



Legislative Post Audit Performance Audit Report Highlights

CDDOs: Reviewing Issues Related to Community Services Provided for Individuals with Developmental Disabilities

Report Highlights

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Summary of Legislator Concerns

Legislators have expressed concerns about inherent conflicts of interest, the level of oversight provided for home and community services, and whether CDDOs and service providers are maximizing funding for those services.

Background Information

Most individuals with developmental disabilities receive services in the community through the Medicaid Home and Community Based Services (HCBS) Waiver. As of December 2013, about 8,700 individuals were served in the community. Of these, about 1,750 were underserved because they only received some of the services they requested. An additional 3,250 individuals were unserved (and on a waiting list) because of a lack of available funding.

QUESTION 1: *Do substantial conflicts of interest remain for Community Developmental Disability Organizations (CDDOs) that have their own service providers, and how could those conflicts be resolved?*

- The structure of the state's developmental disabilities system creates an inherent conflict of interest for 21 of the 27 CDDOs, which have their own service provider.
 - CDDOs provide referrals to and oversight of all service providers, which put the 21 CDDOs with their own service provider in a unique position to take advantage of the system.
 - In their gatekeeping role, CDDOs are in a position to steer individuals toward or away from their own service providers, whichever is more advantageous.
 - CDDOs are in a position to approve or deny requests for extraordinary funding for both their own service provider and from independent service providers.
 - CDDOs oversee the complaint process in their region, putting them in a position to ignore complaints against their own service provider.
 - CDDOs are in a position to ignore deficiencies of their own service provider during quality assurance reviews.
 - Although the current structure creates an inherent conflict of interest, CDDOs are not necessarily using it to their advantage.
- Although CDDOs have made efforts to mitigate the inherent conflict of interest, stakeholders still cite unfair advantages.
 - CDDOs appear to provide information about all service providers in their region, and have instituted a peer review process to help ensure that individuals are not referred inappropriately.
 - Some independent community service providers still think that CDDOs with their own service provider have an unfair advantage, and that more should be done by both CDDOs and the Kansas Department for Aging and Disability Services (KDADS) to mitigate the conflict of interest.

- For the areas we assessed, we did not find direct evidence that CDDOs have taken advantage of the inherent conflict of interest.
 - Independent service providers tend to serve a larger proportion of high-needs individuals than the CDDO's own service provider, but this appears to be the result of providers' specialization rather than CDDOs steering individuals in the referral process.
 - In all 10 cases we reviewed, CDDOs appropriately approved extraordinary funding to individuals served by independent providers and their own provider.
 - Complaints are not tracked at the aggregate level by CDDOs or KDADS, so we were unable to evaluate the dispute resolution process. Many independent service providers do not think the process is fair.
 - We did not find direct evidence of CDDOs favoring their own service provider when performing quality assurance reviews.

- The Kansas Department for Aging and Disability Services provides weak oversight for CDDOs related to approving extraordinary funding, consistency in peer reviews, tracking complaints, and verifying assessment results for individuals with disabilities.
 - KDADS officials told us that strengthening their oversight of CDDOs is hindered by a cumbersome and ambiguous contracting process.

- A bill proposed during the 2013 legislative session would prohibit CDDOs from both determining an individual's eligibility and providing services through their own service provider, which could eliminate the inherent conflict of interest.
 - The effectiveness of 2013 Sen Sub for House Bill 2155 in addressing the inherent conflict of interest would depend on whether CDDOs completely separate from their own community service provider.

- KanCare has added an additional layer to the current developmental disability system, but on its own will not address the inherent conflict of interest issue.
 - The developmental disability waiver, added to KanCare on February 1, 2014, adds an additional administrative layer to the system but does not address the conflict of interest issue.
 - It is difficult to predict how the developmental disability system would change if Sen Sub for House Bill 2155 were passed now that KanCare has been implemented. All three CDDOs we spoke to told us they would have to consult their governing board.

To provide services in the community, Kansas contracts with 27 Community Developmental Disability Organizations (CDDOs), which are the single point of entry, eligibility determination, and referral for any individual seeking services through HCBS.

CDDOs maintain a network of about 480 service providers to meet the needs of individuals eligible for HCBS Waiver funds. While all 27 CDDOs contract with independent service providers, 21 CDDOs have also established their own service provider.

There are 13 different services available to individuals with developmental disabilities but targeted case management, day supports, and residential supports are the most common.

While most Medicaid waivers were moved to the state's new managed care program (KanCare) on January 1, 2013, the developmental disability waiver was delayed until February 1, 2014 because of a legislative proviso and concerns from the federal Centers for Medicare and Medicaid Services (CMS).

QUESTION 2: *How could the community services system be changed to maximize the amount of funding available to provide services for individuals with developmental disabilities?*

- In FY 2014, CDDO regions will receive about \$360 million to provide services to about 8,700 individuals with developmental disabilities. This money includes HCBS Waiver funding, administrative funding, state aid, and local mill levy funds. Most of this money (\$328 million) is used to provide direct services to individuals.
- Consolidating CDDOs could reduce administrative costs by about \$500,000 to \$800,000 per year.
 - With 27 CDDOs, Kansas has significantly more administrative entities for the developmental disability waiver than it does for the physical disability or frail elderly waivers.
 - Reducing the number of CDDOs could save an estimated \$500,000 to \$800,000 each year in administrative costs.
 - CDDO's administrative cost per individual served ranged from about \$790 to \$1,900 with larger CDDOs generally having lower costs, likely because of economies of scale.
 - Our estimate is based on reducing CDDO administrative costs to the median level of \$1,140 per individual served (plus or minus 20%) to simulate economies of scale from consolidation.
 - The 11 Aging and Disability Resource Centers (ADRCs) across the state could be used as a model for consolidating CDDO regions.
 - To further reduce overall administrative costs, KDADS could consider combining the CDDOs with the ADRCs.
- Kansas could increase federal revenues by up to \$6.5 million per year by redirecting \$5 million in state aid.
 - KDADS distributes \$5 million in state aid to CDDOs that is not matched with federal funding because it is not used for Medicaid services. If it were used for Medicaid-eligible waiver services instead, it would generate an additional \$6.5 million in federal matching funds.
 - Taking this action would help some individuals with developmental disabilities but could potentially cause others to lose services.
- Other cost saving options to help maximize funding for developmental disability services include using fewer fee-for-service payments and adopting more preventative controls to reduce the risk of inappropriate Medicaid payments and fraud.

Other Findings

- Several CDDOs we reviewed spent funds on lobbying-related activities, which appears to violate federal and contractual requirements.
 - Federal requirements and CDDOs' contracts with KDADS prohibit CDDOs from using funds to pay for lobbying activities.
 - Three of five CDDOs we reviewed spent a total of about \$104,000 on membership dues to Interhab during the past two years
- KDADS does little to monitor CDDOs' administrative expenditures for the developmental disability waiver.

SUMMARY OF RECOMMENDATIONS

Question 1 Recommendations:

- We made a series of recommendations aimed at increasing the amount of oversight that KDADS has over the developmental disability system, especially in the areas of eligibility screening, extraordinary funding, peer reviews, and complaint tracking. Additionally, if legislation is passed that prohibits CDDOs from serving both as gatekeeper and service provider, KDADS should develop a process for approving all reorganizations.

Question 2 Recommendations:

- We made a series of recommendations to KDADS, KDHE, and the Attorney General's Office to explore cost savings measures and to ensure appropriate use of funds.
- We recommended that the four sampled CDDOs that had non-allowable expenditures of state and federal money for lobbying-related activities should take the steps to prevent such payments.
- We also recommend that the Legislative Post Audit Committee consider introducing legislation to reduce the number of CDDO regions, and consider redirecting all or a portion of the \$5 million in state aid to provide Medicaid-eligible waiver services and receive federal matching funds.

AGENCY RESPONSE

- KDADS generally concurred with the report's finding, conclusions, and recommendations. However, agency officials disagreed that membership dues paid by CDDOs to Interhab were not allowable under the state's contract.
- KDHE and the Attorney General generally concurred with the report's finding, conclusions, and recommendations.
- Interhab, an association that represents most CDDOs, disagreed with several findings including that membership dues paid by CDDOs to Interhab were not allowable under the state's contract.
- Of the four CDDOs responding to our recommendations related to using restricted funds for non-allowable lobbying costs, three disagreed with the audit's finding that CDDOs' use of state and federal funds to pay for Interhab membership dues was lobbying-related and therefore unallowable.
- Of the 27 CDDOs invited to respond, 14 provided responses. Several CDDOs disagreed with a number of findings including consolidation of CDDOs, bundled payments, and lobby-related expenditures.

HOW DO I REQUEST AN AUDIT?

By law, individual legislators, legislative committees, or the Governor may request an audit, but any audit work conducted by the division must be directed by the Legislative Post Audit Committee. Any legislator who would like to request an audit should contact the division directly at (785) 296-3792.

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