Commonwealth of Massachusetts
Office of the State Auditor
Suzanne M. Bump
Making government work better

Official Audit Report – Issued June 29, 2021

Department of Developmental Services

For the period July 1, 2017 through June 30, 2019

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Ms. Jane Ryder, Commissioner
Department of Developmental Services
1000 Washington Street
Boston, MA 02118

Dear Ms. Ryder:

I am pleased to provide this performance audit of the Department of Developmental Services. This report details the audit objectives, scope, methodology, findings, and recommendations for the audit period, July 1, 2017 through June 30, 2019. My audit staff discussed the contents of this report with management of the agency, whose comments are reflected in this report.

I would also like to express my appreciation to the Department of Developmental Services for the cooperation and assistance provided to my staff during the audit.

Sincerely,

Suzanne M. Bump
Auditor of the Commonwealth

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LIST OF ABBREVIATIONS

CMR	Code of Massachusetts Regulations
CRT	complaint resolution team
DDS	Department of Developmental Services
DPPC	Disabled Persons Protection Commission
HCSIS	Home and Community Services Information System
MAP	Medication Administration Program
MOR	medication occurrence report

EXECUTIVE SUMMARY

In accordance with Section 12 of Chapter 11 of the Massachusetts General Laws, the Office of the State Auditor has conducted a performance audit of the Department of Developmental Services (DDS) for the period July 1, 2017 through June 30, 2019. In this performance audit, we examined processes to review allegations of suspected abuse, mistreatment, and other incidents that would pose a risk of serious harm to DDS clients, as well as the processing of incident reports and medication occurrence reports (MORs) in provider-operated group homes. Our purpose was to determine whether DDS completed these processes on time and in accordance with its policies and procedures.

Below is a summary of our findings and recommendations, with links to each page listed.

Finding 5 **Page 22**	DDS did not ensure that MORs were created, finalized, and reviewed within the prescribed timeframes.
Recommendations **Page 23**	1. DDS should implement effective monitoring controls in its policies and procedures to ensure that provider-operated group homes create and finalize MORs, and Medication Administration Program coordinators review them, within the prescribed timeframes. 2. If DDS believes that inadequate staffing is contributing to this issue, it should determine the staffing level it would need to meet the required timeframes and seek funding to reach that level.
Finding 6 **Page 23**	DDS did not ensure that its employees always received security awareness training.
Recommendations **Page 24**	1. DDS should offer security awareness training each year. 2. DDS should develop a formal process to ensure that security awareness training is completed on time.

Post-Audit Action

On June 14, 2021, DDS gave us the following update on the actions taken to address our audit findings since the end of our audit fieldwork.

- *DDS has formalized its practice of monitoring the timeliness of all investigation reports and decision letters through bi-weekly supervisory meetings of its senior investigators and investigators, and has directed that in all cases where decision letters are awaiting approval by DPPC or are referred to law enforcement and are therefore pending, the senior investigator or investigator must submit an extension request pursuant to [Section 9.10(5) of Title 115 of the Code of Massachusetts Regulations].*

- *DDS has formed a workgroup consisting of staff from the DDS Bureau of Program Integrity, senior managers, and operations staff to develop and implement systems for the monitoring of timeframes for completion of action plans and administrative reviews across the state. Draft protocols for the completion of action plans and administrative reviews have been developed and are under review for input of stakeholders including Regional and Area Office staff responsible to ensure their timely completion.*

- *The DDS Office of Quality Enhancement (OQE) issued an Advisory (June 4, 2021) to all providers on the importance of timely submission of incident reports. OQE has formed a workgroup consisting of staff from the Bureau of Program Integrity and DDS Operations to employ data analytics strategies to ensure the timely submission of incident reports by DDS providers.*

OVERVIEW OF AUDITED ENTITY

The Department of Developmental Services (DDS), established by Section 1 of Chapter 19B of the Massachusetts General Laws, is part of the Executive Office of Health and Human Services. According to DDS's website,

> *The Department of Developmental Services provides supports for individuals with intellectual and developmental disabilities including Autism Spectrum Disorder to enhance opportunities to become fully engaged members of their community.*

DDS serves approximately 32,000 adults and more than 9,000 children who have intellectual and developmental disabilities. According to its website, DDS provides services and supports for this population that are "designed to promote meaningful participation and inclusion in all aspects of community life."

During our audit period, DDS provided these services through two state-operated facilities, 287 community-based state-operated programs, and contracts with 229 providers. DDS had 7,977 employees at its 23 area offices throughout the Commonwealth, which operate within four regions,[1] and its providers employed approximately 40,000 individuals to provide services to DDS clients. These providers offer community-based services that include residential supports (group homes), individualized home supports (services provided in clients' homes), respite supports (respite relief for caretakers), and shared living services (adult foster care). Funding for community-based services totaled approximately $1 billion in each of the two fiscal years in our audit period. Provider-operated community-based residential services, which included group homes, helped more than 10,000 individuals across the Commonwealth as of March 2019. According to data provided by DDS, there were 2,144 residential group homes, maintained by 116 of the 229 providers, during the audit period.

As part of its responsibilities, DDS conducts various types of investigations and reviews of allegations of suspected abuse, mistreatment, and other incidents that may pose a serious risk of harm to its clients. DDS is also responsible for reviewing events self-reported by providers directly to DDS, including unexpected deaths, property damage, and wrong doses of medication being administered. DDS uses the Home and Community Services Information System (HCSIS) to process, review, and monitor allegations of suspected abuse, mistreatment, and other incidents.

1. DDS designates these as the Central West Region, Metro Region, Northeast Region, and Southeast Region.

HCSIS

HCSIS is a Web-based system that houses all intakes and complaints reported to DDS, including allegations that incidents have occurred, or deficiencies exist, at licensed facilities. HCSIS was implemented in 2006 and is available to DDS and any provider staff members with approved access. DDS's website states,

> *The Home and Community Services Information System (HCSIS) is a web based service that allows Service Providers and [DDS] to file clinical information and reports on incidents, medication occurrences, restraints, and investigations.*

DDS also uses HCSIS to conduct and manage investigations and administrative reviews resulting from complaints received by the Disabled Persons Protection Commission (DPPC).

Processing of Allegations of Suspected Abuse or Mistreatment

Allegations of suspected abuse or mistreatment are reported to DPPC via its 24-hour hotline. On receiving a complaint, DPPC generates an intake form. Upon review, DPPC refers complaints to the appropriate service-providing agency. In fiscal year 2019, these agencies included DDS, the Department of Mental Health, the Executive Office of Elder Affairs, the Department of Public Health, the Department of Children and Families, the Massachusetts Rehabilitation Commission, the Department of Correction, and other agencies. According to data retrieved from HCSIS, DPPC referred 10,833 complaints to DDS during the audit period.

If DPPC determines that the complaint falls within its authority under Chapter 19C of the General Laws, it may conduct its own investigation or choose to assign the investigation to other service-providing agencies in accordance with the procedures established in Chapter 19C of the General Laws and implemented through Section 5 of Title 118 of the Code of Massachusetts Regulations (CMR). DPPC's jurisdiction includes allegations of caretakers committing acts against victims between 18 and 59 years old that involved serious physical or emotional injury. If DPPC determines that a complaint is not in its jurisdiction, it can refer the complaint to DDS to be resolved in accordance with 115 CMR 9. DPPC initiated 2,409 investigations during our audit period, 501 of which were associated with DDS clients living at provider-operated group homes.

If DPPC refers a complaint outside its jurisdiction, the complaint is still sent to DDS for the appropriate DDS regional senior investigator to review. The regional senior investigator then chooses the approach

to handling the complaint; this approach is referred to as a disposition. It could include dismissal, investigation, referral to a regional director or his/her designee for administrative review, or referral to a DDS complaint resolution team (CRT).

Below are the most frequent DDS dispositions from the audit period.

DDS Dispositions

Dispositions Fiscal Years 2018–2019	Number of Dispositions	Percent of Total*
Administrative Review	3,076	31%
Dismissal	2,854	29%
DDS Investigation	2,409	24%
Referral to CRT	1,672	17%
Total	10,011	100%

* Because of rounding, the percentages do not total 100%.

Investigation Process

Regional senior investigators work from six DDS offices, in Danvers, Middleborough, Springfield, Wrentham, Worcester, and Waltham. At the time of our discussion with DDS Investigations Unit management, DDS employed 25 full-time investigators. DDS receives complaints daily from DPPC. When a complaint is received, staff members at DDS's central office in Boston assign it to one of six regional senior investigators based on the region where the allegation occurred. Regional senior investigators must make a disposition determination within three business days after they are assigned a complaint, which typically occurs the same day it is received. If the complaint is assigned for active investigation by a DDS regional senior investigator, an investigation report and decision letter have to be issued within 45 business days after an investigator is assigned, according to 115 CMR 9.13(1)(d). A decision letter summarizes the evidence, findings of facts, and conclusions of the official investigation report. Investigators can request an extension to provide more time to complete the investigation if it is necessary and if the delay would not pose a threat to the safety of the alleged victim.

If DDS conducts an investigation under only its own regulations, the investigation report only requires approval by a DDS regional senior investigator before a decision letter can be issued and an action plan can be developed. If DDS conducts an investigation in accordance with both DPPC and DDS regulations, DPPC must approve the investigation report before DDS can issue a decision letter.

Once issued, a decision letter is assigned to a CRT to develop an action plan. DDS regulations (115 CMR 9.12[b]) state,

> *Each CRT shall consist of the following:*
>
> 1. *Area or facility director or designee;*
> 2. *CRT coordinator;*
> 3. *A minimum of one citizen member; and*
> 4. *Additional members and consultants as deemed appropriate by the area or facility director.*

Action plans are created to reduce the chance of the events in the complaint happening again, and CRTs must develop them within 30 business days of assignment. According to DDS regulations, an investigation is considered complete when an action plan is issued.

Administrative Reviews

In an email to us dated January 26, 2021, DDS described an administrative review as "an internal administrative review process designed to address situations that do not present with serious physical or emotional harm." Administrative reviews are not conducted for any complaints with allegations such as abuse, assault, or financial exploitation.[2]

After designating a complaint for administrative review, a regional senior investigator refers it to area or regional office personnel. DDS regulations require that an administrative review report be submitted to the appropriate CRT coordinator within 15 business days after a review is conducted. There is no timeframe for completion of the administrative review itself. Once the administrative review report is received in HCSIS, CRTs are alerted and are required to prepare a resolution letter, which states specific action/s to be taken in response to the administrative review report, the date/s for them to be implemented, and the person responsible for implementing them. DDS management told us in interviews that administrative reviews were conducted at area offices, usually by program monitors. Program monitors are responsible for gathering information and processing administrative reviews for area directors. They may also be responsible for following up on resolution letters by requesting

2. DDS regulations (115 CMR 9.02) define financial exploitation as "the illegal or improper use of an individual's financial resources in an amount over $250 for personal profit or gain."

documentation from providers when training is required or when disciplinary action has been taken. However, DDS stated that processes could vary by area office.

Incident Reporting and Review Process

For any reportable event, a provider must generate an incident report and submit it to DDS via HCSIS. To provide clarity on what is a reportable event, DDS organizes events into categories: minor- and major-level incidents. For example, a minor-level incident may include an alleged incident where a victim was verbally abused or where property damage occurred. Major-level incidents may include suspicious or sudden deaths or missing persons about whom law enforcement has been contacted. For minor-level incidents, an area office management review is required. Major-level incidents require area office and regional management review. DDS has provided guidance documents and literature about incident reporting for providers and about incident review for DDS staff members.

Four dates are recorded in HCSIS regarding the incident reporting process: (1) when an incident report is created, (2) when it is submitted, (3) when it is finalized, and (4) when it is reviewed by DDS. After these four dates, a report is designated as either complete (if no additional information is needed) or incomplete (if the provider is required to submit additional information).

There were 57,658 incident reports submitted during the audit period; 52,587 were minor-level incidents and 5,071 were major-level incidents. We identified 22,628 major- and minor-level incidents as associated with provider-operated group homes by comparing addresses for such homes that DDS provided to addresses from HCSIS data related to incident reports during the audit period. We identified 20,355 (35%) of the 57,658 incident reports as minor-level incidents and 2,273 (4%) as major-level incidents, while 35,030 (61%) major-level and minor-level incidents were not associated with provider-operated group homes.

Medication Occurrence Report Process

A medication occurrence report (MOR) is submitted by provider personnel through HCSIS when a violation of one of the "five Rs" occurs. The "five Rs" are Right Individual, Right Medication, Right Time, Right Dose, and Right Route.[3] An MOR can also be submitted when a staff member forgets to give medication to a client (this is referred to as a medication omission in the table below).[4] For each MOR,

3. Right Route is the mechanism for administering the medication (e.g., orally or by injection).
4. A violation of one of the "five Rs," or a medication omission, is referred to herein as an MOR event.

the provider must contact a DDS Medication Administration Program (MAP) consultant. A MAP consultant can be a registered nurse, a pharmacist, or an authorized prescriber such as a physician or nurse practitioner. MAP consultants provide technical assistance, recommend appropriate actions, and provide staff members with guidance on the MOR process if needed. Each MOR is classified as either a hotline MOR or a regular MOR. A hotline MOR indicates that medical intervention was required and/or that an illness, injury, or death was involved. A regular MOR indicates that the MOR event did not require medical intervention. HCSIS documents key milestones regarding the MOR process, including creation, finalization, review by a MAP coordinator, and approval or rejection. Providers must finalize hotline MORs within 24 hours of discovering MOR events and regular MORs within 14 calendar days. MAP coordinators must review both regular and hotline MORs within 14 calendar days after providers finalize them. DDS reported that there were four MAP coordinators for each region and one statewide MAP coordinator specifically for MORs involving clients with preexisting brain injuries. There were 12,007 total MORs submitted during the audit period, of which 11,822 were regular MORs and 185 were hotline MORs. The table below indicates the natures of all MORs for our audit period.

MOR Submissions by All Providers

Nature of MOR	Total Submitted During Fiscal Years 2018–2019	Percent of Total*
Medication Omission	7,223	60%
Wrong Dose	2,622	22%
Wrong Time	1,455	12%
Wrong Medication	474	4%
Wrong Individual	226	2%
Wrong Route	7	<1%
Total	12,007	100%

* Because of rounding, the percentages do not total 100%.

For provider-operated group homes, there were 8,407 regular MORs and 136 hotline MORs submitted during the audit period.

Mandatory Training Requirements

Like DDS personnel, provider staff members must meet certain training requirements. As of December 12, 2018, providers were required to complete the following mandatory training.

Training Type	For All Employees	For Some Employees
First Aid and Cardiopulmonary Resuscitation Certification	X	
Basic Human Rights	X	
DDS Mandated-Reporter Training	X	
MAP Training (for All Administering Medications)	X	
Signs and Symptoms of Illness	X	
Executive Order 509 Food Standards*	X	
Unique Support Needs (e.g., to Help with Cultural and Linguistic Barriers)	X	
Individualized Plans and Protocols	X	
Positive Behavior Supports	X	
Human Service Worker Safety	X	
Fire Safety		X
Restraint Training		X
Human Resources Advocates/Officers Class		X

* Executive Order 509 states that food purchased and served by state agencies such as DDS must meet certain nutritional standards set by the Department of Public Health.

To track the training of more than 40,000 provider employees during its licensing and certification reviews, DDS's Licensure and Certification Unit reviews provider systems. Providers receive two-year licenses, receive two-year licenses with mid-cycle review, or have their license applications put on hold depending on scores received during licensing and certification reviews. During this process, DDS randomly selects 10% of provider-operated group home employees and reviews their training documentation. For example, if there were 100 provider employees, DDS would examine training records for 10 employees. Provider licensing reports are publicly available on DDS's website.

AUDIT OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with Section 12 of Chapter 11 of the Massachusetts General Laws, the Office of the State Auditor has conducted a performance audit of certain activities of the Department of Developmental Services (DDS) for the period July 1, 2017 through June 30, 2019.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those 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. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Below is a list of our audit objectives, indicating each question we intended our audit to answer, the conclusion we reached regarding each objective, and where each objective is discussed in the audit findings.

Objective	Conclusion
1. Did DDS conduct investigations within 45 business days after investigators were assigned and in accordance with the procedures established in Sections 9.10(5), 9.13(1)(d), 9.13(2)(a), and 9.14(3) of Title 115 of the Code of Massachusetts Regulations (CMR) for complaints associated with clients residing at privately operated group homes?	**No; see Findings 1 and 2**
2. Did DDS conduct administrative reviews in accordance with the procedures and timeframes in 115 CMR 9.11(1), 9.11(2), and 9.14(3)(b) for complaints associated with clients residing at privately operated group homes?	**No; see Finding 3**
3. Did DDS process incident reports associated with clients residing at provider-operated group homes in accordance with its *Incident Management Guidelines*?	**No; see Findings 4 and 6**
4. Were medication occurrence reports (MORs) that were associated with clients living at privately operated group homes processed in accordance with DDS's *MOR Overview Guide*?	**No; see Finding 5**

To achieve our audit objectives, we gained an understanding of the internal control environment we determined to be relevant to the objectives by reviewing DDS's internal control plan and applicable agency policies and procedures. We also conducted interviews with DDS managers and other staff members. We reviewed, and tested the operating effectiveness of, controls related to incident reports.

We performed the following procedures to obtain sufficient, appropriate audit evidence to address the audit objectives.

Investigations

To determine whether investigations were completed within 45 business days, we selected a random, nonstatistical sample of 50 investigations from a population of 501 investigations initiated during the audit period. We first determined whether any of these 50 investigations had a documented extension and, if not, whether the investigations were completed in more than 45 business days. We did this by calculating the number of business days between the case date, which represents when DDS received the complaint and the 45-business-day timeframe began, and the decision letter date.

To determine whether action plans were created within 30 business days after they were assigned to complaint resolution team (CRT) coordinators and investigations were conducted in accordance with the procedures in 115 CMR 9, we generated a random, nonstatistical sample of 60 investigations from our population of 501 initiated during the audit period. For these 60 investigations, we reviewed and documented from the Home and Community Services Information System (HCSIS) the date the decision letter was issued and the date the action plan was created. We then calculated the number of business days between the two dates to identify whether any action plans were created after more than 30 business days.

To determine whether these 60 investigations were conducted in accordance with 115 CMR 9.10, we determined whether investigators took the following actions:

- conducting face-to-face interviews with alleged victims and alleged abusers
- conducting interviews with people the investigator considered it appropriate to interview (e.g., complainant, eyewitness)
- documenting any refusals to be interviewed
- reviewing pertinent documents (e.g., incident reports, medical records)
- conducting site visits if deemed necessary by DDS.

Administrative Reviews

To determine whether administrative reviews were submitted to the assigned CRT coordinators within 15 business days, we generated a random, nonstatistical sample of 60 from a population of 1,297

administrative reviews initiated during the audit period. We reviewed, and documented from HCSIS, the date each administrative review was finalized and the date the resolution letter was created. We then calculated the number of business days between the two dates to identify any resolution letters created after more than 15 business days.

Using the same sample of 60 of 1,297 administrative reviews, we determined whether administrative reviews were conducted in accordance with the procedures in 115 CMR 9.11. We reviewed each administrative review report from our sample in HCSIS. Information in each report in HCSIS included, but was not limited to, an allegation summary, immediate actions taken, and principal findings of the review. We then reviewed the information and determined whether each administrative review report was complete, each report was reviewed by the CRT, and each resolution letter was generated upon review by the CRT based on the administrative review report. To determine whether resolution letters were developed by CRTs within 30 business days in accordance with CMR 9.14(3), we obtained from HCSIS, and reviewed, the date each resolution letter was created and the date it was issued. We then calculated the number of business days between the dates to identify resolution letters that were issued after more than 30 business days.

Incident Reports

To determine whether providers submitted major-level incident reports within their required timeframes, we generated a random, nonstatistical sample of 60 from a population of 2,273 major-level incidents.

For major-level incidents, we conducted two tests based on the timeframes for providers to submit and finalize major-level incident reports. We first reviewed the date each incident was discovered and the date the incident report was submitted in HCSIS. We calculated the number of calendar days between the two dates and identified the incident reports that were submitted after more than the allowed 24 hours. We also reviewed the date each incident report was submitted and the date it was finalized in HCSIS. We then calculated the number of calendar days between the two dates to determine whether providers finalized their reports within the required seven calendar days after incident reports were submitted.

To determine whether providers submitted minor-level incident reports within the required timeframes, we generated a random, nonstatistical sample of 60 from a population of 20,355 minor-level incidents.

We conducted two tests to determine whether providers met DDS's timeframes for minor-level incidents. We first reviewed the date each incident was discovered and the date the corresponding incident report was submitted in HCSIS. We calculated the number of business days between the two dates and identified which incident reports were submitted after more than three business days. We also reviewed the date each incident report was initially submitted and the date it was finalized in HCSIS. We calculated the number of calendar days between the two dates to identify those that were finalized after more than the seven calendar days allowed.

Within our samples of 60 major-level and 60 minor-level incidents, we identified incident reports that were submitted to the Disabled Persons Protection Commission (DPPC) and incident reports that staff members noted were going to be reported to DPPC. We followed up with DDS about these incidents and verified that all incidents that should have been reported to DPPC had been reported.

MORs

To determine whether DDS reviewed, and providers submitted, MORs in accordance with DDS policies and procedures, we generated a random, nonstatistical sample of 60 regular MORs from a population of 8,407; we also reviewed all 136 hotline MORs submitted during the audit period.

DDS Medication Administration Program (MAP) coordinators were required to review hotline MORs within 14 calendar days after the providers finalized them. We reviewed the date each of the 136 hotline MORs was finalized by the provider, as well as the date it was reviewed by a MAP coordinator in HCSIS. We calculated the number of calendar days between the two dates to identify MORs that took more than 14 calendar days.

DDS MAP coordinators were also required to review regular MORs within 14 calendar days after providers finalized them. We reviewed the date each regular MOR in our sample was finalized by the provider and the date it was reviewed by a MAP coordinator in HCSIS. We calculated the number of calendar days between the two dates to identify MORs that took more than 14 calendar days to be reviewed after they were finalized.

To determine whether providers met submission timeframes for hotline MORs, we reviewed the date each MOR event (i.e., medication omission or violation of one of the "five Rs") was discovered and the

date the MOR was finalized in HCSIS. We calculated the number of calendar days between the two dates to determine which hotline MORs were finalized after more than the 24 hours allowed.

To determine whether providers met submission timeframes for regular MORs, we reviewed the date each MOR event occurred and the date the MOR was created in HCSIS. We calculated the number of calendar days between the two dates to determine which MORs took more than the seven calendar days allowed. To determine whether providers met finalization timeframes for regular MORs, we reviewed the date each regular MOR was created and the date it was finalized by the provider in HCSIS. We then calculated the number of calendar days between the two dates to determine which regular MORs were finalized after more than the seven calendar days allowed.

Because of the unique circumstances of each investigation, administrative review, incident report, and MOR (i.e., there were many different CRTs, area offices, and types of complaints investigated), we used nonstatistical sampling and therefore did not project our results to the entire population.

Data Reliability

To determine the reliability of the data in HCSIS, we gained an understanding of HCSIS and its controls. We interviewed information technology personnel and reviewed information security policies and procedures from DDS and the Executive Office of Health and Human Services. Specifically, we reviewed policies and procedures for security management, access controls, configuration management, contingency planning, and segregation of duties. We interviewed HCSIS administrators to review password management. We also tested whether HCSIS users at DDS had been granted appropriate access to the system, completed security awareness training, been screened before access, and been removed as users when applicable. We identified issues with security awareness training for 2019 (see Finding 6).

Further, for investigations and administrative reviews, we traced 9,184 DPPC case numbers from DPPC's case management system, FileMaker Pro, and confirmed that they had all been uploaded to HCSIS. In response to an inquiry from us, DDS confirmed that intake information could not be altered once it was uploaded because of system controls. We also conducted electronic testing to identify any duplicates, blank fields, or key dates that did not flow logically in the data. We also discussed with DDS, and verified, the fact that any blank fields were by design and not due to error.

Additionally, for incident reports, we conducted electronic testing to identify any duplicates, blank fields, or key dates that did not flow logically in the data in HCSIS. We determined whether incident reports were reviewed by one or two levels of DDS personnel depending on the incident level.

We also conducted electronic testing of MOR data in HCSIS to identify any duplicates, blank fields, or key dates that did not flow logically in the data.

Based on the reliability procedures performed above, we determined that the HCSIS data were sufficiently reliable for the purposes of our audit.

DETAILED AUDIT FINDINGS WITH AUDITEE'S RESPONSE

1. The Department of Developmental Services did not always issue decision letters for its investigations within required timeframes.

During our audit period, the Department of Developmental Services (DDS) did not always issue decision letters for its investigations within required timeframes. Specifically, for 19 (38%) of the 50 investigations in our sample, the decision letter about the results of the investigation was not completed within the required 45-business-day timeframe. These 19 investigations were completed, on average, 42 business days after the 45 business days allowed; they were 6 to 122 business days late.

When investigations are not completed within the required timeframes, there is a higher-than-acceptable chance that DDS clients may be subject to safety risks.

Authoritative Guidance

Section 9.13(1)(d) of Title 115 of the Code of Massachusetts Regulations (CMR) states,

> *The results of the investigation shall be reported and a decision letter delivered to the regional director or designee within 45 [business] days of the investigator's assignment.*

Also, 115 CMR 9.10(5) states,

> *The senior investigator or investigator may submit a request for an extension of a time limit set forth in 115 CMR 9.00 upon a showing of necessity and that the delay will not pose a threat to the safety of the individual involved.*

Reasons for Issue

DDS did not have formal policies and procedures in place that required regional senior investigators to monitor investigations for timeliness and ensure that any necessary extensions were properly requested, documented, and approved.

DDS management stated that the delays in finalization of investigations and the issuance of decision letters for 5 of these 19 investigations were due to delays in the Disabled Persons Protection Commission's (DPPC's) review and approval of DDS's investigations.

DDS management also stated that an increase in complaints, along with limited staffing resources, had contributed to delays in meeting deadlines.

Recommendations

1. DDS should work with DPPC to complete investigations and issue decision letters within 45 business days.

2. DDS should formalize the necessary policies and procedures to require that regional senior investigators monitor investigations for timeliness and ensure that any necessary extensions are properly requested, documented, and approved.

3. If DDS believes that inadequate staffing is contributing to this issue, it should determine the staffing level it would need to meet the required timeframes and seek funding to reach that level.

Auditee's Response

With respect to the finding that "DDS did not always issue decision letters for its investigations within required timeframes," DDS agrees that a percentage of the sampled Investigation Reports, and thus Decision Letters, was not issued within the 45-day time prescribed by DDS regulations. 115 CMR 9.13(1)(d).

The Auditor also correctly notes that the investigator in each of the cases that went beyond the 45-day deadline could have sought an extension of time to complete the investigation but did not. 115 CMR 9.10(5) ("The senior investigator or investigator may submit a request for an extension of a time limit set forth in 115 CMR 9.00 upon a showing of necessity and that the delay will not pose a threat to the safety of the individual involved.")

An extension to complete an investigation may be necessary when critical information relevant to the investigation is in the hands of a third-party, such as medical records or interviews with the alleged victim's physician or hospital treating staff, which cannot be accessed within the 45-day time period. The same may be true when a case is referred to law enforcement, or is awaiting approval by DPPC, resulting in significant delays in the issuance of a decision letter. In such cases, it is appropriate for an investigator to seek an extension to ensure the quality and accuracy of the investigation report, so long as delay will not threaten the safety of the alleged victim.

DDS further notes that because the investigative process requires that every intake (case) receives a risk assessment by a senior investigator and, if necessary, that "protective services" be put in place to ensure the safety of the individual or alleged victim or similarly situated individuals, and that protective services continue in place throughout the pendency of the investigation, DDS disagrees with the [Office of the State Auditor's, or] OSA's conclusion that "when investigations are not completed within the required timeframes, there is a higher-than-acceptable chance that DDS clients may be subject to safety risks." . . .

Nevertheless, DDS agrees that decision letters, resulting from completed investigation reports, should be completed within required timeframes and, where they cannot be completed due to factors described above, an extension request should be filed and recorded in [the Home and Community Services Information System, or HCSIS]. . . .

DDS agrees with the OSA recommendation that DDS should work with the DPPC to ensure that investigations are completed, and decision letters approved and issued within 45 days, or that extension requests are filed where appropriate.

In response to the OSA's recommendation that "DDS should formalize the necessary policies and procedures to require that regional senior investigators monitor investigations for timeliness and ensure that any necessary extensions are properly requested, documented, and approved," DDS responds that senior investigators meet individually with investigators, and as a team, every two weeks to review case status, and will continue to do this to monitor timeframes for completion and whether requests for extension(s) have been or should be made. DDS will formalize this process in writing in an updated version of the DDS Investigations Manual. Further, DDS has directed that in all cases where decision letters are awaiting approval by DPPC or are referred to law enforcement and are therefore pending, the senior investigator or investigator shall submit an extension request pursuant to 115 CMR 9.10(5), consistent with the OSA recommendation.

In response to the OSA's recommendation regarding the adequacy of staff to complete investigations timely, DDS notes that since the Audit Period, the Investigations Unit has added eight (8) full-time employees: 4 investigators, 1 senior investigator, and 3 administrative support staff. DDS does not believe that further resources are necessary at this time.

Auditor's Reply

Based on its response, DDS is taking measures to address our concerns in this area.

2. DDS did not consistently meet its deadlines for developing action plans for alleged victims of abuse or mistreatment.

During our audit period, DDS complaint resolution teams (CRTs) did not consistently develop action plans within the required 30-business-day timeframe. Specifically, 17 (28%) of the 60 completed investigations in our sample had action plans that were not developed within 30 business days. On average, they were developed 71 business days after the established due dates; the most delayed report was 307 business days late. This results in a higher-than-acceptable risk of continued abuse and mistreatment.

Authoritative Guidance

According to 115 CMR 9.14(3), CRTs must develop action plans "within 30 [business] days of an assignment to the CRT coordinator" for complaints investigated by DDS.

Reasons for Issue

DDS did not have effective monitoring controls within its policies and procedures to ensure that CRTs developed action plans on time. According to DDS, there were logistical challenges in working with CRTs

and ensuring that meetings occurred often enough to meet deadlines for developing action plans. DDS stated that it would improve its methods of communication with CRT members to provide more timely issuance of action plans and also generally enhance supervision and monitoring.

Recommendation

DDS should enhance its policies and procedures by implementing effective monitoring controls to ensure that action plans are developed within required timeframes.

Auditee's Response

DDS agrees with OSA's Finding No. 2 that "deadlines for developing Action Plans for alleged victims were not always met." DDS notes because the investigative process requires that "protective services" be put in place to ensure the safety of the individual or alleged victim and similarly situated individuals upon the investigator's preliminary risk assessment and recommendation, and continue in place throughout the pendency of the investigation, DDS disagrees with the OSA's conclusion that "[t]his [delay in action plans finalization] results in a higher-than-acceptable risk of continued abuse and mistreatment." . . .

DDS agrees with the recommendation that it should enhance its policies and procedures by implementing effective monitoring controls to ensure that action plans are completed within required timeframes. DDS has formed a workgroup consisting of staff from the Bureau of Program Integrity, senior managers, and operations staff to develop and implement monitoring of timeframes for completion of action plans across the state and implement oversight over their completion.

Auditor's Reply

Based on its response, DDS is taking measures to address our concerns in this area.

3. DDS did not properly manage all administrative reviews.

During our audit period, 3 (5%) of the 60 administrative reviews in our sample were referred to an area office but were never conducted, and 6 others (10% of the total) were not conducted properly; they were completed by CRTs rather than by DDS regional directors or their designees as required by regulation. When administrative reviews are not completed or are conducted improperly, DDS cannot ensure prompt implementation of actions outlined in resolution letters to address potential harm.

Authoritative Guidance

According to 115 CMR 9.11, "An administrative review shall be conducted by the regional director or designee for all complaints referred pursuant to 115 CMR 9.05(2)."

Reasons for Issue

DDS had not implemented policies, procedures, and monitoring controls to ensure that the required administrative reviews were completed on time by the appropriate personnel.

Recommendation

DDS should implement policies, procedures, and monitoring controls to ensure that administrative reviews are completed by the regional director or his/her designees.

Auditee's Response

DDS agrees that administrative reviews were not always completed by the regional director or his or her designee and were inconsistent in how the administrative review process was implemented across the state. The OSA found some administrative reviews were completed by staff other than the regional director or their designee, such as a program monitor, or the CRT, and through delegation to Provider staff. . . .

DDS agrees that it should develop internal monitoring controls to ensure that administrative reviews are consistently completed by the regional director or his or her designee. DDS has formed a workgroup consisting of staff from the Bureau of Program Integrity, senior managers, and operations staff to develop and communicate consistent policies around the completion of administrative reviews.

Auditor's Reply

Based on its response, DDS is taking measures to address our concerns in this area.

4. DDS did not ensure that its provider-operated group homes submitted and finalized incident reports within the prescribed timeframes.

During our audit period, DDS did not ensure that its provider-operated group homes met DDS timeframes for submitting and finalizing incident reports. Specifically, of the 60 major-incident reports we sampled that were submitted to DDS by provider-operated group homes during our audit period, 31 (52%) were submitted late (1 to 202 business days after the 1 business day allowed). These 31 reports were also finalized by the group homes 1 to 546 business days[5] after the established 7-calendar-day timeframe. Finally, 17 minor-incident reports submitted by group-home providers to DDS during our audit period (28% of our sample of 60) were submitted 1 to 269 business days after the 7 calendar days allowed. Also, DDS did not ensure that provider-operated group homes finalized 24 (40%) of the 60

5. DDS uses business days when counting days after due dates; therefore, we used business days in our testing for incident reports.

minor-incident reports we sampled; these 24 reports were finalized 1 to 269 business days after the 7-calendar-day timeframe. As a result, DDS cannot act on all incident reports in a timely manner to identify and remediate any safety risks to alleged victims.

Authoritative Guidance

Section VI(A)(1) of DDS's *Incident Management Guidelines* states,

> ***Initial Report***—*to be completed and submitted to the appropriate state agency either on a paper incident report form or electronically in one (1) business day for incidents initially classified as major review incidents or three (3) business days for incidents initially classified as minor review incidents. . . .*
>
> *The* ***Final Report*** *for most incident categories is to be completed by the provider and submitted to the involved state agency within seven (7) calendar days following the discovery of the incident.*

Reasons for Issue

DDS had not implemented effective monitoring controls to ensure that provider-operated group homes submitted the required reports in accordance with DDS guidelines. DDS asserted that it was understaffed and that the volume of incident reports submitted by provider-operated group homes during the audit period (22,628) was very difficult to manage with its current staff.

Recommendation

DDS should work with provider-operated group homes and establish effective monitoring controls to ensure that all incident reports are submitted and finalized on time.

Auditee's Response

> *DDS agrees with the Finding that provider-operated group homes did not timely submit incident reports. . . .*
>
> *A workgroup has been formed to include the Bureau of Program Integrity, Office of Quality Management, and operations staff, as well as [Executive Office of Health and Human Services information technology, or IT] staff, to develop a process for enhanced monitoring of the timeliness of report submissions, and to evaluate the current timeline requirements for the submissions. Furthermore, the timeliness of incident reporting and strategies to improve timeliness are topics at the Statewide Risk Review Committee.*
>
> *DDS also sent an advisory to its Providers (June 4, 2021) reiterating the requirements of meeting incident report timelines.*

In addition, DDS implemented a data exchange agreement with MassHealth that matches emergency room claims with incident reports on a quarterly basis to verify that reportable events are being reported and is presently pursuing more frequent reporting through MassHealth data exchanges. As under-reporting providers are identified, DDS staff inform these providers of the issue and work with providers to develop corrective actions to address issues.

Auditor's Reply

Based on its response, DDS is taking measures to address our concerns in this area.

5. DDS did not ensure that medication occurrence reports were created, finalized, and reviewed within the prescribed timeframes.

DDS did not ensure that medication occurrence reports (MORs) were created and finalized by provider-operated group homes or reviewed by DDS Medication Administration Program (MAP) coordinators within the prescribed timeframes. Without timely reporting and review of MORs, there is an increased risk of poor outcomes for clients affected by staff members forgetting to administer medication, making dosage mistakes, or administering the wrong medication.

Fourteen (23%) of 60 regular MORs we reviewed were created by provider-operated group homes in an average of 44 calendar days, 37 calendar days beyond the established 7-calendar-day timeframe. DDS also did not ensure that provider-operated group homes finalized their hotline MORs within the established 24-hour timeframe: 85 (63%) of 136 hotline MORs we reviewed were finalized by provider-operated group homes in an average of 18 calendar days, 17 calendar days beyond the established timeframe. Finally, DDS MAP coordinators did not review 24 (18%) of these 136 hotline MORs within the established 14-calendar-day timeframe. These 24 hotline MORs were reviewed by a regional MAP coordinator after an average of 87 calendar days. One hotline MOR was created December 4, 2017 and had never been reviewed as of the time of our audit testing.

Authoritative Guidance

DDS's *MOR Overview Guide* requires all provider-operated group homes to create and finalize hotline MORs within 24 hours after incidents are discovered. Once a provider finalizes a hotline MOR, it must be reviewed by a DDS MAP coordinator for approval within 14 calendar days. Regular MORs must be created in HCSIS within 7 calendar days after MOR events are discovered.

Reasons for Issue

DDS had not implemented effective monitoring controls in its policies and procedures to ensure that provider-operated group homes created and finalized MORs within the prescribed timeframes. DDS also stated that the volume of MORs submitted for review by MAP coordinators, along with limited staffing resources, had contributed to delays in meeting deadlines.

Recommendations

1. DDS should implement effective monitoring controls in its policies and procedures to ensure that provider-operated group homes create and finalize MORs, and MAP coordinators review them, within the prescribed timeframes.

2. If DDS believes that inadequate staffing is contributing to this issue, it should determine the staffing level it would need to meet the required timeframes and seek funding to reach that level.

Auditee's Response

DDS agrees with the Auditor's Finding that Medication Occurrence Reports (MORS) were not created, finalized, and reviewed within prescribed timeframes. DDS further agrees that MORs, and especially Hotline MORs, are extremely serious. Although in some instances the MORs and Hotline MORs were not submitted within timeframes, it is important to note that Hotline MORs are reported to the Department of Public Health ("DPH") as well as DDS. Further, it is practice, not captured in HCSIS, for DDS MAP Coordinators to communicate directly with DPH and with the reporting Provider via phone calls and emails when they receive a Hotline MOR, and to address it immediately.

DDS agrees with the recommendation that it implement effective monitoring controls within its policies to create and finalize MORs, including their review by MAP Coordinators. DDS will implement a plan to retrain providers on the timely reporting of Hotline and non-Hotline MORs and the reporting requirement for both DPH and DDS. DDS will also work with MAP Coordinators to define how HCSIS can be used to best reflect the timing of their review of an MOR even if it is not immediately ready for final approval. In the longer term, DDS will explore whether HCSIS may be modified to include information that more accurately reflects timelines related to communication between MAP Coordinators, DPH staff, and Provider staff.

Auditor's Reply

Based on its response, DDS is taking measures to address our concerns in this area.

6. DDS did not ensure that its employees always received security awareness training.

DDS did not offer security awareness training to its employees for 2019, document completion of security awareness training for some employees, or ensure that new users who were granted access to

HCSIS completed their security awareness training on time. To test information security controls, we randomly selected a nonstatistical sample of 25 DDS employees with access to HCSIS and found that 24 (96%) had not completed annual security awareness training for 2019. We also requested information for 25 new users granted access to HCSIS during the audit period. Six (24%) of these users had no record of security awareness training in their personnel files, and 11 completed their security awareness training after the 30 calendar days allowed. Insufficient security awareness training may lead to user error and compromise the integrity and security of protected information in HCSIS.

Authoritative Guidance

Section 6.2.4 of the Executive Office of Technology Services and Security's "Information Security Risk Management Standard," which was put into effect October 18, 2018, states, "All personnel will be required to complete Annual Security Awareness Training."

Section 6 of Executive Order 504, which was effective from January 1, 2009 through October 25, 2019, states,

> *All agency heads, managers, supervisors, and employees (including contract employees) shall attend mandatory information security training within one year of the effective date of this Order. For future employees, such training shall be part of the standardized orientation provided at the time they commence work. Such training shall include, without limitation, guidance to employees regarding how to identify, maintain and safeguard records and data that contain personal information.*

Reasons for Noncompliance

DDS did not have a formal process in place to ensure that annual security awareness training was provided to each employee, nor did it have effective monitoring controls to ensure that new HCSIS users completed security awareness training on time.

Recommendations

1. DDS should offer security awareness training each year.
2. DDS should develop a formal process to ensure that security awareness training is completed on time.

Auditee's Response

> *[DDS] prioritizes the security of sensitive information contained in the HCSIS system and has established internal administrative safeguards for staff that are approved HCSIS system access.*

In addition, the Commonwealth's IT leadership requires annual cybersecurity awareness training for all state employees. DDS will coordinate with the Commonwealth's IT leadership at the Executive Office of Health and Human Services and the Executive Office of Technology Services and Security to ensure that security awareness training is issued on an annual basis and that [DDS] staff complete these trainings on an annual basis.

Auditor's Reply

Based on its response, DDS is taking measures to address our concerns in this area.