

# The Health and Human Services Commission's Monitoring of Managed Care Contracts

## Overall Conclusion

The Health and Human Services Commission (Commission) does not adequately monitor and enforce its contracts with managed care organizations (MCO) that administer Medicaid managed care and the Children's Health Insurance Program (CHIP). The Commission did not critically assess the systems and controls used to oversee MCOs after Medicaid programs were transferred from the Department of Health to the Commission in September 2001, and it did not develop a comprehensive plan to integrate the oversight functions for Medicaid and CHIP MCOs. As a result, it has not effectively monitored or enforced key MCO contract provisions, and its contract management function lacks clear direction and focus.

Our audit identified more than \$13 million in funds due to the State that the Commission was not actively attempting to collect or recoup from MCOs (this includes \$10.2 million in CHIP experience rebates, \$1.7 million in Medicaid experience rebates, and \$1.5 million in improper audit fee payments). The following examples illustrate weaknesses in the Commission's monitoring of MCO contracts:

### Background Information

Managed care programs are considered a cost-effective way to provide quality health care services. The concept of managed care is based on (1) an MCO providing health care services to individuals for a specific payment rate per person and (2) the MCO accepting most, if not all, of the business and financial risk associated with providing health care services.

The Commission administers managed care programs through its contracts with 16 MCOs that participate in Medicaid and CHIP managed care.

MCO contracts for both Medicaid and CHIP exceeded \$1.4 billion in fiscal year 2002.

- The Commission did not ensure the timely collection of \$21.6 million in experience rebates that MCOs owed the State under statutorily and contractually required profit-sharing provisions, including \$10.2 million in experience rebates that the Commission did not collect from one CHIP MCO. Late payments of experience rebates resulted in lost interest earnings totaling \$112,186. As of June 2003, an additional \$1.7 million in Medicaid experience rebates remained uncollected. The Commission also agreed to reduce total experience rebates MCOs owed by \$4.2 million without adequately verifying the underlying data supporting those reductions or monitoring MCOs' use of the rebate funds they were permitted to retain.
- The Commission has not audited or verified key financial and performance-related data that MCOs are required to provide and that is used to negotiate rates and calculate experience rebates. Audits of Medicaid MCOs previously conducted by the Department of Health identified significant concerns such as (1) \$1.5 million in additional experience rebates that could be due to the State because of inaccurate financial reporting and (2) MCOs' failure to process claims in a timely manner. In addition, the Department of Health and the Commission paid \$1.5 million in audit fees that the MCOs were contractually obligated to pay.
- The Commission did not adequately define key processes, roles and responsibilities, and policies and procedures for monitoring and amending MCOs' contracts. Delays in



executing contract amendments have resulted in \$3.5 million in overpayments to five MCOs since October 2002 (the Commission recouped the balance of these overpayments in September 2003).

- The Commission does not verify that correct capitation rates are used to calculate payments to CHIP MCOs. This resulted in the Commission overpaying one CHIP MCO by \$3.7 million over a period of six months. (The Commission later recouped those funds.)

The issues in this report reflect the challenges that the Commission has faced in moving from an oversight and policy-setting role to direct operational responsibility for CHIP and Medicaid. The problems the Commission has experienced in transferring Medicaid programs and staff from the Department of Health should help in identifying potential high-risk areas associated with the upcoming consolidation of health and human service agency support and program functions under House Bill 2292 (78th Legislature, Regular Session).

We continue to audit the Commission's monitoring of the CHIP exclusive provider organization contract and subcontracts and plan to issue a separate report on the results of that work.

## ***Key Points***

**The Commission has not effectively managed and integrated Medicaid and CHIP staff since the transfer of Medicaid programs to the Commission.**

The Commission did not clearly define the roles and responsibilities of its health plan managers after Medicaid programs were transferred to the Commission, nor did it provide its health plan managers with updated policies and procedures to use in monitoring managed care contracts. In addition, the Commission's health plan managers spend as much as one-third of their time performing activities that could be automated or that are not directly related to contract monitoring.

**There is confusion about whether certain MCO contract amendments have been executed, and the Commission lacks an effective records management system.**

There is uncertainty about whether some MCO contract amendments were ever drafted or whether negotiated draft amendments were ever executed. In addition, the Commission has not designated an official custodian or created a central repository for its MCO contracts and other program-related documents. As a result, certain key program documents such as contracts, amendments, and program records are not readily accessible.

## ***Summary of Management's Response and Auditor's Follow-up Comment***

With one exception, the Commission generally agrees with our recommendations. The Commission's responses, which are presented in full in Appendix 2, demonstrate that Commission management has decided not to attempt to recoup the \$1.5 million in funds improperly paid to MCOs to cover the cost of prior audits discussed in Chapter 1-B. However, the contract provisions themselves indicate the Commission could recoup those

funds. Its failure to review contract language after the transfer of Medicaid programs further illustrates weaknesses in the Commission's management of its contracts.

## ***Summary of Objective, Scope, and Methodology***

The primary objective of this audit was to assess the Commission's systems and controls for monitoring managed care contracts in connection with its Business Improvement Plan (required by Rider 18, page II-53, the General Appropriations Act, 77th Legislature).

Our scope included reviewing the Commission's monitoring of Medicaid and CHIP managed care contracts. The review included examining the Commission's contract oversight and monitoring processes, as well as selective examination of the payment/reimbursement and contract amendment processes. This audit did not include a review of information technology.

The audit methodology consisted of collecting information and documentation, performing selected tests and other procedures, analyzing and evaluating the results of tests, and conducting interviews with the Commission's management and staff.

## Table of Results and Recommendations

The Commission has not ensured the timely collection of experience rebates and has reduced the amount of these rebates without proper verification and monitoring. (Page 1)

The Commission should:

- Assign appropriate staff to monitor and collect experience rebates according to the terms of MCOs' contracts.
- Amend its contracts with the MCOs to provide a mechanism for imposing financial penalties and/or collecting interest for late payment of experience rebates.
- Review legislative intent regarding experience rebates and ensure that experience rebate contract provisions align with that intent.
- Use audited information when making decisions that affect how experience rebates are calculated.
- Develop and use objective criteria to award rebate funding for PBIs that take into consideration (1) whether the PBI meets the needs of Medicaid and CHIP recipients, (2) what programs the PBI will fund, and (3) what amounts will be awarded for the PBI.
- Amend MCO contract provisions to include specific financial, performance, and reporting accountability requirements (as well as specific reporting formats) for PBIs. Alternatively, the Commission should consider developing separate contracts regarding the use of experience rebate funds for PBIs.
- Develop and use objective criteria to monitor the financial and operational performance of PBIs against contract terms.

The Commission has not obtained audits of Medicaid or CHIP MCOs. (Page 6)

The Commission should:

- Obtain audits of Medicaid and CHIP MCOs to verify the accuracy of financial reports provided by the MCOs and to ensure compliance with key contract provisions.
- Ensure that deficiencies identified in Medicaid MCO audits performed prior to September 1, 2001, are followed up on, corrected, and resolved.
- Develop and use risk-based criteria to select Medicaid and CHIP MCOs at which to conduct audits each fiscal year.
- Develop and implement a standardized process to ensure that MCOs correct audit findings and other identified deficiencies.
- Recoup from Medicaid MCOs the funds that the Department of Health and the Commission improperly paid to obtain audits.

The Commission has not effectively managed and integrated Medicaid and CHIP staff since the transfer of Medicaid programs to the Commission. (Page 8)

The Commission should:

- Develop objective policies and procedures for health plan managers to use in analyzing and monitoring MCOs' financial and operational deliverables.
- Develop and implement risk-based criteria and procedures for performing on-site inspections.
- Re-evaluate current deliverables that MCOs are required to provide to determine whether they meet the Commission's monitoring needs, and then develop a standardized template for MCOs to report data to the Commission in an electronic format that eliminates the need for staff to compile data in periodic status reports.
- Re-evaluate the activities and resources needed for adequate monitoring of managed care contracts. At a minimum, such an evaluation should consider:
  - Whether current activities could be eliminated by redesigning reporting requirements.
  - Whether special projects assigned to health plan managers properly align with the contract monitoring function and whether these assignments duplicate other policy analysis functions within the Commission.
  - Whether activities not currently performed (such as on-site inspections discussed in Chapter 1-C) should be re-established.
- Assess program staff competencies and provide any additional training needs identified.

| Table of Results and Recommendations   |  |
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| The Commission does not execute MCO contract amendments in a timely manner and lacks adequate controls over these amendments. (Page 12)  |  |
| The Commission should:   |  |
| <ul style="list-style-type: none"> <li>▪ Examine the causes for delays in executing contract amendments and implement changes to improve the timeliness of amendment negotiation and execution.</li> <li>▪ Discontinue its practice of implementing changes to MCOs' contracts until negotiated agreements are executed.</li> <li>▪ Standardize the process, roles, and responsibilities for formulating, executing, and maintaining MCO contracts and amendments. Additionally, ensure that staff, whose responsibilities are affected by changes in contract amendments, are informed of contract changes in a timely manner.</li> <li>▪ Designate an appropriate staff member to be the process owner for the MCO contract amendment process.</li> <li>▪ Inventory all MCO contracts and amendments to ensure that all contracts and amendments are in the Commission's possession.</li> <li>▪ Ensure that contract amendments are developed in an organized and sequential order.</li> </ul> |  |
| The Commission lacks an effective records management system for contracts and program-related documents. (Page 14)   |  |
| The Commission should establish a central repository and an organized process for maintaining contracts and other program-related documents.   |  |
| The Commission does not ensure that it pays CHIP MCOs in accordance with the capitation rates in their contracts. (Page 16)  |  |
| The Commission should:   |  |
| <ul style="list-style-type: none"> <li>▪ Transfer the responsibility of calculating CHIP MCOs' payments from the CHIP enrollment broker to the Commission's financial services division.</li> <li>▪ Verify the accuracy of CHIP MCO payment rates against executed contracts and amendments.</li> </ul>  |  |

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