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**INDEPENDENT
STATE AUDITOR'S REPORT ON THE
OVERSIGHT OF FEE FOR SERVICE
TRANSPORTATION PROVIDER
ENROLLMENT AND CREDENTIALING
PROCESS IN THE MEDICAID PROGRAM AS
ADMINISTERED BY MASSHEALTH**

**OFFICIAL AUDIT
REPORT
NOVEMBER 16, 2006**

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MassHealth, within the Executive Office of Health and Human Services (EOHHS), administers the Medicaid program that provides access to healthcare services to approximately one million low and moderate-income individuals, couples and families. Medicaid expenditures represent approximately 25% of total Commonwealth expenditures. Massachusetts Medicaid annually pays in excess of \$6 billion on 75 million claims to 26,000 providers, of which 50% is federally funded. Among the healthcare services provided are non-emergency transportation services and emergency ambulance services to qualified members. In fiscal year 2005 there were 2,731,218 transportation claims paid totaling \$76,087,427, an average of 7,483 claims aggregating \$208,458 in payments daily.

In accordance with Chapter 11, Section 12, of the General Laws, we conducted an audit of the Fee For Service (FFS) transportation provider enrollment and credentialing procedures at MassHealth. Specifically, our objectives were to determine the effectiveness of the oversight of the enrollment and credentialing process and to determine if the MassHealth policies and procedures are adequate to ensure that the well being of Medicaid members is safeguarded and MassHealth is in compliance with applicable federal and state laws, rules and regulations.

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IMPROVEMENTS ARE NEEDED IN MASSHEALTH'S OVERSIGHT AND POLICIES AND PROCEDURES FOR THE ENROLLMENT AND CREDENTIALING OF TRANSPORTATION PROVIDERS

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Our audit disclosed that MassHealth's oversight and policies and procedures for the enrollment, credentialing, and re-credentialing of FFS transportation providers need improvements to help improve program integrity and ensure the well being of Medicaid members. We reviewed 37 FFS transportation provider files, including applications, and determined that the files were not complete and up to date. Of the providers selected for review, three were emergency transportation, 23 were non-emergency transportation and 11 provided both emergency and non-emergency transportation. None of the 37 providers were in compliance with the terms of their MassHealth contract and applicable federal and state laws, rules and regulations, because they had not disclosed or provided all information in the initial application or notified MassHealth within 14 days of changes in the information. As a result, MassHealth cannot assure quality care, compliance with federal and state laws, rules and regulations, and that provider data is accurate.

Our review determined that MassHealth needs to improve its ongoing investigations of the qualifications and background of transportation providers, and as a result, ineligible and unqualified providers could be operating in the MassHealth program. Also, uninsured or inadequately insured transportation vehicles could place the Commonwealth at financial risk. Our review of the 37 FFS transportation provider files disclosed that one provider agreement was not authorized by MassHealth, 16 provider files did not include the required provider affidavits, 15 provider files did not disclose ownership or control, seven provider files did not disclose existing ownership in another

Massachusetts provider, 31 provider files did not have the most recent tax return or financial statements on file, and 36 provider files did not have evidence of insurance.

Termination of a provider's participation in the MassHealth transportation program may occur if the provider does not disclose a conviction for a criminal offense, as provided by 130 CMR 450.224, or does not disclose ownership or control information as required by 42 CFR 455.104. However, because MassHealth does not conduct on-going provider credentialing and monitoring activities, it is unaware of matters that may be serious and require or compel action to protect the Commonwealth and the program's members.

MassHealth indicated that they rely on the Office of Emergency Medical Services (OEMS) within the Department of Public Health for emergency transportation providers and the Regional Transit Authorities (RTAs) for non-emergency transportation subcontractors to confirm compliance with state and federal laws, rules and regulations. However, there was no documentation in the provider file regarding correspondence with OEMS or the RTAs regarding provider compliance. Furthermore, 18 of 37 providers offering non-emergency transportation were not subcontractors to an RTA, or subject to OEMS review and therefore not subject to oversight. Therefore, unlicensed drivers with serious motor vehicle offenses, convicted felons, and vehicles in disrepair or ill-equipped for non-emergency use could be transporting MassHealth members.

An adequate system of internal controls would require that guidelines be established to ensure that all transportation providers meet the same standards and that MassHealth provides adequate monitoring and oversight.

In our prior audit report (No. 2004-1374-3S), we recommended that the process of re-credentialing providers be reinstated. MassHealth responded to this recommendation by stating that they would begin the formal process of re-credentialing existing providers. The process of re-credentialing began on July 1, 2006. MassHealth indicated that its intention is to re-credential one-third of all providers each year for three years and to continue the process thereafter. MassHealth responded to certain of our current audit report recommendations and its responses are summarized in this report. MassHealth indicated that although 60% of transportation services are provided by FFS providers, only 21% is provided outside the oversight of OEMS and RTAs. As a result of our audit, MassHealth has implemented certain of our recommendations, updated files, and terminated selected providers. In addition, the response described the current enrollment process and indicated that a re-credentialing process for all providers began on July 1, 2006.

INTRODUCTION

Background

MassHealth, within the Executive Office of Health and Human Services (EOHHS), administers the Medicaid program that provides access to healthcare services to approximately one million low and moderate-income individuals, couples and families. Medicaid expenditures represent approximately 25% of total Commonwealth expenditures. Massachusetts Medicaid annually pays in excess of \$6 billion on 75 million claims to 26,000 providers, of which 50% is federally funded. In fiscal year 2005, there were 2,731,218 transportation claims totaling \$76,087,427 in payments, an average of 7,483 claims aggregating \$208,458 in payments daily.

The majority of transportation claims are paid to Regional Transit Authorities (RTAs) and to Fee For Service (FFS) providers. MassHealth, through the Human Services Transportation Office (HST) within EOHHS, administers non-emergency transportation provided by RTAs to eligible members. The mission of the HST is to provide safe and efficient transportation for human service members to access vital health, developmental and social services with dignity. MassHealth also administers, through its internal transportation department, non-emergency transportation provided by FFS providers.

MassHealth contracts with RTAs for non-emergency transportation. As transportation brokers, RTAs secure subcontractor service agreements with independent transportation companies and/or individuals. The RTAs submit claims directly to MassHealth for payment, according to the terms of their contract, and pay their subcontractors according to the terms of the service agreements. Some subcontractors can also be paid directly by MassHealth, and in that role, they are FFS providers.

FFS providers submit claims for both emergency and non-emergency transportation directly to MassHealth for payment. A person or entity may become a participating FFS provider by submitting an application for a provider contract with MassHealth. If the provider applicant has filed a complete and properly executed application and meets all applicable provider eligibility criteria, MassHealth will prepare and furnish a provider contract.

Audit Scope, Objectives, and Methodology

In accordance with Chapter 11, Section 12, of the General Laws, we conducted an audit of the FFS transportation provider enrollment and credentialing procedures at MassHealth for fiscal year 2005. The objectives of the audit were to determine the effectiveness of the oversight of the enrollment and credentialing process and to determine if the MassHealth policies and procedures are adequate to ensure that the well being of Medicaid members is safeguarded and MassHealth is in compliance with applicable federal and state laws, rules and regulations. Our audit was conducted in accordance with applicable generally accepted government auditing standards and, accordingly, included such procedures and tests as we considered necessary under the circumstances.

We randomly selected and examined the provider files of 37 FFS transportation providers for compliance with applicable federal and state laws, rules and regulations and MassHealth policies and procedures for enrollment and credentialing of transportation providers. We also performed on-site inspections for 15 of the 37 FFS providers. Of the 37 FFS providers, 16 were also subcontractors to RTAs. We were provided operational and procedural information and explanations from the following: MassHealth Director of Internal Control and External Audit, the Director of Provider Operations (oversees provider enrollment and credentialing), the Transportation Program Manager, the Director of EOHHS' Human Services Transportation Office, and managers and members of the Program Integrity Unit at UMASS Medical School who operate under an Interagency Service Agreement with MassHealth to provide fraud and abuse detection services to MassHealth. Furthermore, we conducted independent research of state publications and reviewed an extensive selection of research done by government and private organizations on the practices of enrolling and credentialing of providers.

AUDIT RESULTS

IMPROVEMENTS ARE NEEDED IN MASSHEALTH'S OVERSIGHT AND POLICIES AND PROCEDURES FOR THE ENROLLMENT AND CREDENTIALING OF TRANSPORTATION PROVIDERS

Our audit disclosed that MassHealth's oversight and policies and procedures for the enrollment, credentialing, and re-credentialing of transportation providers need improvements to help improve program integrity and ensure the well being of Medicaid members. MassHealth and its providers are not in compliance with applicable federal and state laws, rules and regulations. We audited 37 Fee For Service (FFS) transportation provider files, including applications, and determined that the files were not complete and up to date. Furthermore, MassHealth needs to improve its ongoing investigation of the qualifications, background, facilities and equipment of transportation providers.

A provider application for enrollment includes disclosure and evidence of certain essential information such as: incorporation documents, ownership and officer/director disclosure, insurance coverage certification, licensure for ambulance companies, recent financial statements, tax returns, disclosure of ownership in other providers to MassHealth, and an affidavit that drivers of wheelchair transports are certified and the vehicles are equipped for first-aid procedures. The Medicaid Assistance Program Application for Transportation Providers states, in part, as follows:

As a condition for entering into or renewing a Medical Assistance Program Provider Agreement, the applicant for provider status or renewal of provider status must complete this Medical Assistance Program Provider Application. A true, accurate and complete disclosure of all requested information, including applicable ownership and control information, is required by the federal and state regulations that govern the Medical Assistance Program. Failure of an applicant to submit the requested information or the submission of inaccurate or incomplete information may result in a refusal by the Department to enter into, renew or continue a Provider Agreement with that applicant. Furthermore, the applicant is required by federal and state regulations to update the information submitted on or with this Provider Application whenever changes in this information occur.

Also, 130 CMR 450.212 Provider Eligibility: Eligibility Criteria describes the eligibility requirements that must be met by providers to participate and provide services to MassHealth members. It states, in part, as follows:

(A) To be eligible to participate in MassHealth as any provider type, a provider must:

(1) meet all statutory requirements applicable to such provider type;

- (2) *meet all conditions of participation applicable to such provider type under Titles XVIII and XIX of the Social Security Act and regulations promulgated thereunder;*
- (3) *meet all conditions of participation applicable to such provider type. Program regulations applicable to specific provider types appear in 130 CMR 400.000 through 499.000;*
- (4) *be fully licensed, certified, or registered as an active practitioner by the agency or board overseeing the specific provider type; . . .*
- (6) *never have been subject to any disciplinary action, sanction, or other limitation or restriction of any nature imposed with or without the consent of the provider, by any state or federal agency or board, including but not limited to, revocation, suspension, reprimand, censure, admonishment, fine, probation agreement, practice limitation, practice monitoring, or remedial training or other educational or public service activities.*

130 CMR 450.222 Provider Contract: Application for Contract requires a complete application and any omission or misstatements will be voidable by MassHealth as follows:

A person or entity may become a participating provider only by submitting an Application for Provider Contract. If approved by the Division, the application will be part of any subsequent provider contract between the applicant and the Division. Any omission or misstatement in the application will (without limiting any other penalties or sanctions resulting therefrom) render such contract voidable by the Division.

130 CMR 450.223 Provider Contract: Execution of Contract states that the contract will take effect when the provider has filed a complete and properly executed application that is approved by MassHealth as follows:

(A) If the provider applicant has filed a complete and properly executed application and meets all applicable provider eligibility criteria and nothing in the application or any other information in the possession of the Division reveals any bar or hindrance to the participation of the provider applicant, the Division will prepare and furnish a provider contract. When fully executed by the provider and the Division, the contract will take effect as of the effective date determined by the Division.

The provider must notify MassHealth of any change of information within 14 days or the provider will be in breach of contract as follows:

(B) Each MassHealth provider must notify the Division in writing within 14 days of any change in any of the information submitted in the application. Failure to do so constitutes a breach of the provider contract.... At its discretion, the Division may require a provider to recertify, at reasonable intervals, the continued accuracy and completeness of the information contained in the provider's application.

These regulations leave the responsibility of compliance (self-disclosure) with the provider in disclosing and providing the required information during the application process and notifying MassHealth when there is a change of any information submitted in the application. Adequate

monitoring, oversight, credentialing and re-credentialing should be conducted by MassHealth to ensure that providers submit all the required information and are in compliance with the terms and conditions of the provider agreement and all applicable laws, rules and regulations. If providers are not in compliance with the eligibility criteria (which includes a finding, ruling, decision from any federal or state department or agency that involves an issuance, renewal or extension of a license, certificate or other qualification) MassHealth should terminate the provider's participation in the program. However, by not providing sufficient oversight, monitoring, annual reviews, and credentialing and re-credentialing of providers, MassHealth has no assurance that members are being serviced by properly licensed, insured and legitimate owners, and that the providers have the best interest of members they service. MassHealth indicated that it is selective about the information that must be updated when changes occur, but has not established controls to ensure that providers comply with the regulations regarding notification of any changes in the application and other CMR regulations quoted on the preceding pages. Such selectivity is not reflective of a management environment that has adequate monitoring and oversight capabilities. Once policies are promulgated, management cannot be selective about which policies will be adhered to and which will not. The Committee of Sponsoring Organizations (COSO) of the Treadway Commission, volume on Internal Control – Integrated Framework, states in part that:

Internal control systems need to be monitored – a process that assesses the quality of the system's performance over time. This is accomplished through ongoing monitoring activities, separate evaluations or a combination of the two. Ongoing monitoring occurs in the course of operations. It includes regular management and supervisory activities, and other actions personnel take in performing their duties. (COSO PP.5, 69)

MassHealth does not have an adequate system of internal controls in place to monitor provider files to ensure that provider enrollment and credentialing information is complete, accurate, current, and in compliance with the applicable laws, rules and regulations. We reviewed the information contained within the MassHealth FFS provider files for compliance with the requirements of the provider application instructions and 130 CMR 450.212, and our review disclosed the following:

Information Required	Providers In Compliance	Providers Not In Compliance	N/A ¹
Provider Agreement Authorized by MassHealth or Predecessor ²	36	1	0
Agreement for Chair Car Services with Provider Affidavit	18	16	3
Disclosure of Officers, Directors, Partners and Trustees ³	16	13	8
Disclosure of Ownership and Control	12	15	10
Disclosure of Ownership in Another Massachusetts Provider	4	7	26
Most Recent Tax Return and/or Financial Statement	0	31	6
Current Ambulance Certification/License	0	16	21
Evidence of Insurance	1	36	0

For the 37 provider files we reviewed, we determined that none of the 37 files were complete, and were therefore not in compliance. The following is a profile of providers reviewed:

Providers	Reviewed
Emergency Services (Ambulance) Only	3
Non-Emergency Services (Chair Car or Taxi) Only	23
Emergency and Non-Emergency Services (Both)	<u>11</u>
Total	<u>37</u>
FFS Providers that are also Subcontractors to RTAs	16
Subject to OEMS Review	14
FFS Non-Emergency Services Not Subject to Review by RTA or OEMS (see pages 9-14 for discussion of RTA and OEMS oversight)	18

Our tests disclosed that because current and accurate information is not maintained in MassHealth files, providers whose circumstances have changed or possibly deteriorated may not be detected. In some cases, the information on file was over 10 years old, and in one case was 23 years old. Our case file reviews disclosed the following:

1. A provider application for emergency transportation services was approved in September 1983; the business subsequently sold in 1998, and no evidence of the transaction was contained within the provider file. As a result, MassHealth did not have current and accurate information in the file regarding ownership, and the new owners were not properly credentialed to determine if they were eligible to

¹ In some instances the information required is not applicable. For example, a sole proprietorship would not have corporate documents, officers or require disclosure of ownership.

² Medicaid was formerly administered by the Department of Medical Assistance (DMA).

³ In order to be properly reported, this information must be recorded on Attachment No. 2 of the Medical Assistance Program Provider Application.

participate in the MassHealth transportation provider program. Furthermore, the new owners have an equity interest in at least three other providers to MassHealth that was not disclosed.

2. A provider of non-emergency transportation services or its predecessor agency, that is a subcontractor to an RTA, was approved by MassHealth, and the agreement was dated October 26, 1988. The corporation's president signed the agreement. Not all officers, directors, ownership and disclosure of interest in other provider entities were disclosed. A certificate of insurance on the provider's vehicles on file expired on August 15, 1989. Our audit found that an officer has an ownership interest in three Adult Day Health providers for which the commonly owned non-emergency transportation company provides services was not disclosed. As a result, significant and important information was undetected by MassHealth. These providers did not notify MassHealth of changes in information submitted with the application, and therefore are in "breach of contract" per 130 CMR 450.223. Further, because MassHealth was not aware of this relationship between providers, it did not consider more closely monitoring billing activity to detect irregularities.
3. Files do not contain evidence of vehicle insurance currently in force. The Commonwealth of Massachusetts Provider Application For Transportation, Section 5 – Eligibility Information For Transportation Providers, Item 50 Authorized Vehicles, requires that a certificate of insurance for each vehicle be submitted with the application. Also, 130 CMR 450.223 requires that information be kept up to date, therefore, when a provider adds a vehicle to its operation, it should submit a certificate of insurance for the vehicle.
4. 15 of the 37 providers had not disclosed information of ownership, seven of which had a financial interest in other MassHealth providers, which was also not disclosed. This could have Federal Financial Participation (FFP) implications. 42 Code of Federal Regulations (CFR) 455.104 Disclosure by providers and fiscal agents: Information on ownership and control states that the Medicaid agency must require each provider to disclose ownership information as follows:

(a) Information that must be disclosed. The Medicaid agency must require each disclosing entity to disclose the following information in accordance with paragraph (b) of this section:

(1) The name and address of each person with an ownership or control interest in the disclosing entity or in any subcontractor in which the disclosing entity has direct or indirect ownership of 5 percent or more;

(2) Whether any of the persons named, in compliance with paragraph (a)(1) of this section, is related to another as spouse, parent, child, or sibling.

(3) The name of any other disclosing entity in which a person with an ownership or control interest in the disclosing entity also has an ownership or control interest. This requirement applies to the extent that the disclosing entity can obtain this information by requesting it in writing from the person. . . .

This regulation also requires that if the above information is not provided, a provider agreement should not be approved, and an existing contract must be terminated and

Federal Financial Participation (FFP) is not available. 42 CFR 455.104 states, in part, as follows:

(c) Provider Agreements and fiscal agent contracts: A Medicaid agency shall not approve a provider agreement or a contract with a fiscal agent, and must terminate an existing agreement or contract, if the provider or fiscal agent fails to disclose ownership or control information as required by this section.

(d) Denial: Federal Financial Participation (FFP). FFP is not available in payments made to a provider or fiscal agent that fails to disclose ownership or control information as required by this section.

The regulation further describes when and the manner in which the information should be disclosed. If a disclosing entity is subject to a periodic survey, then the information must be promptly furnished by the provider to MassHealth. If a disclosing entity is not subject to a periodic survey and the provider has not submitted the information within a 12-month period, it must submit the information before entering into a contract or agreement to participate in the program. 42 CFR 455.104 states in part as follows:

(b) Time and manner of disclosure:

(1) Any disclosing entity that is subject to periodic survey and certification of its compliance with Medicaid standards must supply the information specified in paragraph (a) of this section to the State survey agency at the time it is surveyed. The survey agency must promptly furnish the information to the Secretary and the Medicaid agency.

(2) Any disclosing entity that is not subject to periodic survey and certification and has not supplied the information specified in paragraph (a) of this section to the Secretary within the prior 12-month period, must submit the information to the Medicaid agency before entering into a contract or agreement to participate in the program. The Medicaid agency must promptly furnish the information to the Secretary.

Also, updated information must be submitted to MassHealth at the time of recertification or contract renewals within 35 days of a written request. 42 CFR 455.104(b) states, in part, as follows:

(3) Updated information must be furnished to the Secretary or the State survey or Medicaid agency at intervals between recertification or contract renewals, within 35 days of a written request.

As described above, the CFR clearly describes that a provider must submit ownership information at the time of application, recertification, and contract renewals.

Furthermore, MassHealth's own regulations and transportation provider applications require the disclosure of ownership information at the time of application, and any change to that information must be submitted within 14 days.

Also, EOHHS contracted with Thomson Medstat to conduct a thorough analysis of program integrity efforts at MassHealth. A report entitled Program Integrity Gap

Analysis was issued on June 30, 2005, and the report discusses 42 CFR 455.104-106 with regards to accurate provider background information. Page 53 of the report discusses Relevant Standards, Best Practices or Models, Medicaid/Medicare Standards, and states in part:

Initial provider enrollment is addressed under federal Medicaid regulations at 42 CFR 455 104-106. Though the regulations do not explicitly direct the states to undertake regular recertification or reenrollment, regulation 42 CFR 455-105(b)2 requires that provider background information be accurate for the five years preceding the date of enrollment in the program. If providers are not recertified/enrolled or do not voluntarily update their information every five years thereafter, it could be construed that after a five-year period from their first enrollment in the program elapses, the information on the provider has "timed out" of compliance. The Medicaid regulations also do not explicitly require purging or suspending inactive provider numbers.

In addition, MassHealth is not providing proper oversight and monitoring and policies and procedures are not adequate to ensure the safety of its members. Our review disclosed the following:

1. On-site inspection of the facility, records, and vehicles of FFS transportation providers are not performed by MassHealth to ensure that provider operations, facilities and vehicles are in compliance with federal and state laws, rules and regulations. However, the Office of Emergency Medical Services, within the DPH, in accordance with 105 CMR 170.225 may visit and inspect ambulance service providers at any time. Also, RTAs perform on-site inspections of subcontractors as required by 130 CMR 407.405: Providers Eligibility: In State requires that the "Division [MassHealth] accepts and approves applications from providers that qualify and meet given regulations or licensure requirements as are adopted by the Massachusetts Department of Public Health, the Division, or the Massachusetts Registry of Motor Vehicles for one or more of the following modes of transportation: dial-a-ride, taxi, wheelchair van, ambulance, or other licensed carriers." However, there was no evidence that MassHealth had obtained information from the Massachusetts Department of Public Health or the RTAs that these providers had a current license, were recently inspected, and had no sanctions or deficiencies outstanding. Some providers disclosed only a billing address, and MassHealth was unaware of their place of business operation.

The United States Government Accountability Office (GAO) issued a report in July 2004, Medicaid Program Integrity (GAO-04-707). The report is a compilation of Medicaid program integrity efforts and provider information on (1) the types of provider fraud and abuse problems that state Medicaid programs have identified and (2) approaches states take to ensure that Medicaid funds are paid appropriately. The report indicated that in general, states target their program integrity procedures to those providers that pose the greatest financial risk to their Medicaid programs. Expanded measures are applied to high-risk providers that include on-site inspections, background checks, requirements to obtain surety bonds that protect the state against certain financial losses, and time-limited enrollment. Twenty-nine of the 47 states in the report conduct on-site inspections for providers considered at high

risk for inappropriate billings before allowing them to enroll or reenroll in the Medicaid programs.

2. Background checks are not performed on transportation companies or their owners in order to detect undesirable providers and possible convicted felons. These checks may include: credit reports and Criminal Offender Record Information (CORI) checks on the companies' owners. 130 CMR 450.224 (A): Provider Contract: Exclusion and Ineligibility of Convicted Parties, requires that an applicant must disclose convictions for a criminal offense relating to Medicare, Medicaid, or Title XX Block Grants programs as follows:

The Division may terminate, or refuse to enter into or to renew a provider contract if the provider, any party in interest in such provider, an agent or managing employee of such provider, or in the case of a group practice, any individual practitioner enrolled as a member of the group, has been convicted of a criminal offense relating to that person's involvement in any program established under Title XVIII, XIX, or XXI of the Social Security Act, or of a crime of such a nature that, in the judgment of the Division, the participation of such provider will compromise the integrity of MassHealth.

The GAO report referenced above indicates that 13 states conduct criminal background checks for certain high-risk providers rather than relying solely on applicants' self-disclosures. These background checks entail verifying with law enforcement agencies the information given in provider enrollment applications regarding criminal records. As a result, possible undesirable and unqualified individuals could be prevented from managing FFS transportation providers.

3. FFS transportation providers are not required to identify their drivers to MassHealth, therefore, MassHealth does not (and cannot) verify that drivers are licensed, review operators' driving records, or check drivers' criminal records. As a result, the MassHealth members being transported could be placed at serious personal risk. Good business practices require that criminal background checks and a review of driving records be completed in order to ensure the safety of MassHealth members.
4. Existing providers do not undergo a periodic re-credentialing process. The verification of credentials is intended to determine any change in licensure, certification, qualifications, ownership, or other data that may affect participation in MassHealth. Without this control, MassHealth is unable to provide the assurance that current providers are in compliance with federal and state laws, rules and regulations.

The OSA audit report on Certain Activities of the Medicaid Program Administered by MassHealth, (No. 2004-1374-3S), issued October 13, 2005, reported that the re-credentialing process was suspended after fiscal year 2001 due to budget constraints. We reported that this increased the risk that unqualified and undesirable providers could participate in the Medicaid program. Further, we reported that according to the Centers for Medicare and Medicaid Services' (CMS) Medicaid Alliance for Program Safeguards, provider enrollment is a "critical part of ensuring fiscal integrity," and "states may limit their susceptibility to fraudulent and/or abusive

providers by disenrolling inactive providers and performing periodic re-enrollment.”⁴ In response to our prior audit report and the Program Integrity Gap Analysis Report, MassHealth began recredentialing its providers on July 1, 2006.

The Program Integrity Gap Analysis report indicated how important the re-credentialing process is with regards to minimizing the risk from fraudulent providers as follows:

The current MassHealth practice of waiting for a provider to self-report material changes in status, or for another regulating entity to take disciplinary action, places MassHealth in a passive and vulnerable position with respect to providers who engage in fraudulent or abusive practices.

To minimize the risk from fraudulent providers in the interim (prior to the resumption of re-enrollment), we recommend that MassHealth identify a set of high-risk providers for immediate and comprehensive review.

MassHealth has stated that it places extensive reliance on OEMS to oversee the operations of emergency vehicles, and RTAs to oversee non-emergency transportation providers that subcontract with RTAs.

As stated above, MassHealth contracts with the Commonwealth’s RTAs to provide transportation for MassHealth members. The MassHealth requirements imposed on the RTAs and their subcontractors are more stringent than the requirements MassHealth imposes on its FFS providers. The contract requires the RTAs to (1) ensure that members are transported in safe vehicles, (2) conduct a minimum of two inspections annually to monitor the drivers’ performance and inspect the conditions of the vehicle and equipment, (3) conduct a CORI check on the drivers and the drivers should furnish written references, (4) have drivers successfully complete the required in-service training program, (5) have drivers no younger than 19 years of age with a valid drivers license and three years driving experience, including driving multi-passenger vehicles, and (6) have on file for drivers any Registry of Motor Vehicles report of any moving violations that would be updated annually. The MassHealth contract with the RTAs states, in part, as follows:

Section II, A [RTAs] Responsibilities:

The RTA shall arrange for and ensure that Members are transported in a safe vehicle appropriate for the medical needs of Members.

Section III, RTA’s Transportation Provider (subcontractor) Responsibilities:

⁴ *Review of State Medicaid Program Integrity Procedures, National Report, Fiscal Year 2003*, Medicaid Alliance for Program Safeguards, Centers for Medicare and Medicaid Services, page 3.

B. Management Performance

Conduct a minimum of two (2) inspections annually that drivers are not aware of in advance. The inspection is to monitor the driver's performance and the condition of the vehicle and equipment. Inspections must be conducted by supervisory staff at regularly scheduled member drop off or pick up times and a report on the results of each such inspection is to be forwarded to the [RTA]. In cases where complaints or disputes arise, additional inspections may be required by the [RTA] to be held at the member's residence or at any point along the route.

F. Personal Prerequisites:

2. Assure that drivers and monitors (where applicable), prior to any contract with Agency consumers, furnish written references and undergo a Criminal Offender Record Information (CORI) check and results verified. The reference and CORI must remain on file at the Transportation Provider's place of business and the CORI must be conducted annually thereafter.
3. Assure that all drivers and monitors (where applicable) have successfully completed the required in-service training program prior to their transporting any State Agency consumers. The RTA reserves the right to request documentation of training conducted. The training shall include, at a minimum, the following, and must be conducted annually thereafter:
 - a. Defensive driving & reacting to skids (drivers only)
 - b. Vehicle stalling & brake failure (drivers only)
 - c. Accident procedures & incident reporting
 - d. Correct use of consumer appropriate
 - (1) Seat belts
 - (2) Child safety restraint devices (if applicable)
 - (3) Wheelchair lift & securement (if applicable)
 - e. Proper use of vehicle safety equipment
 - f. Emergency vehicle evacuation procedures
 - g. Standard procedures and use of two-way radios
 - h. Standard/universal precautions
 - i. Reaction to seizures
 - j. Familiarization with the Agency's contract standards, specifications & procedures
5. Assure that drivers and monitors (where applicable) are no younger than nineteen (19) years of age, have a valid Massachusetts Drivers License (or valid and transferable license from a contiguous state) appropriate to the type of vehicle they will be operating and 3 years driving experience including experience driving multi-passenger vehicles. Drivers must have on file at the Transportation Provider's place of business, a Registry of Motor Vehicles report on any moving violations, prior to any contact with Agency consumers. This report must be updated annually. The Transportation Provider must exercise discretion in determining the appropriateness of any driver whose report indicates any violation. At a minimum, any record from the Registry of Motor Vehicles that includes any of the following violations would necessitate a prohibition of contact with Agency consumers:
 - a. Driving under the influence of alcohol or drugs/driving while intoxicated.
 - b. Reckless driving/driving to endanger.
 - c. Leaving the scene of an accident
 - d. Driving without a license and/or insurance.
 - e. Driving with a suspended license.
 - f. Any record with multiple or repeated violations (other than parking)

MassHealth CMRs requires that taxi providers ensure that their vehicles provide comfort and safety, and must be clean, sanitary, vermin free and protected against motor-exhaust fumes. Also, vehicles must be registered with the RMV and meet all safety and inspection requirements.

130 CMR 407.451: Taxi (A) Vehicle standards states in part as follows:

(1) Every vehicle used by taxi providers must be maintained in such a manner as to ensure the safety and comfort of the passengers being transported. Such vehicles must be clean, sanitary, vermin-free, and protected against motor-exhaust fumes. The vehicle must carry no more than the number of passengers for which it was designed, in accordance with local town or city licensing regulations. The provider must maintain a system of regular vehicle inspection in accordance with the rules and regulations set by the local city or town licensing authority.

(2) Every vehicle used by taxi providers must be duly registered with the Massachusetts Registry of Motor Vehicles and must meet all safety and inspection requirements of the Registry.

In cases where a taxi provider does not have a contract with an RTA, the provider must submit a completed Transportation Service Questionnaire, a copy of its license from the appropriate city or town, legal authority and a certificate of insurance. MassHealth may make an on-site review of the taxi provider and may inquire with other agencies regarding the services provided.

130 CMR 407.451 (c) Taxi Application for Participation states, in part, as follows:

(1) Except in areas of the state where a selective contract with a transportation broker is in effect, every taxi company requesting to participate in MassHealth must submit the following information to the Division for review:

(a) a completed Transportation Services Questionnaire

(b) a copy of the license issued by the appropriate legal authority in the city or town where the taxi company is located; and

(c) a copy of the company's certificate of insurance.

(2) The Division will review the information submitted, and may make an on-site review or request a meeting with a representative of the taxi company. In addition, the Division may request information from other agencies about the services provided by the taxi company. . . .

(3) In areas of the state where a selective contract with a transportation broker is in effect, the transportation broker selects taxi companies as their subcontractors in accordance with the requirements of the contract. All such subcontracts are subject to the Division's approval.

Taxi drivers providing transportation services for MassHealth must possess a valid Massachusetts drivers license and the taxi provider must determine that each driver is fit, proper, and fully instructed regarding Massachusetts motor vehicle laws. 130 CMR 407: 451 Taxi (B) Personnel Qualifications states, in part, as follows:

(1) Every taxi driver providing transportation services under MassHealth must possess a valid Massachusetts driver's license

(2) Every taxi provider must ascertain that each operator employed in the operation of the vehicle is fit and proper to operate the vehicle and is fully instructed about the motor-vehicle laws of Massachusetts.

An adequate system of internal controls would require that guidelines are established to ensure that all transportation providers meet the same standards and adequate monitoring and oversight is provided.

Recommendation

Based on the results of our audit, we recommend that MassHealth strengthen the oversight of enrollment and re-credentialing controls to ensure that providers are in compliance with all applicable laws, rules and regulations to help ensure the integrity of the program and the safety of MassHealth members, and include:

1. During the credentialing process:
 - a. Conduct on-site inspections of the applicant's facility, vehicles and equipment for compliance with contractual obligations and federal and state regulations, or obtain the most recent inspection and licensing information for those providers regulated by OEMS or having a contract with an RTA.
 - b. Require that officers, directors, partners or trustees of the applicant provide evidence of a CORI check (obtain CORI information from OEMS or RTAs where applicable).
 - c. Cross reference officers, directors, partners or trustees of the applicant with the Secretary of State records to ensure compliance with the ownership disclosure requirements of the regulations.
 - d. For providers that are regulated by OEMS, obtain and review information such as the provider having a current DPH license, having been recently inspected, or having had no sanctions or deficiencies outstanding. Documentation of this information should be included in the provider file.
 - e. For taxi providers covered under MassHealth 130 CMR 407.451, ensure that vehicles provide comfort and safety, are clean and sanitary, vermin free, protected against motor vehicle exhaust fumes, and that vehicles meet all RMV safety and inspection requirements. Documentation of this information should be included in the provider file.
2. Conduct periodic audits of the FFS transportation provider files to determine continued compliance with applicable federal and state regulations and notify those with incomplete or outdated information in their files that they are in "breach of contract" and subject to termination unless they update their files.

3. For providers that are not regulated by OEMS or RTAs, adopt the following enrollment controls for drivers of FFS transportation providers:
 - a. Conduct a minimum of two unannounced inspections annually to monitor the driver's performance and the condition of the vehicle and equipment.
 - b. Ensure that drivers, prior to any contact with MassHealth members, furnish written references and undergo a Criminal Offender Record Information (CORI) check annually.
 - c. Ensure that all drivers have successfully completed the required in-service training program prior to their transporting any MassHealth members. The training includes, among other things, defensive driving and reacting to skids.
 - d. Ensure that drivers have three years driving experience, including experience driving multi-passenger vehicles, and have on file a current Registry of Motor Vehicles report on any moving violations.
 - e. For taxi providers covered under 130 CMR 407, ensure that taxi drivers possess a valid Massachusetts driver's license, and the taxi provider must determine that each driver is fit, proper and fully instructed regarding Massachusetts motor vehicle laws. This requirement should apply to all transportation providers.
4. While we acknowledge that MassHealth has begun a process which will result in the recredentialing of all providers, it is a three year activity, therefore we concur with the June 30, 2005 EOHHS-contracted analysis by Thomson Medstat that recommended that *"MassHealth identify a set of high risk providers for immediate and comprehensive review"*, and we further recommend that transportation providers be included in the set of high risk providers.

Auditee's Response

MassHealth, in its response, indicated that it has devoted significant resources to improving and updating its current process of provider enrollment credentialing and re-credentialing activities.

For example:

- Transportation provider enrollment is designed to ensure that transportation provider applicants meet the qualifications to provide services to MassHealth members. Those activities include an in-depth provider application process requiring extensive disclosure and documentation on ownership, licensing, criminal convictions, finances, taxes, vehicle registration and insurance. The application package is screened and verified independently by our contractors, who are nationally recognized leaders in credentialing activities. Once the contractors have screened and verified the applicant information, HST reviews the information, and documents are prepared for a final quality verification and data entry, followed by a supervisory review. Provider disclosures and documentation are reviewed by professional staff, who validate the material using independent sources.

- In 2005, EOHHS through Thomson Medstat conducted an internal study of its program integrity efforts and on June 30, 2005 identified a need for EOHHS agencies to improve the monitoring of changes in provider status. We shared that study and its conclusion with your office. In addition, the State Auditor was at that time conducting a similar audit and issued its report No. 2004-374-3S in October, 2005. One of the recommendations common to both reports was that MassHealth should periodically re-credential providers to “ensure that providers have appropriate credentials, thereby protecting the integrity of MassHealth and the wellbeing of its members.” On July 1, 2006, in accordance with the plan, MassHealth began the process of regularly re-credentialing all providers.

MassHealth’s response also noted the following:

- Although 60% of transportation services are provided by FFS providers, only 21% is provided outside the oversight of OEMS and RTAs.
- Some of OSA’s statements regarding MassHealth’s policies and procedures do not allege a violation of regulations, but are viewed as inadequate or less than optimal.
- MassHealth has implemented improvements in its enrollment and credentialing process prior to the release of this report.
- All MassHealth providers are requested to report changes in information status, and MassHealth specifies the information required to be updated.
- EOHHS intends to improve its file maintenance in order to readily document that MassHealth has all requisite information.
- Some provider information was found by MassHealth subsequent to the audit.
- Some providers that were subjects of this report will be terminated, and others have been found to have gone out of business or are no longer participating as a provider.
- In some cases documents are on file that may disclose information other than those specified in the enrollment process.
- Several provider files have been updated.
- Some of the OSA’s recommendations have been implemented.
- MassHealth stated that events to trigger federal regulations (42 CFR 455.102 and 42 CFR 455.104) regarding the provider submissions of updated ownership information have not occurred.

Auditor's Reply

Our recommendations are based not solely on compliance with regulations at the time of enrollment, but on policies and procedures which recognize changes in circumstances within private entities, and strengthens oversight by monitoring credentials and activities of transportation providers on an ongoing basis. We assert that, even if MassHealth in some cases was in compliance with minimum regulatory standards, that alone will not ensure the well being of Medicaid members, nor is it an effective policy for the prevention of provider fraud and abuse. As a result of our audit, MassHealth has implemented certain of our recommendations, improved the enrollment and credentialing process, updated files, and terminated selected providers. We reaffirm our recommendations and encourage MassHealth to continue with their implementation.