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STATE AUDITOR



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# Department of Health and Human Services

## Interim Management Letter

For the year ended June 30, 2024

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Report No. 24-03

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### Office of the State Auditor

Audit Leadership:

John Dougall, State Auditor

Bertha Lui, CPA, Audit Director

Jordan Kattelman, CPA, Audit Supervisor





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# Interim Management Letter No. 24-03

October 30, 2024

Tracy S. Gruber, Executive Director  
Department of Health and Human Services  
195 North 1950 West  
Salt Lake City, UT 84116

Dear Director Gruber:

This management letter is provided to communicate, at an interim date, certain deficiencies identified in our audit procedures on the Department of Health and Human Services' (DHHS) portion of the State of Utah's statewide federal compliance audit (Single Audit) for the year ended June 30, 2024. These audit procedures were performed on the Medicaid Cluster; Children's Health Insurance Program (CHIP); Special Supplemental Nutrition Program for Women, Infant, and Children (WIC); Immunization Cooperative Agreements; Child Support Enforcement; and Epidemiology and Laboratory Capacity for Infectious Diseases (ELC). This communication is based on our audit procedures performed through August 2024. Because we have not completed the statewide federal compliance audit (Single Audit) for fiscal year 2024, additional federal programs at DHHS may be tested and additional issues may be identified and communicated in a subsequent management letter.

Our audit was conducted in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

Our final reports on internal controls and on compliance required under *Government Auditing Standards* and federal *Uniform Guidance* will be issued under separate cover. These reports will also provide further detail as to considerations made during the course of the audit regarding internal controls and compliance, both at the financial statement and at the federal program level, and the limited purposes of those considerations. The purpose of this letter is to communicate with DHHS management concerns identified during the course of our audit.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees to prevent or to detect and correct on a timely basis misstatements, errors, or instances of noncompliance. A material weakness in internal control is a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that material misstatements, errors, or noncompliance are not prevented or are not detected and corrected on a timely basis.

Based on the audit procedures performed, we identified deficiencies in internal control which, while not considered material, we consider to be significant enough to merit the further attention of management and those charged with governance (Findings 1–3). We also identified Findings 1–3 as instances of noncompliance which we are required to report under *Uniform Guidance*.

DHHS’s written responses to and Corrective Action Plans for these findings will be included in the final reports identified in the second paragraph above.

The purpose of this communication is solely to describe the scope of our testing of internal control over compliance and the results of that testing and not to provide an opinion on the effectiveness of DHHS’s internal control over compliance. Accordingly, this communication is not suitable for any other purpose. However, pursuant to *Utah Code* Title 63G Chapter 2, this report is a matter of public record, and as such, its distribution is not limited.

We appreciate the courtesy and assistance DHHS personnel extended to us during the course of our audit, and we look forward to a continuing professional relationship. If you have any questions, please contact me.

Sincerely,



Bertha Lui, CPA  
Audit Director  
801-808-0481  
blui@utah.gov

cc: Nate Winters, Deputy Director, DHHS  
Nate Checketts, Deputy Director, DHHS  
David Litvack, Deputy Director, DHHS  
Jennifer Strohecker, State Medicaid Director, DHHS  
Shannon Thoman-Black, Director of Licensing and Background Checks, DHHS  
Don Moss, Executive Finance Director, DHHS  
Randall Loveridge, Director of Internal Audit, DHHS

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## Findings & Recommendations

### Finding 1. Incomplete Pharmacy Rebate Reporting and Invoicing

(Finding Type: Significant Deficiency, Reportable Noncompliance)

Federal Agency: Department of Health and Human Services

Assistance Listing Number and Title: 93.778 Medicaid Assistance Program

Federal Award Number: Various

Questioned Costs: N/A

Pass-through Entity: N/A

Prior Year Single Audit Report Finding Number: N/A

DHHS did not report all required pharmacy rebate information or send all rebate invoices to manufacturers within the statutory timeframe. Federal regulations (42 USC 1396r-8) require DHHS to report drug utilization data, including those in the managed care plans, to drug manufacturers and to invoice for rebates within 60 days after the end of each rebate period (typically a calendar quarter). DHHS contracts with a third-party organization to perform these processes of reporting and invoicing.

After DHHS implemented a new claims system (PRISM) in April 2023, certain data would not properly interface with the third party's system. Without receiving all the data, the third party was not able to report this data and send rebate invoices to the manufacturers. As a result, DHHS was not compliant with the requirements. Furthermore, DHHS did not communicate these issues to the Centers for Medicare and Medicaid Services (CMS) or obtain a waiver for the requirements.

The unreported data relates to an estimated \$86.3 million in rebates manufacturers owed DHHS in fiscal year 2024. DHHS plans to request these payments once the interface issues are resolved.

#### Recommendations:

We recommend that DHHS ensure:

- Interface issues with third-party organization system are resolved,
- Invoice and collect the fiscal year 2024 unbilled rebates,
- All required drug utilization data is reported to manufacturers within required time and rebates are invoiced in a timely manner, and
- Any issues or delays are promptly reported to CMS.

#### DHHS' Response:

The Department agrees with this recommendation.

**Corrective Action Plan:**

Following the launch of the Medicaid Provider Reimbursement Information System for Medicaid (PRISM) in April 2023, not all pharmacy files from managed care entities and JCODE drugs properly transmitted to the third-party organization's system. The key pharmacy claims files that needed to interface with the third-party organization's system have now been rebuilt and are undergoing interface testing. After testing, the historic and more current files will be put into production and be transmitted to the third-party organization. Following receipt, the third-party organization will invoice and collect the unbilled rebates. Once this interface issue is resolved, all future required drug utilization data as well as rebate invoices will be sent to manufacturers within the required time frame. All claims received will be invoiced 60 days after the end of the current quarter they are received in, per CMS's rule.

DHHS informed CMS of this issue in August 2024. At that time, CMS said the state was out of compliance and inquired on timelines to come into compliance. The state will provide updates to CMS when the backlogged files have been successfully transmitted and manufacturers have been invoiced.

According to the third-party pharmacy organization, manufacturers were notified about this issue when it was discovered in May 2023 and advised that when the issues with invoicing these rebates is resolved they will be expected to pay the balance due.

Implementation Date: May 30, 2025

Contact: Sepideh Daery, Pharmacy Director, Division of Integrated Healthcare,  
sepidehdaery@utah.gov

**Finding 2. Inadequate Procedures to Identify Healthcare Providers with Expired Licenses**

**(Finding Type: Significant Deficiency, Reportable Noncompliance)**

Federal Agency: Department of Health and Human Services

Assistance Listing Number and Title: 93.775, 93.77, 93.778 Medicaid Assistance Program  
93.767 Children's Health Insurance Program

Federal Award Number: Various

Questioned Costs: N/A

Pass-through Entity: N/A

Prior Year Single Audit Report Finding Number: N/A

DHHS did not ensure all eligible healthcare providers had active professional licenses. DHHS uses a provider eligibility system (PRISM) to track healthcare providers eligibility and to ensure only eligible

providers received claim reimbursement. We sampled 68 providers in PRISM that were listed as eligible and noted that five of these providers had expired licenses. All 68 sampled providers are eligible for the Medicaid program, while 42 of the 68 sampled providers are also eligible for the Children's Health Insurance Program (CHIP). All five providers with expired licenses were Medicaid eligible, and two of them were also CHIP eligible.

Federal regulations (42 CFR 455.412) require that DHHS "must confirm that [a] provider's license has not expired." DHHS works with the Division of Professional Licensing (DOPL) to track which providers have active licenses. On a weekly basis DOPL provides DHHS with a change report showing which licenses expired that week. DHHS then marks the associated providers as ineligible in PRISM. This process adequately addresses most expired licenses but was insufficient to detect the following issues.

- Three providers were licensed in states other than Utah. DHHS allows out-of-state providers under certain circumstances, but because these providers were licensed in other states, they were not tracked by DOPL. DHHS did not have a process to check out-of-state licenses. These licenses expired between June 2017 and January 2022.
- One provider had a license that expired during the COVID-19 Public Health Emergency (PHE). As instructed by CMS, DHHS temporarily ceased removing any providers during the PHE, and since the DOPL reports only cover changes for a weekly period, DHHS did not detect the issue at the end of the PHE. The provider's license had been expired since January 2022.
- One provider had initially been granted eligibility in the DHHS provider eligibility legacy system that preceded PRISM. When DHHS transferred provider files from the legacy system into PRISM in 2016, the associated licenses were not entered into PRISM until the first revalidation period. This provider was scheduled for a revalidation assessment in February 2021. However, this was extended to August 2024 due to the PHE. As a result, this provider's license information had not yet been entered into PRISM and the change reports did not detect the issue. This license expired in January 2016.

DHHS may have eventually detected these expired licenses during a revalidation process, but PHE-related extensions greatly increased the period of time before detection. PRISM has a function to detect and remove providers with expiring licenses, but DHHS did not use this function due to technical issues.

Without an adequate system to detect license expiration, program funds may be paid to ineligible providers. DHHS did not reimburse any claims to these providers with expired licenses during fiscal year 2024.

### **Recommendation:**

We recommend that DHHS ensure all healthcare providers listed as eligible have active professional licenses.

**DHHS' Response:**

The Department agrees with this recommendation.

**Corrective Action Plan:**

*Out-of-state providers and the provider whose license expired during the PHE.* During the PHE an expired license report was not properly monitored. Prospectively, DHHS will ensure license expiration notifications are reviewed on a monthly basis. Additionally, DHHS will work with the PRISM contractor to explore pathways to identify all providers (out-of-state and in-state) whose licenses may have already expired. DHHS will follow the current license expiration process and close those providers as appropriate.

*Provider initially granted eligibility in the legacy system.* In any future event involving data conversion, DHHS will ensure that all relevant data from the existing system is thoroughly collected and reviewed prior to the conversion process. This will help guarantee data integrity and minimize the risk of issues arising during the transition.

Implementation Date: July 31, 2025

Contact: Shandi Adamson, Director, Office of Medicaid Operations, shandiadamson@utah.gov

### **Finding 3. Required Health and Safety Surveys Not Performed Within Statutory Timeline**

**(Finding Type: Significant Deficiency, Reportable Noncompliance)**

Federal Agency: Department of Health and Human Services

Assistance Listing Number and Title: 93.778 Medicaid Assistance Program

Federal Award Number: Various

Questioned Costs: N/A

Pass-through Entity: N/A

Prior Year Single Audit Report Finding Number: 2023-008

DHHS did not perform required Health and Safety Surveys within required timeline. Federal regulations (42 CFR 442.15) require DHHS to conduct medical health and safety surveys for nursing and intermediate care facilities at least every 15 months. DHHS is also required (42 CFR 442.109) to ensure the statewide average interval between surveys is 12 months or less. We sampled 16 facilities and noted that DHHS had not conducted the required surveys within the statutory timeframe for 11 facilities. The statewide average interval was also greater than the allowed timeframe. The PHE and resulting relaxed requirements contributed to a backlog of surveys. Due to staffing shortages, DHHS

has not yet resolved the backlog. If DHHS does not conduct these surveys, DHHS may be unaware if facilities do not comply with health and safety requirements, which could potentially endanger patients and cause program funds to be given to noncompliant facilities.

**Recommendation:**

We recommend that DHHS address the current survey backlog and conduct future surveys in a timely manner.

**DHHS' Response:**

The Department agrees with this recommendation.

**Corrective Action Plan:**

To address this finding (and prior year finding number 2023-008), the Division of Licensing and Background Checks (DLBC), Office of Licensing (OL) took the following corrective action to achieve compliance with required survey time frames:

- Increased Health Facility Licensing fees by 43% to facilitate the hiring of 4 additional staff for the 2025 state fiscal year.
- Dedicated one-time funds for contracting with a third-party surveyor and hired two, time-limited positions to help address the Health and Safety survey backlog in fiscal year 2024 and 2025.
- Continued to work with the DHHS Office of Innovation to review the health facility team's processes to improve efficiencies.
- Organized a separate complaint investigation unit in August 2024 to help expedite complaint and survey completion.

The DLBC, OL will continue to follow through with these additional resources in order to achieve compliance with the required survey timelines. In addition, the OL plans to streamline the writing and reporting procedures while ensuring compliance with CMS guidance. The goal is to shorten the time required to write reports and therefore increase the number of surveys completed.

Implementation Date: July 1, 2026

Contact: Courtney Webb, Financial Manager, Division of Finance & Administration,  
courtneywebb@utah.gov