

Department of Developmental Services

2015 SLAA REPORT

December 24, 2015

Diana Dooley, Secretary
California Health and Human Services Agency
1600 9th Street #460
Sacramento, CA 95814

Dear Ms. Dooley,

In accordance with the State Leadership Accountability Act (SLAA), the Department of Developmental Services submits this report on the review of our systems of internal control and monitoring processes for the biennial period ended December 31, 2015.

Should you have any questions please contact John Doyle, Chief Deputy Director, at (916) 654-1897, john.doyle@dds.ca.gov.

BACKGROUND

DDS is responsible under the Lanterman Developmental Disabilities Services Act, and related laws, for ensuring that persons with intellectual and developmental disabilities, receive the services and supports needed to lead more independent and productive lives and to make choices and decisions about their lives. The services are determined through a person-centered Interdisciplinary Team process, and then formalized in the Individual Program Plan which is updated as required by law and as needed. Services are delivered directly through three State-operated Developmental Centers (DCs) and one Community Facility (CF) serving approximately 1,040 residents; and under contract, through a statewide network of 21 private, nonprofit, locally-based community agencies, referred to as Regional Centers (RCs), serving approximately 290,000 individuals in the community. The RCs perform case management services and arrange for service delivery through providers in their local catchment areas. Service providers become "vendors" of a RC as specified in regulations (Title 17, Sections 54300 - 54390, California Code of Regulations).

DDS is headquartered in Sacramento where approximately 350 employees are located. The DCs, CF and RCs are located throughout the State. The DDS total budget for 2015-16 is approximately \$5.8 billion (\$3.4 billion General Fund, \$2.4 billion Reimbursements and Federal Funds).

DDS' goals and objectives are to:

- Expand the system capacity to allow for the availability and accessibility of services and supports to meet current and future needs of individuals and their families.
- Identify, evaluate and promote innovative service delivery models that have been demonstrated to be effective in achieving preferred consumer outcomes with systems to ensure quality services and supports.
- Distribute information and deploy assistive and information technology to improve statewide automated systems and tools to support the delivery of services for people with intellectual and developmental disabilities.
- Ensure accountability and compliance with all applicable federal and state laws, regulations and contracts for DDS, DCs, RCs, and service providers.

To accomplish the above goals and objectives, DDS' management established and maintains an environment that sets a positive and supportive attitude toward internal control, ethical conduct and diligent management.

DDS has formal policies that detail appropriate ethical behavior for its employees, including policies that cover: Conflict of Interest, Incompatible Activities, Drug-Free Workplace, Workplace Violence, and Equal Employment Opportunity. It is a requirement that DDS employees attend mandatory training courses related to the ethical behavior standards and regulations that govern the official conduct of DDS

employees. Additionally, employees that violate DDS' policies and/or ethical behavior standards are subject to appropriate corrective and/or disciplinary action.

DDS has a decentralized organizational structure:

Community Services: The decentralized structure for community services was enacted by the Legislature because the services were of such a special and unique nature that a State agency could not satisfactorily provide the services to individuals and their families. Therefore, 21 nonprofit RCs were established to provide fixed points of contact within the community for persons with intellectual and developmental disabilities and their families. Each RC has a governing board composed of members that must meet stringent requirements set forth in Welfare and Institutions Code, Section 4622. These requirements ensure that the board represents its particular community and is accountable locally.

State Operated Facilities: The State-run DCs and CF are decentralized, in that they operate as separate entities under the direction of the Developmental Centers Division with support from DDS' headquarters divisions, as needed. Each facility is responsible for all administrative and program functions associated with operating a 24-hour treatment facility.

The DCs, CF, RCs and/or service providers are subject to audit and review by a host of State and Federal agencies, such as DDS, the Department of Health Care Services, the California Department of Public Health, the Department of Social Services, the California State Auditor, the Department of Finance, the federal Centers for Medicare and Medicaid Services, the Federal Office of Special Education Programs, the Social Security Administration and the United States Department of Justice. Service providers are also audited by RCs. In addition, the DCs must meet licensing and certification requirements as they are licensed as Acute Care, Skill Nursing, and Intermediate Care Facilities.

RISK ASSESSMENT PROCESS

The organization-wide risk assessment was performed through an in-depth meeting with the DDS Executive Management team. The risk assessment meeting was conducted to identify the areas of greatest risk that may cause financial, political, legal and/or negative media exposure to DDS. During the risk assessment meeting, each Division's potential risks were identified and discussed. These identified risks were then ranked on the likelihood of occurrence and potential impact to DDS. The outcome of the risk assessment meetings resulted in five areas of significant risks being identified.

EVALUATION OF RISKS AND CONTROLS

Reporting- Internal- Information Collected—Inadequate, Inaccurate, Misinterpreted, Untimely

DDS collects, utilizes and reports significant amounts of data and information to support its operations, and ensure accountability and transparency. Data and Information are gathered from a variety of sources, using various tools and systems. DDS uses the data for program planning, policy and decision making, budgeting, fiscal claiming, legislative reporting and to support external research, among many other purposes. Currently, DDS' data extraction program often results in time consuming activities to verify its accuracy. This poses a risk that the data may not be reliable or sufficient to meet the intended purposes.

DDS will identify resources to establish an internal centralized unit to implement a program and fiscal research function to improve accuracy, adequacy, relevance, consistency, and timeliness of DDS data and information for both external reporting and internal decision-making.

An inventory of reports and information currently being compiled, reviewed, and produced in all divisions will be completed.

A data dictionary will be developed.

Operations- Internal- Program/Activity—Changes, Complexity

Day to day operations require ongoing compliance with Federal Regulations and Conditions of Participation to ensure developmental centers are maintaining the Health and Safety of the consumers. With proposed closures of the centers this may become a challenge risking the loss of federal funding.

The DCD has internal oversight of DCs compliance with Federal Conditions of Participation and will develop plans to correct any variances. Additionally, the DDS is expected to contract for independent monitoring by an external organization with proven capabilities in quality assurance systems. The monitor will conduct frequent monitoring visits with an emphasis on quality health care outcomes in Active Treatment, Behavioral Health Outcomes, and Client Protections. The Department will develop plans of correction to mitigate identified risks.

Operations- Internal- Program/Activity—Changes, Complexity

Each of the DCs were recently identified for closure. The DCs are responsible for providing the continuity of care and services to consumers who reside at each facility. During a closure many employees are engaged in “job-seeking” activities that can often conflict with the continuity of care to consumers and consequently could result in a loss of Federal funds due to the inability to maintain an adequate workforce. The Centers for Medicare and Medicaid Services (CMS) require that DDS ensure the health and safety of DC consumers as evidenced by compliance with federal regulations. These regulations include 8 Conditions of Participation (COPs), one of which is Facility Staffing and the mandate that adequate staffing be provided at all times. Ongoing monitoring of the DCs is expected by the CMS to ensure compliance during the closure process. Because of the potential loss of federal funding this is a critical area for monitoring by the DDS.

The DCs, working closely with DDS’ headquarters personnel section, have submitted potential issues with current employee gaps and considerations. The Developmental Centers Division, headquarters’ personnel section, and Labor Relations, will continue working with the California Department of Human Resources to fill identified gaps, develop on-line examinations for expeditious hiring and expanding open spot examinations for hard to recruit trade classifications that are at risk of extended vacancies. The Developmental Centers Division (DCD) will continue monitoring via bi-monthly reports related to staffing issues.

Operations- Internal- Staff—Key Person Dependence, Succession Planning

DDS administers large and complex programs with a relatively small headquarters organization. Organizational units within DDS typically have only one or two key staff, including unit managers, considered to have critical experience and expertise in a specialized program area. When staff retires or leaves the department, DDS loses key operations personnel, both in terms of expertise and historical perspective. Currently, the succession-planning program in DDS does not allow for sharing of institutional knowledge and succession training in all critical areas of department operations.

DDS is developing a successor and mentoring program to assist in sharing expertise in specialized areas. By developing this program, key staff will share their knowledge and help to ensure continuity of the program, allowing DDS to operate more effectively and efficiently.

Compliance- External- Complexity or Dynamic Nature of Laws or Regulations

The Federal Centers for Medicare and Medicaid Services (CMS) issued regulations effective March 2014 that define requirements service settings must meet to be considered eligible for Home and Community-Based Services (HCBS) funding. The regulations allow states until March 2019 to take the needed steps to ensure compliance with the new requirements. These steps may include changes to statute or regulation which may lead to modifications in the way some providers deliver services to regional center consumers. Because of the significant federal funding contribution for regional center purchase of services (currently \$1.6 billion), continued receipt of this funding is necessary to implement California's Lanterman Developmental Disabilities Services Act.

DDS in conjunction with the stakeholder advisory group and the Department of Health Care Services will develop an action plan that will include an identification of activities, processes, timelines and changes needed to ensure compliance with the the requirements in the new Federal regulations.

ONGOING MONITORING

Through our ongoing monitoring processes, the Department of Developmental Services reviews, evaluates, and improves our systems of internal controls and monitoring processes. The Department of Developmental Services is in the process of formalizing and documenting our ongoing monitoring and as such, we have determined we partially comply with California Government Code sections 13400-13407.

Roles and Responsibilities

As the head of Department of Developmental Services, Michael Wilkening, Acting Director, is responsible for the overall establishment and maintenance of the internal control system. We have identified Tamara Rodriguez, Emergency Preparedness and Response Officer, as our designated agency monitor(s).

Frequency of Monitoring Activities

DDS holds monthly management meetings. Meeting topics include discussion of current and potential internal control issues that need to be addressed. These meetings allow management to discuss issues they have been made aware of and what steps are needed to mitigate the issues. The management team is encouraged to share experiences to further assist each other in addressing the issues that may arise.

Reporting and Documenting Monitoring Activities

DDS requires reports from each unit on a quarterly basis. These reports inform management of the monitoring practices being conducted, improvements needed, and the overall monitoring success or weakness within each unit. This information is summarized and reported to the DDS Director.

DDS ensures all staff receive information vital to the effectiveness and efficiency of controls by requiring management to update their teams monthly. DDS encourages staff to speak with their supervisor if they discover an issue that should be addressed to better assist DDS with fulfilling its mission, goals, and objectives.

Procedure for Addressing Identified Internal Control Deficiencies

DDS' Executive Management will set appropriate steps and timelines and identify clear assignments of responsibility whenever actions toward mitigation are identified to address a known deficiency. Staff assigned to the SLAA support activities prepare reporting tools and dashboards to capture progress against the milestones for Executive Management review. Quarterly meetings are held to discuss and

monitor progress toward resolving the identified deficiencies, and modifying actions as needed to achieve success. The quarterly meetings may be supplemented with special meetings to address the more complex program and policy issues.

CONCLUSION

The Department of Developmental Services strives to reduce the risks inherent in our work through ongoing monitoring. The Department of Developmental Services accepts the responsibility to continuously improve by addressing newly recognized risks and revising risk mitigation strategies. I certify our systems of internal control and monitoring processes are adequate to identify and address material inadequacies or material weaknesses facing the organization.

Michael Wilkening, Acting Director

cc: Department of Finance
Legislature
State Auditor
State Library
State Controller
Secretary of Government Operations