routinely reconcile payments made in eMARS to benefit and provider records maintained in other systems, such as Benefind. It is an important part of federal program administration to link payments to eligible participants and providers.
- CHFS should consider performing in-house periodic case processing reviews to confirm that data has been entered into Benefind on a timely and accurate basis.

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- When case processing error rates are established in future contracts, CHFS should ensure such error rates are reasonable and are reevaluated with each contract renewal. Unreasonably high error rates could make it difficult for CHFS to justify contract and programmatic compliance findings and make it difficult for CHFS to recoup questioned costs.
- CHFS should track and monitor program related assets throughout the contract period, questioning any assets valued over \$500 that disappear or appear on submitted inventory forms without supporting documentation for the changes in status. A process should be in place to ensure that all federal requirements regarding assets purchased with federal funds should be followed.
- CHFS should evaluate each relationship with other entities to determine if they are a subrecipient or a contractor using federal subrecipient criteria. The determination should be documented and communicated to all involved staff (program, procurement, monitoring, accounting, federal reporting, etc.). Should the relationship with the entity change at any time, this determination information should be immediately shared with all involved staff and the entity. Contracts should reflect the appropriate determination, and contain all relevant terms.
- CHFS should ensure the proper procurement is followed for all contracts.
- CHFS should ensure contract terms include all transition expectations and should monitor vendors and subrecipients during any transition to ensure the terms are met.

Thank you for your attention to this matter. We appreciate your assistance, and that of your staff, throughout the examination process. If you have any questions regarding this letter, please contact me, or Libby Carlin, Executive Director, at (502) 564-5841.

Thanks and God Bless,



Mike Harmon  
Auditor of Public Accounts

cc: Adam Meier, Secretary  
Kelli Hill, Director