



# The Commonwealth of Massachusetts

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INDEPENDENT STATE AUDITOR'S REPORT ON CERTAIN  
ACTIVITIES OF THE  
MASSACHUSETTS REHABILITATION COMMISSION  
HEAD INJURY TREATMENT SERVICES  
TRUST FUND  
JULY 1, 2005 TO MARCH 31, 2007

OFFICIAL AUDIT  
REPORT  
FEBRUARY 10, 2009

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**INTRODUCTION****1**

In 1985, the state's Massachusetts Rehabilitation Commission (MRC) created the Statewide Head Injury Program (SHIP) for persons who sustained traumatic brain injury (TBI). SHIP identifies, cultivates, and develops resources and services for Massachusetts residents who have sustained an externally caused TBI. According to data maintained by SHIP, each year approximately 28,000 residents of the Commonwealth sustain a brain injury, of whom approximately 2,000 are school-age children. SHIP administers publicly funded services for people with TBI and is responsible for the provision of community-based services, including head injury centers; assistive technology; respite services; family assistance programs; and technical assistance for public and private entities and programs that support individuals with brain injury, their families, and the community in which they live. During fiscal years 2006 and 2007, SHIP provided services to 974 and 1,208 consumers, respectively.

The Head Injury Treatment Services Trust Fund (Trust Fund) was originally created and funded by Chapter 138, Sections 286 and 287, of the Acts of 1991, and permanently established by Chapter 110, Sections 61, of the Acts of 1993. The Trust Fund was created to provide the MRC and SHIP with revenues, in addition to their annual state appropriations, to fund programs for individuals with externally caused traumatic brain injury. Currently, the Trust Fund is funded by a \$50 surcharge for motor vehicle speeding violations and a \$250 assessment for convictions of operating under the influence, with 50% of these fines credited to the Trust Fund and 50% remitted to the state's General Fund. In fiscal years 2006 and 2007, these surcharges and assessments resulted in Trust Fund deposits of over \$7 million dollars annually, whereas Trust Fund expenditures averaged approximately \$5.8 million annually. In addition to the Trust Fund expenditures, expenses for SHIP services from state appropriations totaled \$7,948,226 in fiscal year 2006 and \$5,967,050 for the period July 1, 2006 through March 31, 2007.

The scope of our audit included a review of certain aspects of SHIP's administration of the Trust Fund during the period July 1, 2005 through March 31, 2007. We conducted our audit in accordance with Generally Accepted Government Auditing Standards for performance audits. Our specific objectives included a determination of:

- Whether SHIP has implemented internal controls to ensure that Trust Fund revenues are being used for their intended purposes.
- Whether SHIP has established and implemented appropriate procedures to ensure that program services are provided only to eligible consumers.
- SHIP's compliance with state regulations relative to the procurement of goods and services and the maintenance of contract files.
- The extent to which SHIP is monitoring its contracted service providers to ensure that program services are being provided in a manner that is consistent with the program's contracts with these providers.

Our audit identified the following issues: (1) the composition of SHIP's Massachusetts Acquired Brain Injury Advisory Board (MABIAB) is in conflict with MRC regulations, and certain activities of three board members may not be consistent with MABIAB's bylaws; (2) SHIP is not fully complying with state regulations regarding the maintenance of its procurements records; (3) consumers are not being required to contribute to the cost of their SHIP-funded services as required by state regulations; and (4) SHIP is not adequately documenting that it has received all of the required approvals for authorizing services prior to providing services to consumers.

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### **1. THE COMPOSITION OF THE MABIAB IS IN CONFLICT WITH MRC REGULATIONS, AND CERTAIN ACTIVITIES OF THREE BOARD MEMBERS MAY NOT BE CONSISTENT WITH MABIAB BYLAWS**

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The MRC has established the MABIAB, whose purpose is to propose relevant legislation, promote public awareness of brain injury, and advocate for persons who have sustained or are at high risk of incurring a traumatic brain injury. We found, however, that during the period covered by our audit the composition of the MABIAB was not consistent with MRC regulations. Specifically, the MABIAB established bylaws that expanded the composition of its board to include "healthcare professionals" and "other related advocates," which are groups not specified in the MRC's regulations describing who may serve on the MABIAB. Further, according to the MABIAB's bylaws, a board member shall not have input into any board matter that would provide direct or indirect compensation to that member or his/her organizational affiliations. However, we found that during the period covered by our audit, three members of the MABIAB were also the President, Executive Director, and Program Coordinator of a SHIP contractor that received in excess of \$1,120,000 from SHIP during fiscal year 2007.

### **2. IMPROVEMENTS NEEDED IN SHIP'S INTERNAL CONTROLS OVER THE MAINTENANCE OF PROCUREMENT RECORDS**

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We found that the controls SHIP has established over the maintenance of its procurement files needs improvement. Specifically, we found that SHIP does not have any formal written policies or procedures that document the process used for properly maintaining these files. Moreover, we noted instances in which SHIP's contract files did not contain all the documentation required by state regulations that are essential to the proper administration of contracts. Specifically, we reviewed 17 of SHIP's procurement files for contracts that were in effect during the period July 1, 2005 to March 31, 2007 and noted the following problems: two vendor files were missing original contracts for procurements totaling over \$4 million; four vendor files were missing a total of five contract amendments; and one vendor file contained three contract amendments that were not signed by any SHIP official.

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According to MRC regulations, SHIP consumers are required to contribute to the cost of the services they receive from SHIP. Moreover, these regulations state that the amount of each consumer's contribution is to be based on a formal financial participation determination made by SHIP Program staff on an annual basis. We found, however, that SHIP does not conduct formal financial participation determinations as required by state regulations. In fact, SHIP does not require any of its non-residential consumers, who numbered 1,082 in fiscal year 2007, to contribute to the cost of their services. Moreover, SHIP's residential consumers, who numbered 126 in fiscal year 2007, are required to pay only a fixed amount of \$300 per month, regardless of their financial situation. By not conducting an accurate financial participation determination on all of its consumers in accordance with MRC regulations, SHIP may be foregoing the opportunity to collect additional revenue that could be used for such purposes as offsetting the Commonwealth's cost to provide these services or funding additional program services.

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SHIP's established policies and procedures for documenting an individual's eligibility for program services require that Certificate of Eligibility forms be completed that contain approvals (signatures) from each consumer's case coordinator, neuropsychologist, and program supervisor. We found, however, that SHIP does not always ensure that it obtains these signatures of approval prior to providing services. Specifically, we reviewed the files of 51 of the 1,008 consumers who were receiving program services during fiscal years 2006 and 2007 and found that 35 (69%) lacked Certifications of Eligibility containing all of the required authorizations. In fact, the majority of the files we reviewed only had signatures of approval from the consumer's neuropsychologist. Without proper documentation and approvals, there is inadequate assurance that all consumers receiving benefits meet established eligibility criteria.

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## INTRODUCTION

### *Background*

In 1985, the state's Massachusetts Rehabilitation Commission (MRC) created the Statewide Head Injury Program (SHIP) for persons who sustained traumatic brain injury (TBI). TBI occurs when the brain is damaged by a force from outside the body such that brain function is disrupted. SHIP identifies, cultivates, and develops resources and services for Massachusetts residents who have sustained an externally caused TBI. According to data maintained by SHIP, each year approximately 28,000 residents of the Commonwealth sustain a brain injury, of whom approximately 2,000 are school-age children. SHIP administers publicly funded services for people with TBI and is responsible for the provision of community-based services that support individuals with brain injury, their families, and the community in which they live. During the period covered by our audit, SHIP was providing 11 types of services to consumers, as detailed in the Appendix of this report. Further, SHIP has created a network of community-based services and supports that assist individuals in maintaining or increasing their level of independence at home, work, and in their communities. During fiscal years 2006 and 2007, SHIP provided services to 974 and 1,208 consumers, respectively.

SHIP has an advisory board, the Massachusetts Acquired Brain Injury Advisory Board (MABIAB), formerly known as the SHIP Advisory Council. During the period covered by our audit, the MABIAB consisted of 24 individuals, including individuals with brain injury, family members of individuals with brain injury, state agency representatives, and professionals involved in brain injury prevention and services. The mission of the MABIAB is to promote development, coordination, and access to quality services for individuals with brain injury and their families. The MABIAB also makes recommendations regarding public policy and funding prioritization for brain injury.

Since its creation in 1985, SHIP has been funded by annual appropriations. During fiscal years 2006 and 2007, SHIP received \$8,093,237 and \$9,046,110 in state appropriations, respectively. In addition, Chapter 138, Section 286, of the Acts of 1991 established the Head Injury Treatment Services Trust Fund (Trust Fund). Section 61 of Chapter 110 of the Acts of 1993 codified and made permanent the creation of the Trust Fund by adding Section 59 to Chapter 10 of the Massachusetts General Laws. The Trust Fund is funded by several sources. First, Section 287 of Chapter 138 created a surcharge credited to the Trust Fund of \$100 on any fines assessed against a

defendant convicted by a court of the Commonwealth for operating a motor vehicle while under the influence (OUI) of drugs or alcohol. In 2003, the assessment for OUI was increased to \$250 (Chapter 26, Section 228, of the Acts of 2003) and a speeding surcharge was set at \$50 (Chapter 26, Section 226, of the Acts of 2003), with both charges to be divided equally between the Trust Fund and the state's General Fund. The purpose of Trust Fund revenue is to supplement the annual appropriations for SHIP.

The financial activity for the Trust Fund for the period under review, July 1, 2005 to March 31, 2007, is summarized below:

**TRUST FUND ACTIVITY**  
**Fiscal Years 2006 and 2007 (through March 31, 2007)**

	Fiscal Year 2006	Fiscal Year 2007
Beginning Balance	<u>\$7,729,483</u>	<u>\$8,813,220</u>
Revenues:		
Speeding Fines	\$5,897,557	\$3,416,828
OUI Assessments	1,772,486	1,234,348
Interest	214,799	439,116
Expenses	<u>6,751,105</u>	<u>4,958,354</u>
Ending Balance	<u>\$8,813,220</u>	<u>\$8,945,158</u>

In addition to the Trust Fund activity, expenditures for SHIP services from state appropriations totaled \$7,948,226 in fiscal year 2006 and \$5,967,050 for the period July 1, 2006 through March 31, 2007.

On May 17, 2007, a class action complaint (Civil Action No. 07-CV-30084-MAP) was filed in federal district court by the Brain Injury Association of Massachusetts (BIAM), the Stavros Center for Independent Living Inc., and four individuals who are guardians of individuals with brain injuries against the Governor of Massachusetts, the state's Secretary of the Executive Office of Health and Human Services, the state's Secretary of the Executive Office of Administration and Finance, the Acting Director of MassHealth, and the Commissioner of the MRC. The complaint claimed that individuals with acquired brain injury (ABI), including traumatic brain injury, are unnecessarily institutionalized because they are denied equal access to community and residential service programs such as the programs offered by SHIP. More specifically, the complaint asserted that those with ABI are unnecessarily institutionalized in nursing or rehabilitative facilities rather than being allowed to live in and receive services in residential settings. The complaint claimed denial of access to these programs is in violation of the Americans with Disabilities Act and Medicaid laws.

In June 2008, the parties involved in the complaint agreed to settle the case, and the court approved the settlement in September 2008. The settlement proposed programs that will provide transitional services and placement in the community for institutionalized brain-injured patients. The first program, called the ABI waiver, will redirect spending of Medicaid funds from institutional settings to residential and community living arrangements and supports. The ABI waiver program is expected to help up to 300 individuals move from nursing homes and rehabilitative facilities to residential settings. The settlement also provides that the MRC shall be responsible for implementing and operating the ABI waiver. The second program, called the Community First Demonstration Project (CFDP) program is a Medicaid program designed to prevent or delay admission to or facilitate discharge from nursing facilities for adults with disabilities including those with ABI. The CFDP will also include an education and outreach program for persons with ABI who are in nursing or rehabilitative facilities. The CFDP is expected to help 200 consumers per year transition to community settings from nursing or rehabilitative facilities. Because both the demonstration project and waiver program require the expenditure of Medicaid funds, each must be approved by the federal government.

#### ***Audit Scope, Objectives, and Methodology***

The scope of our audit included a review of certain aspects of SHIP's administration of the Trust Fund during the period July 1, 2005 through March 31, 2007. We conducted our audit in accordance with Generally Accepted Government Auditing Standards for performance audits. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence that provides 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 upon our audit objectives.

Our specific objectives included a determination of:

- Whether SHIP has implemented adequate internal controls over its operations to ensure that Trust Fund revenues are being used for their intended purposes.
- Whether SHIP has established and implemented appropriate procedures to ensure that program services are provided only to eligible consumers.
- SHIP's compliance with state regulations relative to the procurement of goods and services and the maintenance of contract files.

- The extent to which the SHIP program is monitoring its contracted service providers to ensure that program services are being provided in a manner that is consistent with the program's contracts with these providers.

In order to achieve our objectives, we first assessed the internal controls established and implemented by SHIP over its administration of the Trust Fund. The purpose of this assessment was to obtain an understanding of management's attitude, the control environment, and the flow of transactions through the Trust Fund. We used this assessment in planning and performing our audit tests. We then held discussions with MRC and SHIP officials and reviewed organization charts and internal policies and procedures, as well as all applicable laws, rules, and regulations. We also examined a sample of contract files, consumer files, and other records to determine whether SHIP was adhering to state regulations and its own policies and procedures relative to program eligibility, the awarding of contracts, and the maintenance of contract files. Finally, we also assessed the monitoring activities established by SHIP over its contractors to determine whether SHIP was making sure that expenses being charged against its contracts by its contracted service providers were reasonable, allowable, allocable, properly authorized and recorded, and in compliance with applicable laws, rules, and regulations.

## AUDIT RESULTS

### 1. THE COMPOSITION OF THE MABIAB IS IN CONFLICT WITH MRC REGULATIONS, AND CERTAIN ACTIVITIES OF THREE BOARD MEMBERS MAY NOT BE CONSISTENT WITH MABIAB BYLAWS

The Massachusetts Rehabilitation Commission (MRC) has established the Massachusetts Acquired Brain Injury Advisory Board (MABIAB), whose purpose is to propose relevant legislation, promote public awareness of brain injury, and advocate for persons who have sustained or are at high risk of incurring a traumatic brain injury. We found, however, that during the period covered by our audit, the composition of the MABIAB was not consistent with MRC regulations. Moreover, we found that the activities of three board members do not appear to comply with the conflict-of-interest provisions of the MABIAB's bylaws, as discussed below.

As discussed in the Background section of this report, the MRC's Statewide Head Injury Program (SHIP) identifies, cultivates, and develops resources and services for Massachusetts residents who have sustained traumatic brain injury (TBI). The 107 Code of Massachusetts Regulations (CMR) 12.10, promulgated by the MRC, provides for the creation of a SHIP Advisory Council (currently referred to as the MABIAB) by stating the following:

*(1) A SHIP advisory council composed of consumers, family members, and agency representatives shall be appointed by the Commissioner of Rehabilitation to advise the Commissioner and SHIP on program administration, development, and service delivery.*

On March 11, 1998, the MABIAB adopted bylaws that expanded the composition of its board to include "healthcare professionals" and "other related advocates" not specified in 107 CMR 12.10. As a result, these bylaws are not in accordance with MRC regulations relative to the types of individuals who can serve on the MABIAB. The MABIAB's current composition consists of 24 members: eight survivors of TBI, seven family members of TBI survivors, five members from state agencies, and four members from the healthcare profession.

Regarding this matter, the Director of SHIP stated that she believes that healthcare professionals provide insight into the needs of SHIP consumers that is not provided by other MABIAB members and that therefore they are important to have on the MABIAB. Nevertheless, the composition of the MABIAB is established by regulation, and the MABIAB cannot modify its composition without proper regulatory authorization.

Our audit also found that the MABIAB's bylaws place the following restrictions on its board members' activities:

*A Board Member shall not have input into any Board matter that would provide direct or indirect compensation to that member or his/her organizational affiliations. An affiliation exists when a member, or close relative, is an officer, director, trustee, partner or employee, who owns shares or controlling interest, or has any other substantial financial benefit.*

However, we determined that, contrary to these restrictions, three of the four healthcare professionals on the MABIAB (the President, Executive Director, and Program Coordinator) are employees of the Brain Injury Association of Massachusetts (BIAM), a service provider to SHIP that received in excess of \$1,120,000 from SHIP during fiscal year 2007. Further, as noted in the Background section of this report, BIAM joined, as a plaintiff, with four individuals with brain injury in a class action complaint against the Governor of Massachusetts, the Secretary of the Executive Office of Health and Human Services, the Secretary of the Executive Office for Administration and Finance, the Acting Director of MassHealth, and the Commissioner of the MRC. Accordingly, we believe that these three members, who have input on distribution of funding and service delivery from SHIP and are also executives of a vendor that does business with SHIP, are not in compliance with the conflict-of-interest provisions of the MABIAB's bylaws.

### ***Recommendation***

The MRC and SHIP should determine whether they want to expand the composition of the MABIAB to include other groups not specifically stated in its regulations and, if so, amend its regulations accordingly. Moreover, SHIP should take measures to ensure sure that all MABIAB members can perform their responsibilities in an independent manner and that no potential conflicts of interest exist whereby board members can set policy and participate in decisions regarding service delivery and distribution of funds.

### ***Auditee's Response***

In response to this audit result, MRC officials provided the following comments:

*While MRC does not believe the SHIP regulations preclude participation on the MABIAB of persons who represent professions and organizations whose expertise and opinions are valuable to the Brain Injury community, it is currently in the process of amending its SHIP regulations and will address this audit's finding through that process. A review of*

*membership indicates that only one current member of the MABIAB is not a consumer, family member or agency representative.*

*As to the second issue identified, concerning certain activities of three Board members possibly being inconsistent with the Boards bylaws, the bylaws do provide for refusal of member participation in situations where a financial interest may exist. A review of Board minutes over the past 2 years indicates that no actions were taken by the MABIAB that raised such issues.*

### **Auditor's Reply**

As noted above, on March 11, 1998, the MABIAB adopted bylaws that expanded the composition of its board to include “healthcare professionals” and “other related advocates” not specified in 107 CMR 12.10. As a result, these bylaws are not in accordance with MRC regulations relative to the types of individuals who can serve on the MABIAB. However, based on its response, the MRC and SHIP are taking measures to address our concerns relative to the composition of the MABIAB. Further, although the MABIAB’s bylaws may provide for board members to refuse to participate in board activities in which they may have a financial interest, SHIP may want to take additional measures, such as the adoption of a formal comprehensive conflict-of-interest policy, to ensure sure that all MABIAB members can perform their responsibilities in an independent manner and that no potential conflicts of interest exist whereby board members can set policy and participate in decisions regarding service delivery and the distribution of funds.

## **2. IMPROVEMENTS NEEDED IN SHIP’S INTERNAL CONTROLS OVER THE MAINTENANCE OF PROCUREMENT RECORDS**

We found that the controls SHIP has established over the maintenance of its procurement files needs improvement. Specifically, we found that SHIP does not have any formal written policies or procedures that document the process used for properly maintaining these files. Moreover, we noted instances in which SHIP’s contract files did not contain all the documentation required by state regulations that are essential to the proper administration of contracts.

The 815 CMR 21.06, promulgated by the state’s Executive Office for Administration and Finance, gives the following guidance for procurement file maintenance to state agencies and programs such as SHIP:

*A Procuring Department shall maintain a paper or electronic Procurement file for each Procurement of Commodities or Services, or both. The file shall contain the original, copies or the file location of the RFR and data or other information relevant to the*

*Procurement and selection of a Contractor, the executed Contract form(s), correspondence with the Contractor and any applicable approvals or justifications.*

Further, 815 CMR 10.03, promulgated by the Office of the State Comptroller, states, in part:

*Departments shall maintain the Record Copy of the following documents in accordance with 815 CMR 10.00 and any policies and procedures issued by the Office of the Comptroller: (a) all Bills and Vouchers on which money has been paid or will be paid from the Treasury upon the certificate of the Comptroller or warrant of the Governor; and (b) all Contracts under which money may be payable from the Treasury.*

Finally, 815 CMR 10.02 states that the “record copy” must be maintained in accordance with the disposal schedules issued by the Records Conservation Board, which for contracts and related documents is a minimum of six years after the contract’s expiration date or final payment.

During our audit, we noted that SHIP had not established any formal written policies or procedures or guidelines in this area for program staff to follow. Consequently, we judgmentally selected 17 of SHIP procurement files for contracts that were in effect during the period July 1, 2005 to March 31, 2007. These 17 files represented approximately 10% of the contractors utilized by SHIP during our audit period. Our review of these files revealed the following issues:

- Two vendor files were missing original contracts for procurements totaling over \$4 million.
- Four vendor files were missing a total of five contract amendments.
- One vendor file contained three contract amendments that were not signed by any SHIP official.

Regarding this matter, SHIP’s Director of Contracts stated that some of the requested documents were missing because several contract files had been sent to the Massachusetts Archives facility prematurely and that, when he attempted to retrieve these files, he was informed by Massachusetts Archives personnel that they had been destroyed.

The failure to maintain complete procurement files may limit an agency’s ability to properly administer contracts, which could result in various contractually related errors such as incorrect compensation amounts or payments for service type or levels not agreed to in the contracts. Further, the lack of record copies of contracts and other documents could present problems if disputes arise over contractual items and performance issues.

***Recommendation***

In order to address our concerns relative to this matter, we recommend that SHIP develop formal written policies and procedures relative to the maintenance of its procurement files and provide training to the appropriate staff in this area.

***Auditee's Response***

In response to this audit result, MRC officials provided the following comments:

*Policies or procedures are being developed. A reference handbook is being established that includes the process to properly maintain files.*

*A contract file document checklist has been established to ensure that required documents are included in contract files.*

**3. NONCOMPLIANCE WITH CONSUMER CONTRIBUTION REQUIREMENTS FOR SHIP-PROVIDED SERVICES**

According to MRC regulations, SHIP consumers are required to contribute to the cost of the services they receive from SHIP. Moreover, these regulations state that the amount of each consumer's contribution is to be based on a formal financial participation determination made by SHIP staff on an annual basis. We found, however, that SHIP does not conduct formal financial participation determinations as required by state regulations. In fact, SHIP does not require any of its non-residential consumers, who numbered 1,082 in fiscal year 2007, to contribute to the cost of their services. Moreover, SHIP's residential consumers, who numbered 126 in fiscal year 2007, are required to pay only a fixed amount of \$300 per month, regardless of their financial situation. By not conducting an accurate financial participation determination on all of its consumers in accordance with MRC regulations, SHIP may be foregoing the opportunity to collect additional revenue that could be used for such purposes as offsetting the Commonwealth's costs to provide these services or funding additional program services.

The MRC has promulgated regulations 107 CMR 12.00, which establish the process the SHIP program is to use to determine both a consumer's eligibility for program services and the amount he or she will have to pay to receive these services. With regard to the amount that SHIP consumers are obligated to pay for their services, 107 CMR 12.05 states, in part:

*Every SHIP consumer shall contribute to the cost of their SHIP funded services. All Financial resources must be disclosed through the SHIP financial needs assessment including all public benefits; available insurance; workers compensation; legal settlements; trust funds; and entitlements. SHIP may request verification of financial information, including but not limited to, income tax returns, wage verification and/or other financial documentation from consumer and/or their family. Each applicant must complete SHIP's financial needs assessment form. Each individual's contribution shall be assessed annually.*

Our review of the consumer files maintained by SHIP revealed that, prior to fiscal year 2001, consumers were required to annually complete a financial needs assessment form and contribute to the cost of the services they received based on a sliding fee scale, as required by MRC regulations. However, through our review of correspondence files and discussions with the SHIP Program Director, we determined that SHIP Program staff decided in fiscal year 2001 to deviate from the requirements of 107 CMR 12.05 and allow non-residential consumers (1,082 in fiscal year 2007), not to contribute to the cost of services and residential consumers (126 in fiscal year 2007) to pay a fixed amount of \$300 per month for room and board regardless of their income.

Regarding this matter, SHIP's Program Director suggested that any loss resulting from the lack of an annual financial assessment on consumers was minimal. However, clearly SHIP has an obligation to comply with state regulations and accurately determine, on an annual basis, what amounts consumers in the program should be contributing to the costs of their services. Such determinations would ensure that consumers are contributing a fair but not excessive amount for their services, offset the Commonwealth's costs to provide such services, and any increase revenues that could be used to enhance program services.

***Recommendation***

SHIP should comply with the requirements of 107 CMR 12.00 by requiring all consumers applying for program services to complete a financial assessment needs form on an annual basis and to contribute to the cost of their services as determined by these assessments. If SHIP administrators believe that the requirement for conducting a financial needs assessment of each consumer applying for program services is not necessary, it should request that MRC amend its regulations, accordingly.

***Auditee's Response***

In response to this audit result, MRC officials provided the following comments:

*The MRC will ensure that each SHIP consumer completes a SHIP financial need assessment.*

**4. NONCOMPLIANCE WITH POLICIES AND PROCEDURES FOR DETERMINING CONSUMER ELIGIBILITY**

SHIP's established policies and procedures for documenting an individual's eligibility for program services require that Certificate of Eligibility forms be completed containing approvals (signatures) from each consumer's case coordinator, neuropsychologist, and program supervisor. We found, however, that SHIP does not always ensure that it obtains these signatures of approval prior to providing services. Specifically, 35 (69%) of 51 consumer files tested did not contain all of the required authorizations. As a result, there is inadequate documentation to substantiate that consumers receiving benefits met all of SHIP's program eligibility requirements.

The MRC has established in 107 CMR 12.03 the eligibility determination process for receiving SHIP services, as follows:

*(2) The eligibility determination process begins with the submission of an application form signed by the individual applying for services or their court-appointed guardian. A copy of any applicable Massachusetts guardianship order must be included as well as copies of any authorizations allowing persons other than the individual to act on their behalf such as conservatorship, power of attorney, and representative payee.*

*(3) SHIP requires that documents proving the individual's residency in the Commonwealth and a completed financial needs assessment form be submitted as prerequisites to the eligibility determination process.*

*(4) From the information obtained from the completed application, SHIP shall collect the medical and related records necessary for an eligibility determination.*

*(5) The documentation that is required by SHIP shall be hospital or medical records that specifically document the occurrence of a traumatic brain injury and/or treatment of a head injury at the time the traumatic brain injury was to have occurred. In the event that these records have been destroyed or the hospital has no record of the applicant being seen or the applicant does not remember when and where they were treated....*

Further, SHIP has established policies and procedures regarding the review and approval of eligibility determinations before services are to be provided to those with traumatic brain injury.

These policies and procedures require that before consumers can be referred to a service

provider, their eligibility determination must be “endorsed by SHIP case coordinator, neuropsychologist, and supervisor” on the consumer’s Certification of Eligibility. During our audit, we selected a judgmental sample of 51 of the 1,008 consumer files for consumers that were receiving program services during fiscal years 2006 and 2007 and found that 35 (69%) Certifications of Eligibility for these consumers did not contain all of the proper authorizations. In fact, most of the Certifications of Eligibility were approved solely by the consumer’s neuropsychologist. Without proper documentation and approvals, there is inadequate assurance that all consumers receiving benefits meet established eligibility criteria. The SHIP Program Director admitted that SHIP had become lax in not ensuring that all required sign-offs were made in the belief that the review and approval of the neuropsychologist was the most important factor in determining consumer eligibility.

***Recommendation***

SHIP management should ensure that program staff adheres to SHIP’s policies and procedures for documenting each consumer’s eligibility for program services.

***Auditee’s Response***

In response to this audit result, MRC officials provided the following comments:

*MRC agrees with this recommendation and will insure compliance with internal policies and procedures; however the Certification of Eligibility for SHIP Services was changed in July, 2007 and now only requires a sign-off by the Neuropsychologist.*

## APPENDIX

### Services Provided by SHIP

#### ***Assistive Technology***

Assists individuals in obtaining medical equipment and adaptive devices for personal use, such as reach extenders, electronic day timers, communication support devices, grab bars and shower chairs, etc. The Statewide Head Injury Program (SHIP) has helped in the creation of home and environmental modifications through the purchase of ramps and lifts as well as funding such things as door modifications and access devices. SHIP is willing to work with a consumer to locate the appropriate resources to meet his or her needs.

#### ***Community-Based Residential Services***

Services may include a local case manager assigned to address specific issues, usually for a short time, or a Community Support Worker who will work with individuals to maintain skills or get around the community. These services are available on a limited basis due to funding.

#### ***Community-Based Supports for Independent Living***

Services may include a local case manager assigned to address specific issues or a Community Support Worker who will work with individuals to maintain skills and increase independence in the community.

#### ***Head Injury Centers***

SHIP operates five community-based head-injury centers in the state to serve eligible consumers. Services are delivered for the purpose of promoting greater independence in functional living skills. These centers provide structured, supervised opportunities for training and practice in the consumer's home and community and are intended for persons who are medically and behaviorally stable and who are able to participate in community-based services. These centers do not provide rehabilitation therapies such as physical therapy or speech therapy. Most centers have a supported employment component. Each center has an affiliated evening and weekend recreation program, which is open to any individual with a head injury.

The head injury centers are staffed by teams of professionals, including a neuropsychologist. Upon admission, a comprehensive assessment is completed. Using this assessment, an Individualized Service Plan (ISP) is developed that addresses the needs identified by the consumer, the assessment, and the team. Referrals to other community resources may be made, as appropriate.

Areas that head injury centers address include independent living, cognitive remediation, behavior management, employment-related skills, socialization, health and wellness, and recreation and leisure planning. The centers also provide case management, advocacy, and family support services. Education is provided to consumers and families about case management with the expectation they will eventually take primary responsibility for this activity themselves.

### ***Respite Services***

Provides respite services to eligible consumers and family members or primary caregivers. Respite services can provide SHIP consumers or their caregivers with an opportunity for rest and relaxation or the opportunity to attend to their own personal needs. Respite services can be provided in or out of the home for limited periods of time, ranging from a few hours to one or two weeks.

### ***Family Assistance Programs***

The Family Assistance Program has been created to address the needs of the families and significant others who are living with individuals with traumatic brain injury. Family assistance is provided by clinical consultants in the home, in a clinician's office, or at a site where individuals with traumatic brain injury and their family/significant other may be receiving services.

### ***Social/Recreation Programs***

SHIP funds social/recreation programs across the state. Typical activities include: cultural events, concerts, movies, museums, sporting events, cruising and fishing trips, and beach outings.

### ***Substance Abuse Treatment***

The overall goal of these residential services is to provide individuals with a structured and comprehensive rehabilitative environment that supports their recovery from alcohol and other drug abuse and encourages movement toward an independent lifestyle. Scheduled goal-oriented rehabilitative activities are provided in conjunction with ongoing assistance for developing and

maintaining the skills necessary to lead an alcohol- and drug-free lifestyle. Linkages are established to provide primary health care and skills for recovery.

Aftercare planning is done through referral networks with supervised opportunities for drug- and alcohol-free living in group residences and independent situations, upon program completion. Additionally, aftercare planning will include linking consumers with ongoing services such as primary health care, mental health care, and case management.

### ***Technical Assistance for Public and Private Agencies and Programs***

Technical Assistance services provide training and consultation at no cost to any organization or professional currently providing services to individuals with traumatic brain injury (TBI) or interested in working with persons with TBI. Technical assistance is provided by a variety of consulting clinicians who all have experience in head injury rehabilitation. Consultants are available who specialize in neuropsychology, behavior management, substance abuse, cognitive therapy, vocational adjustment, assistive technology, sexuality issues, and other areas of specialization. A general overview of the effects of traumatic brain injury is also available. The program has provided technical assistance to a wide spectrum of service providers, such as home health agencies, independent mental health centers, elder home care agencies, vocational workshops, Department of Mental Retardation and Department of Mental Health residential and day programs, and Visiting Nurse Associations.

### ***Technical Assistance Program for Schools***

The purpose of the Technical Assistance Program for Schools is to assist school personnel in identifying and addressing the needs of students with traumatic brain injuries. Technical assistance is provided by a SHIP Special Education Consultant and/or a SHIP Consulting Neuropsychologist without cost to the school. School personnel or the parents of a child with a traumatic brain injury can request such technical assistance.

### ***The TBI Multicultural Outreach Project***

The goals of the TBI Multicultural Outreach Project are to:

- Develop and disseminate culturally competent and linguistically appropriate information to raise awareness about TBI,

- Increase the number of TBI survivors from diverse cultural and linguistic backgrounds who apply for and obtain TBI-related services and supports,
- Increase access to long-term services and supports for people with TBI and their families from diverse cultures, and
- Increase minority representation within decision-making bodies that impact people with TBI and their families.