SOUTH CAROLINA GENERAL ASSEMBLY
Legislative Audit Council

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A REVIEW OF THE DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS

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SOUTH CAROLINA GENERAL ASSEMBLY

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Contents

Chapter 5 Access to Information, Audits, and Other Issues

Appendix

Synopsis

Members of the General Assembly asked the Legislative Audit Council to conduct an audit of the South Carolina Department of Disabilities and Special Needs (DDSN). Our audit focused on issues specified by the audit requesters, including the health, safety, and welfare of DDSN's consumers, funding of consumers' services, availability of provider choice, use of state appropriations, and public information.

While DDSN operates competently in many respects, we found many areas where improvement is needed to ensure that DDSN is open, consistent, and accountable in its management practices. Our findings are summarized below.

Health, Safety, and Welfare

While numerous entities provide oversight for various aspects of consumer health, safety, and well-being, we identified gaps in oversight that may pose risks to DDSN's consumers.

- While DDSN routinely conducts licensing reviews of its residential facilities, it has not conducted follow-up reviews to ensure that providers correct the deficiencies identified. In our sample of 26 licensing reviews, there were only two follow-up reports for the 25 reviews for which they were needed.
- DDSN conducts licensing reviews of its adult facilities once every three years, less frequently than in the four other states we reviewed. Also, a report from the USC School of Public Health found that in other states, the licensing of community residential facilities was completed by a different entity, while DDSN licenses some of its own facilities. A lack of independent licensing creates the potential for conflicts of interest to impede objective reviews.
- Although DDSN has issued sanctions to facilities for non-compliance with licensing standards, it does not have criteria for what level or quantity of deficiencies warrants a particular sanction.
- The state law which requires a criminal history check for direct caregivers does not provide adequate controls over the hiring process. S.C. Code §44-7-2910 requires a SLED state criminal records check; however, it does not always require a check of records in other states. Other states require a national check for all.

- We reviewed DDSN's procedures to handle threats to consumer safety and found that DDSN may not have ensured enforcement of its personnel policies related to abuse, neglect, or exploitation incidents.
- DDSN does not have an adequate system to ensure that caregivers dismissed for consumer safety infractions are not rehired elsewhere in the system. DDSN should mandate that specific information about employees be shared with other DDSN-contracted service providers.
- By examining DDSN's internal audits, we found that consumers' funds are often mishandled by disabilities and special needs (DSN) board staff. DDSN should strengthen its controls to ensure that consumers' funds are handled appropriately.
- DDSN has allowed providers' room and board policies to be inconsistent and has not ensured that they are communicated to consumers and the public. Because Medicaid does not pay for consumers' room and board, DDSN provides each provider with guidelines for determining room and board amounts. However, we found errors in DSN boards' application of these guidelines. DDSN should implement a public directive on room and board determination and require that room and board rates be annually approved by DDSN.

Barriers to Competition and Consumer Choice

Although federal regulations require recipients of services funded by Medicaid to have free choice of providers, we found that in South Carolina, DDSN's consumers often have little choice of providers. Most services are provided by DSN boards. As of December 2007, just 147 (3%) of 4,776 consumers of residential services were being served by providers other than the boards. We found that consumers in Georgia, Florida, and North Carolina have a greater choice of providers than those in South Carolina. We identified several barriers to competition and consumer choice.

- In South Carolina, service coordination and service provision are generally performed by the same entity, the local DSN board. This creates a conflict of interest and is a barrier to choice. We found that in Georgia, Florida, and North Carolina, service coordination is separate from service provision and cannot be done by the same entity.
- DDSN provides financial benefits to DSN boards that discourage participation by other service providers. DSN boards are paid upfront for serving consumers, while other providers are paid only after they have provided services. DSN boards continue to be paid for providing services for 60 days or more following a vacancy, while other providers are not paid for empty beds.

- DDSN has provided the DSN boards with capital grant funds to purchase and maintain their residential facilities and for administrative facilities. Only recently has DDSN furnished capital funds to other providers.
- DDSN has not adequately implemented its contractual controls over DSN board performance. In many instances, DDSN has waived financial obligations of the DSN boards and has helped them out of financial difficulties by awarding them special one-time grants. Not requiring the boards to be financially accountable may limit and discourage competition. Also, if DSN boards know they can mismanage their funds with impunity, they have less incentive to manage prudently and with adequate oversight.
- DDSN's process for filling vacancies and developing new beds focuses on providers. Instead of allocating new residential placements to consumers who are determined to be the most in need, DDSN allocates new slots to providers. Funding providers instead of people may result in consumers who would otherwise receive residential placement not being placed or not being placed with their choice of provider.
- Evidence indicates there are not enough providers of services such as respite care, behavior support, and adult companion services. We identified problems with the provider qualification process and provider management. Also, DDSN has not made adequate efforts to recruit and support new providers.

Use of Funds

We reviewed the funding system DDSN uses as a budgeting tool to fund the DSN boards and other issues relating to DDSN's use of appropriations. DDSN should be more transparent in its use of funds and more effectively prioritize funding for services.

- We did not find material problems with the payment system, called the band payment system, and found it does not violate federal regulations. However, DDSN has not formalized a band funding policy and has no formal procedure and policy for systematically updating band funding amounts to account for cost-of-living increases.
- When the services needed by a DDSN consumer are significantly more expensive than the funding band allocated to the consumer, DDSN may authorize additional (outlier) funding. DDSN should formalize its outlier funding policy and make it accessible to the public.

- Prior audits of DDSN by the federal Centers for Medicare and Medicaid Services (2004) and the S.C. Department of Health and Human Services (2006) have recommended that DDSN's cost reports be independently audited. However, DDSN has not implemented these recommendations
- We reviewed DDSN's use of new state appropriations to expand services and found that DDSN has not yet provided many of the new services for which it received funding over the past three years. We estimated that DDSN has developed approximately 380 (60%) of 630 new residential beds for which it received state appropriations beginning in FY 05-06.
- DDSN has been slow to implement a new program for children who have been diagnosed with a pervasive developmental disorder, resulting in more than $9 million in state appropriations remaining unused or being used for different purposes. DDSN has not received millions in federal Medicaid dollars it could have collected if services were provided.
- During FY 05-06 and FY 06-07, DDSN spent approximately $1.5 million for grants to private, non-profit organizations. In some cases, DDSN has funded the general operations of advocacy groups, which is a conflict of interest. Also, DDSN's funding process appears subjective; the agency does not have a grant application form or policy it follows when determining which organizations will be funded. If the General Assembly intends to fund private non-profit groups, it could fund them directly through the appropriations process.

Access to Information and Other Issues

We found that DDSN has not adequately disclosed its operations to the public. DDSN policies are contained in regulations, commission policies, and directives. We did not review the issue of whether DDSN should have more regulations because this issue is the topic of an ongoing legal action. Our findings in this area are summarized below.

- DDSN has not provided adequate public access to its directives. While some of DDSN's directives are available on the agency's website, others are only available on the DDSN extranet, to which consumers and the public have no access. We found that DDSN has not made public many directives that are applicable to consumers and the public.
- DDSN maintains obsolete information in its directives. Although DDSN policy requires an annual review of its directives, we found that more than half of the directives in our sample had not been reviewed in more than two years.

- DDSN's website needs improvement. It does not contain information that citizens could expect to find there, it contains outdated and/or incomplete information, it has no search function, and is not easy to navigate. The site was designed in 1999 and has not been updated to conform to basic common content principles.
- The South Carolina Commission on Disabilities and Special Needs has narrowly interpreted its governance structure in a way that denies commission members access to public information and potentially hinders performance of their fiduciary duties.
- We found that DDSN has an appropriate reporting structure for its internal audit division. However, DDSN has not fully complied with recommendations made by the Institute of Internal Auditors to improve the internal audit function. The commission has had minimal involvement in the work of the internal audit division. Also, DDSN has not appropriately included the central and district offices in its audits and risk assessments, and internal audit has not reviewed DDSN's information systems.
- Several local DSN boards have hired the same certified public accountant (CPA) firms that conduct their financial audits to also provide consulting services. Providing consulting services may impair a firm's independence to conduct a board's financial audit. DDSN should strengthen its oversight of the audit process.
- We identified one former DDSN employee who worked simultaneously for DDSN and a DSN board while performing similar duties, which appears to be a conflict of interest. The same employee also worked for DDSN at the same time that he worked for a firm contracting with DDSN.

Synopsis

Introduction and Background

Audit Objectives

Members of the General Assembly asked the Legislative Audit Council to conduct an audit of the South Carolina Department of Disabilities and Special Needs (DDSN). The requestors' concerns focused on several issues including the health, safety, and welfare of DDSN's consumers, the funding of consumers' services, consumer choice of providers, and the agency's use of state appropriations. Our objectives are listed below.

- Determine whether DDSN has appropriate controls to ensure the health, safety, and welfare of its consumers.
- Determine whether there are barriers to competition and consumer choice within the current system operated by DDSN.
- Review DDSN's process for funding residential and other consumer services to determine whether funding is efficient, equitable, and ensures accountability.
- Review state appropriations to DDSN for expanded services to determine whether funds have been used in accordance with legislative intent.
- Determine whether DDSN has allowed sufficient public input and has provided adequate information and due process to members of the public regarding its services and operations.
- Determine whether internal and external audits of DDSN provide an appropriate system of accountability.
- Determine whether DDSN has ensured that there are no conflicts of interest involving its board, employees, contractors, or relevant advocacy groups.

Scope and Methodology

We reviewed the operations of the South Carolina Department of Disabilities and Special Needs including its quality assurance programs, funding for community-based residential and other consumer services, system for ensuring consumer choice of providers, and other areas relevant to our audit objectives. We did not review other aspects of the department's management, such as how it determines eligibility for its services, how it reports its performance to the General Assembly, or its management of the regional centers which provide institutional care.

The period of our review was generally FY 04-05 through FY 06-07, with consideration of earlier and more recent periods when relevant.

To conduct the audit, we used a variety of sources of evidence including those listed below.

- DDSN directives/policies/guidelines.
- Interviews of DDSN employees, employees of other state, local, and federal agencies, and private individuals.
- Meetings of DDSN commission and other organizations dealing with the DDSN population.
- Federal and state laws and regulations.
- DDSN contracts, financial records, human resources records, FOIA and appeals records, and agency reports.
- Audits, reports, and studies conducted by external entities regarding DDSN's operations.
- DDSN budget requests.
- DSN board policies, contractual and financial records.
- Client records and case notes.
- Financial records from the Comptroller General's office.

Criteria used to measure performance included state and federal laws and regulations, agency policy, the practice of other states, and principles of good business practice and financial management. We used several nonstatistical samples, which are described in the audit report. We reviewed internal controls in several areas including DDSN's quality assurance process, consumer funds management, funding system, and the accountability of the DSN boards and other providers. Our findings are detailed in the report.

Reliability of DDSN's Information and Data

DDSN has multiple information systems, many of which rely heavily on manual data input. The agency's information systems include those for accounting, service tracking, billing, and client information. There are also other small information systems created by one or a few staff members for purposes related to DDSN's programs (such as licensing, or managing the PDD waiver). This type of information system is without formal controls to ensure the accuracy of how the data is input and manipulated. When we asked for information about DDSN's programs, the agency often furnished ad hoc reports, coming from a variety of sources, compiled by a single staff person. DDSN's website contains information that is obsolete and incomplete (see p. 68).

We found that DDSN's information systems have not been reviewed by other entities. DDSN does not have an annual financial audit to determine whether its financial statements fairly represent the agency's financial position.

Instead, the State Auditor's office does an agreed-upon procedures review of the agency (see p. 74), which provides lesser assurance. DDSN's cost reports, which provide the evidence for its reimbursements from Medicaid, have not been audited (see p. 53). DDSN's internal audit division has not audited the agency's information systems (see p. 73).

In conducting our audit, we used information from several of DDSN's information systems. We could not audit or verify all of the information obtained from these multiple systems, and we concluded that it may be unreliable. However, we analyzed the information we received, and compared it with other sources and known evidence. Readers of this report should assume that amounts and numbers used in this report describing DDSN's activities are attributed to DDSN and are not audited figures. Overall, the use of unverified data was not central to our audit objectives, and we believe that the findings and conclusions in this report are valid.
We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

S.C. Code §44-20-250 requires the South Carolina Department of Disabilities and Special Needs (DDSN) to ". . . coordinate services and programs with other state and local agencies for persons with mental retardation, related disabilities, head injuries, and spinal cord injuries." DDSN is responsible for planning, developing, and providing a full range of services for these children and adults subject to the availability of fiscal resources.

As of FY 07-08, DDSN had 2,200 employees and 278 temporary employees located throughout the state. Approximately 90% of the employees are employed at the five regional centers (Midlands Center in Columbia, Whitten Center in Clinton, Coastal Center in Summerville, Pee Dee Center in Florence, and the Saleeby Center in Hartsville), with the remaining employees working at the central and two district offices.

Section 44-20-375, amended in 1991, requires that county boards of disabilities and special needs be created within a county or within a combination of counties by ordinance of local governing bodies. There are 39 disability and special needs (DSN) boards. Three of these boards, Babcock Center, the Charles Lea Center, and Berkeley Citizens, Inc., were not created by local ordinance, but are recognized as boards by DDSN

because they existed prior to the law requiring that DSN boards be established. Each disability and special needs board is the administrative, planning, coordinating, and service delivery body for county disabilities and special needs services funded by Medicaid reimbursements and state appropriations.

The seven-member South Carolina Department of Disabilities and Special Needs Commission governs the agency. There is one member from each congressional district and one member at-large. Members are appointed by the Governor, with advice and consent of the Senate, and they serve four-year terms. The commission provides general policy direction and guidance and appoints the state director, who is the agency's chief executive officer.

Olmstead Decision

In June 1999, the U.S. Supreme Court ruled that:

> …states are required to provide community-based treatment for persons with mental disabilities when the State's treatment professionals determine that such placement is appropriate, the affected persons do not oppose such treatment, and the placement can be reasonably accommodated, taking into account the resources available to the State and the needs of others with mental disabilities. **Olmstead v. L.C.**, 527 U.S. 581 (1999)

DDSN officials have stated that they are attempting to move consumers from the most restrictive institutional placements to community residential facilities if they can be properly served in that setting. Agency records show that the number of consumers living in DDSN's regional centers decreased from 940 in 2005 to 838 in 2008, while the number of consumers obtaining residential services in the community increased from 3,571 to 4,028 during the same period.

Medicaid Funding

The South Carolina Department of Disabilities and Special Needs receives state appropriations; however, the majority of services to its consumers are funded by state and federal Medicaid funds. According to the South Carolina Department of Health and Human Services' (DHHS) 2007 annual report, DDSN was the second largest user of Medicaid funding in the state, behind hospital services. For FY 06-07, DDSN received $450,866,073 in state and federal Medicaid funding. This amount includes funding of services for DDSN consumers that was billed directly to DHHS.

Table 1.1: DDSN Expenditures, FY 05-06 – FY 07-08

Major Budget Category	Actual Expenditures					
	FY 05-06		FY 06-07		FY 07-08	
	Total Funds	State Funds	Total Funds	State Funds	Total Funds	State Funds
Personal Services	$65,785,837	$48,635,902	$64,943,012	$48,615,240	$65,584,079	$50,728,064
Other Operating*	313,142,342	83,056,844	350,927,225	111,944,944	377,907,429	120,831,536
Special Items	426,175	174,175	326,000	200,000	4,326,000	4,200,000
Permanent Improvements	3,434,964	0	3,840,274	0	2,967,491	0
Case Services	9,876,259	1,461,518	11,379,585	1,782,364	15,463,627	6,306,091
Fringe Benefits	23,092,394	16,782,734	23,393,000	17,334,568	24,514,120	18,350,806
Non-recurring	0	0	0	0	0	0
TOTAL	**$415,757,971**	**$150,111,173**	**$454,809,096**	**$179,877,116**	**$490,762,746**	**$200,416,497**

* Other Operating is primarily funding to the statewide network of DSN boards and QPL providers.

Source: DDSN

Medicaid Waiver Services

Prior to 1991, the federal Medicaid program paid for services for a person with mental retardation and related disabilities, traumatic brain injury, and spinal cord injury *only* if that person lived in an institution. The approval of the federal Medicaid waiver programs allowed states to provide services to consumers in their homes and communities.

DDSN serves over 28,000 South Carolinians with mental retardation and related disabilities, autism, traumatic brain injury, and spinal cord injury. Approximately 4,900 consumers receive residential services in one of DDSN's regional centers or in community residential homes. The remaining consumers reside with family caregivers and receive services such as respite, day services, and other needed supports.

DDSN operates three Medicaid waiver programs. During FY 07-08, the number of people served through each of the three approved waivers was as follows:

- 5,802 — Mental Retardation or Related Disabilities (MR/RD) Program
- 638 — Head and Spinal Cord Injuries (HASCI) Program
- 301 — Pervasive Developmental Disorder (PDD) Program

The MR/RD waiver serves Medicaid-eligible persons diagnosed with mental retardation or a related disability. These individuals receive services through local disabilities and special needs boards or qualified (private) providers across the state. Services which may be reimbursed by Medicaid include:

RESIDENTIAL HABILITATION – In a residential setting, staff assists with daily living activities.
DAY HABILITATION – Assistance with the acquisition, retention, or improvement in self help, socialization, and adaptive skills that take place in a non-residential setting.
PRESCRIBED DRUGS – Consumers are eligible for two extra prescriptions above the Medicaid state plan limit.
THERAPY SERVICES – This includes speech, physical, occupational, and audiological services.
ADULT COMPANION SERVICES – Services that provide short-term relief for caregivers and needed supervision of consumers.

The HASCI waiver serves Medicaid-eligible persons with head and/or spinal cord injuries. These individuals can receive many of the same services as the consumers in the MR/RD waiver. In addition, peer guidance for consumer-directed care and health education is available.

The PDD waiver is primarily for children diagnosed with autism or other pervasive developmental disorders by the age of 8 and serves children ages 3 through 10. Case management and early intensive behavioral intervention are the primary services DDSN provides through this waiver, which began in FY 06-07.

Waiting Lists

DDSN does not have the resources to provide services to all who are eligible. As of June 30, 2008, DDSN had 2,006 consumers waiting for community residential services. Twenty-five consumers were listed on DDSN's critical waiting list (for consumers in life-threatening situations requiring immediate services) and 436 were on its Priority 1 waiting list (for consumers in urgent situations with features suggesting there is a probability they will require residential placement within one year). In addition, 29 consumers were waiting to be served in DDSN's regional centers, and 1,048 were waiting for day services.

Health, Safety, and Welfare

DDSN Quality Assurance and Oversight

We reviewed DDSN's oversight of residential facilities to determine whether the agency has adequate controls over service quality for consumers. We found that numerous entities provide oversight for various aspects of consumer health, safety, and welfare; however, there remain gaps in oversight that may pose risks to DDSN's consumers.

- While DDSN routinely conducts licensing reviews of its residential facilities, it has not conducted follow-up reviews to ensure that providers correct the deficiencies identified.
- DDSN conducts licensing reviews of its adult facilities once every three years. Other states we reviewed conduct similar reviews of facilities annually.
- Although DDSN has issued sanctions to facilities for non-compliance with licensing standards, it does not have criteria for what level or quantity of deficiencies warrant a particular sanction.
- DDSN has not made sufficient efforts to ensure that its providers are compliant with local zoning requirements as outlined in state law.

Overview

DDSN directives outline a "nine-tiered, multi-faceted, coordinated risk management/quality assurance/quality improvement program" based on person-centered outcomes and national best practices. This program includes efforts to ensure the quality of all of DDSN's services. We looked at parts of the program that relate directly to quality assurance in community-based residential facilities.

INTERNAL QUALITY ASSURANCE — The licensing and certification division within DDSN reviews facilities to ensure that they provide safe home environments, appropriate health services, and adequate staff. Community training homes (CTHs) and supervised living programs (SLPs), two types of supervised residential living situations that DDSN oversees, must undergo an initial licensing review to ensure that the facility is in compliance with basic safety measures, such as fire marshal inspections. DDSN reported that licensing and certification conducts annual licensing reviews of all providers each year. For adult residential services, DDSN visits one-third of each provider's facilities per year. Therefore, each adult residential living facility undergoes a licensing review every three years. DDSN reviews facilities for children annually.

EXTERNAL QUALITY ASSURANCE — DDSN contracts with a quality improvement organization (QIO) to review overall agency service quality. These reviews include observation of residential living facilities to assess providers' implementation of services and whether staff respect consumers' rights. The QIO conducts file reviews, interviews, and consumer observations for all DDSN services, including residential and day services. The QIO visits each provider annually.

QUALITY IMPROVEMENT — As part of DDSN's contract with the Council on Quality and Leadership (CQL), the quality enhancement (QE) unit within DDSN does periodic site reviews of DDSN facilities. DDSN documents state that the goal of the QE process is to improve consumers' overall satisfaction and quality of life by providing them more control and choice of services. However, DDSN does not require providers to participate in the QE process or to undergo site visits. Since reviews began in 2005, the QE division has visited 31 providers and 3 regional centers. The QE division is scheduled to visit three more by the end of 2008.

Oversight of DDSN Facilities

The federal Centers for Medicare and Medicaid Services (CMS) periodically reviews and renews DDSN's Medicaid waivers (see p. 5). CMS has found that DDSN's waiver management substantially meets its standards for protecting the health, safety, and welfare of consumers.

DDSN facilities are also subject to oversight by other state agencies. The Department of Health and Human Services (DHHS), the Medicaid agency for South Carolina, oversees DDSN's delivery of Medicaid services. According to a memorandum of agreement between the two agencies, DHHS must approve all policies, rules, and regulations related to waiver services (see p. 5) prior to issuance and implementation by DDSN. Also, DHHS conducts periodic file reviews of consumers served by DSN boards and has the authority to withhold Medicaid reimbursement funds should DDSN fail to ensure its contracted service providers' compliance with Medicaid requirements. DHHS officials also have access to all reports issued by DDSN's contracted QIO.

The state long-term care ombudsman in the Lieutenant Governor's office began periodically reviewing DDSN facilities in 2007. The State Law Enforcement Division (SLED) refers reports of abuse or neglect that do not include a criminal aspect to the ombudsman. Investigators from the ombudsman's office review complaints and issue reports to the executive director of the respective DSN board as well as to DDSN. In addition to these

investigations, investigators perform periodic, unannounced site visits to DDSN facilities to assess their adherence to basic safety and health measures. Since February 2007, the ombudsman's office reported that it has opened 371 investigations of DDSN facilities and made 1,207 routine visits. A DDSN official stated that the agency monitors these reports for patterns of deficiencies.

Coordination of Quality Assurance Entities

As described above, several entities perform different aspects of quality reviews for DDSN. However, this does not necessarily ensure coordinated use of quality improvement information derived from various QA processes.

A 2008 study by the National Association of State Directors of Developmental Disabilities Services (NASDDDS) reviewed quality assurance and quality improvement initiatives at DDSN. The report noted that the design of DDSN's quality assurance efforts was comprehensive and succeeded in gathering data on program effectiveness. However, the report also stated that ". . . the overall process of remediation leading to quality improvement is not achieving its intended goal." The report states, "The QA/QI system design does not operate through an established protocol to guide DDSN central office staff in making use of information gathered . . . to remediate and improve service delivery statewide." While DDSN's quality assurance efforts are well-designed and provide useful information to the agency, this information often does not lead to remediation of deficiencies or continuous quality improvement.

In response to the NASDDDS report, DDSN officials stated that the agency is taking steps to fulfill the recommendations. For example, the agency reported it has established "thresholds," overall levels of quality using data from licensing and QIO reviews, to monitor whether providers may require extra assistance to improve their services. DDSN officials reported that operations staff from DDSN visit providers that do not adhere to these thresholds to ensure that the plan of correction leads to remediation of deficiencies and overall quality improvement. Also, DDSN officials state that they are working toward an integrated system that combines all provider quality information — licensing, QIO, and QE — and enables the agency to produce overall profiles of different providers.

Recommendation

1. The Department of Disabilities and Special Needs should ensure that information derived from its quality assurance processes is integrated and used to remediate problems identified.

Issues of Non-Compliance

We reviewed DDSN's processes for identifying and correcting situations where residential service providers fail to comply with standards of quality. DDSN licensing and certification has not adequately followed up on its findings of deficiencies.

Follow-Up Reviews

DDSN requires providers to create plans of correction within 30 days following annual licensing reviews to address areas of deficiency. DDSN departmental directives state that licensing and certification should conduct follow-ups to their reviews to assess providers' progress in addressing deficiencies. In numerous cases where licensing reviews found potential threats to consumers' health, safety, and welfare, DDSN did not conduct a follow-up review.

We reviewed reports from DDSN licensing and certification for the years 2005–2007 to assess the licensing process. We reviewed a nonstatistical sample of 26 licensing reviews, 6 of which were furnished by DDSN. We reviewed available files for licensing reports, providers' plans of correction, and documentation of follow-ups. We found licensing reports for all 26. One review found no deficiencies. Additionally, for the 25 reports that should have had a follow-up review, there were only two follow-up reports. We found no other documentation to suggest that follow-ups to these reviews took place.

In our sample of licensing reviews, we did not find documentation of follow-ups assessing providers' progress or completion of their plans of correction. Not all deficiencies require a physical re-inspection of the facility. For example, providers may correct some deficiencies by submitting documentation that they have provided necessary training to staff. However, without follow-ups, DDSN cannot know whether the deficiencies identified continue to affect the safety and well-being of DDSN consumers.

Revisitation of Facilities

The DDSN licensing directives applicable to our 2005–2007 sample did not provide specific criteria for which deficiencies require a re-visit to the facility. However, based on DDSN departmental directives implemented in December 2007, physical re-inspections of facilities were warranted more often than they occurred.

The DDSN certification and licensing directive gives the following guidance for revisits: "Unannounced follow-up visits will be conducted in situations where the severity and/or prevalence of deficiencies may adversely impact someone's health and safety and will determine if deficiencies have been corrected." This December 2007 revision also classified deficiencies by degree of severity. Those deficiencies posing immediate danger to consumers (Class I) require correction before the licensing reviewers leave the premises. The next most severe class of deficiencies (Class II) must be addressed in the plan of correction. Class II deficiencies, though not posing immediate danger to consumers, include any issues ". . . which could put the person's physical, emotional, and financial well being in jeopardy." We concluded that Class II deficiencies pose a threat to consumers' safety and welfare that necessitates an unannounced follow-up visit.

Nine sampled reports occurring after January 2007 identified deficiencies by class. Within these reports, there were more than 100 Class II deficiencies. The number per report ranged from 1 to more than 50. These deficiencies included failure to document that medication was being appropriately administered, presence of expired foods in consumers' residences, missing smoke detectors, and hot water heaters set at temperatures too hot for consumers. We found no documentation that any follow-up visits to these facilities took place. Based on the language in its departmental directives, DDSN should conduct unannounced visits to ensure that providers fully implement their plans of correction. Also, DDSN should ensure that all providers complete plans of correction in response to licensing reviews.

DDSN may improve its departmental directive by specifying criteria for appropriate and sufficient documentation to address deficiencies. DDSN officials stated they plan to create a protocol for follow-ups that will outline this information. Additionally, they stated that future follow-ups will include documentation of correction of all identified deficiencies, including revisitation of facilities where needed.

Sanctions

DDSN departmental directive 104-01-DD gives DDSN the authority to sanction providers when the ". . . severity and/or prevalence of deficiencies may adversely impact someone's health and safety . . . ." However, DDSN does not have specific criteria to determine whether sanctions are warranted. These sanctions may include granting probationary licenses or revoking licenses already issued. We reviewed records of sanctions issued by DDSN licensing to verify that instances of non-compliance were being addressed. We found that in cases of persistent failure to correct deficiencies, DDSN has sanctioned facilities by granting probationary licenses, contingent on correction of deficiencies.

DDSN reported that for 2005–2007, eighteen facilities under three providers received sanctions for failure to correct deficiencies. These sanctions included deficiencies in areas related to homes being sanitary, free from hazards, and consumers receiving timely health care. In most cases, DDSN sanctioned the facilities in question by issuing a temporary license which would be extended to a standard license only when the deficiency was adequately corrected.

DDSN officials reported that in two cases they sanctioned providers, rather than their facilities, because of the number, severity, or persistence of deficiencies at several facilities they operated. In these cases, DDSN took more drastic measures to ensure correction of deficiencies. In one case, DDSN did not allow a provider to develop new beds that had previously been authorized to it. In another case, DDSN reported that they reduced a provider's size to effectively one-half of its initial capacity and placed some of its facilities under the care of other service providers. However, DDSN did not provide criteria for the specific conditions that resulted in more severe punishment for the two providers. According to DDSN officials, both of these extreme cases occurred following excessive deficiencies at several facilities where the overall level of quality of service was not adequate.

We requested documentation of corrections of the deficiencies leading to sanctions. DDSN could not provide documentation to confirm that the specific issues in each case had been corrected. However, DDSN officials reported that all of the issues were resolved and that each of the providers in question has undergone a licensing review since the sanctions were issued.

Since there are no specific criteria for what requires a sanction of either a facility or a provider, decisions on whether to issue sanctions could be subjective. While DDSN has sanctioned facilities for failure to comply with licensing standards, the lack of documentation in follow-up reviews makes it difficult to establish when and how deficiencies are corrected. Without follow-ups to verify whether deficiencies have been corrected, there is no way to determine whether there may be other instances of non-compliance that may warrant sanctions.

Recommendations

2. The Department of Disabilities and Special Needs should conduct follow-up reviews to ensure that providers implement their plans of correction and address risks that may endanger the health, safety, or welfare of DDSN consumers.

3. The Department of Disabilities and Special Needs should adequately document follow-up reviews with reports assessing provider progress toward completion of plans of correction.

4. The Department of Disabilities and Special Needs should revise its licensing directive to include specific criteria that defines when follow-up visits are warranted and the type of documentation that is sufficient to demonstrate implementation of the plan of correction.

5. The Department of Disabilities and Special Needs should revise its licensing directive to include specific criteria for when sanctions are warranted and document instances when they occur.

Criteria for Oversight

We reviewed the level of oversight from licensing and quality control entities over DDSN-licensed facilities to determine whether it was sufficient to ensure the health, safety, and welfare of consumers. Though DDSN's oversight is comparable, in some respects, to other states' and other South Carolina agencies', the current level of review may not be sufficient.

Comparison to Non-DDSN-Licensed Facilities

DDSN licensing and certification staff review community training homes (CTHs) and supervised living programs (SLPs) for individuals who require limited supervision. Intermediate care facilities for the mentally retarded (ICF/MRs) are more structured residential living situations that provide greater supervision. These facilities, although operated by DDSN, are licensed by the South Carolina Department of Health and Environmental Control (DHEC). We compared DHEC licensing standards to DDSN licensing standards to assess levels of oversight provided to these facilities.

We found that DDSN licensing standards are comparable to DHEC licensing standards in the areas they cover, although DHEC standards cover most areas in greater detail. For example, DHEC licensing standards for ICF/MRs devote a section specifically to fire safety precautions, while DDSN has one licensing standard for CTHs that requires a comprehensive disaster preparedness plan. This difference is, to some degree, expected since the facilities licensed by DHEC usually serve more individuals and those requiring greater supervision. DHEC reviews facilities once every 24 months. DHEC officials stated that this cycle previously was once every 12 months and changed only due to the necessity of providing additional assistance to non-compliant facilities.

Comparison Between DDSN Licensing Process and QIO Reviews

The request for proposal (RFP) for DDSN's most recently contracted QIO includes criteria for follow-up reviews. The RFP states that the contractor ". . . will conduct a follow-up review to assure that all elements detailed in the provider's plan of correction have been implemented." Follow-up reviews must be completed within 120 days (4 months) from acceptance of the provider's plan of correction, which must be submitted within 30 days after the end of the review period. The QIO reported that it conducted follow-ups to all 22 reviews it performed in the first and second quarters of FY 07-08. Nine more follow-up reviews were scheduled for reports issued during the third quarter of FY 07-08.

The QIO's reviews are based on an assessment of key indicators of quality in four categories and structured interviews using national core indicator consumer surveys (see p. 34). DDSN's licensing and certification division recently developed key indicators for licensing standards and began using them in their reviews in August 2008. DDSN officials stated that these indicators provide specific guidance for determining providers' compliance with DDSN licensing standards.

Comparison to Similar Agencies in Other States

We examined licensing, certification, and quality assurance efforts in other states — Georgia, Florida, Tennessee, and North Carolina. In addition, we reviewed what other studies have found regarding DDSN's licensure and certification. We found that while South Carolina's approach to this process is not unlike that of other states, DDSN conducts licensing reviews less frequently than any other state we reviewed.

All states that we reviewed stated that they perform annual reviews of all facilities. A 2008 study conducted by the University of South Carolina (USC) School of Public Health compared numerous aspects of DDSN's service delivery and quality assurance efforts to those of several other states, including three of the states we surveyed. The USC report found no state except South Carolina that conducted licensing reviews of facilities less often than once annually.

Although DDSN reviews each provider annually, only one-third of its adult facilities are examined during each review; each of these facilities undergoes a licensing review only once every three years. Allowing this much time between licensure reviews is a significant departure from the practice of all other states surveyed as well as the schedule set by DHEC for licensure of other DDSN-run facilities. This schedule of reviews may not provide adequate oversight to ensure that providers' facilities are complying with licensing standards. Annual reviews of all DDSN-licensed facilities would

decrease the incidence of deficiencies and increase the likelihood that situations detrimental to residents of the facilities would be identified and corrected more quickly.

Table 2.1 provides an overview of the resources that DDSN has allocated to various areas of quality assurance.

Table 2.1: DDSN Quality Assurance Expenditures, FY 07-08

Quality Assurance Entity	Expenditures*
DDSN licensing and certification	$389,135
Quality improvement organization	$1,110,647
Council on Quality and Leadership	$63,550

*Expenditures for DDSN licensing and certification are payroll, while the expenses for the QIO and CQL are contract costs.

Source: DDSN

The USC School of Public Health report also noted that in South Carolina, unlike in most other states reviewed, residential facilities for the developmentally disabled are licensed by a unit within the agency. In six of the seven other states reviewed, these facilities are licensed by a different entity. DDSN's response to the USC report stated that some of their consumers reside in facilities, such as community residential care facilities, that are licensed by DHEC. However, a large number of DDSN consumers reside in community training homes and supervised living programs, which are still licensed by DDSN. Of the related agencies in the four states we surveyed, only one (Florida) in addition to DDSN licenses its own residential facilities. The other three are licensed by different entities (see Table 2.2).

Designating an external entity to conduct licensing reviews ensures independence to the process. When DDSN licenses its own facilities, there is a potential for conflicts of interest to interfere with objective reviews. In the worst case scenario, this can pose risks to the health, safety, and welfare of consumers.

Table 2.2: Comparison of DDSN's QA Structure to Other States

State	Agency Operating Home and Community-based Services Waiver	Licensing Entity	Certification* Entity	Other Reviews
South Carolina	Dept. of Disabilities and Special Needs	DDSN (Licensing)	DDSN RFP/evaluation of providers	Contracted QIO, State Long-Term Care Ombudsman
Florida	Agency for People with Disabilities	Agency for People with Disabilities	Medicaid provider enrollment: ADP and Agency for Health Care Administration (state Medicaid agency)	Contracted QIO
Georgia	Div. of Mental Health, Developmental Disabilities, and Addictive Diseases' Office of Developmental Disabilities	Dept. of Human Resources, Office of Regulatory Service	Certification Unit of the Div. of Mental Health, Developmental Disabilities and Addictive Diseases	Accreditation by national authority
North Carolina	Div. of Mental Health, Developmental Disabilities, and Substance Abuse Services (MHDDSAS)	Div. of Health Services Regulation	"Endorsement" by Individual Licensing Management Entities (analogous to DSN boards)	MHDDSAS performs Medicaid audits; providers must be accredited
Tennessee	Div. of Mental Retardation Services	Dept. of Mental Health and Developmental Disabilities	Div. of Mental Retardation Services	TennCare (state Medicaid agency) annual state assessments, follow-up surveys, focused surveys, and other oversight activities

* The term "certification" refers to the initial approval process for providers of Medicaid services. However, terminology is not consistent among the states we reviewed. Some use the term "enrollment" or "endorsement" to describe this process, while DDSN uses the terms "licensing" and "certification" interchangeably.

Source: Documentation from officials in state agencies providing services for developmentally disabled.

Recommendations

6. The General Assembly should amend state law to delegate the Department of Disabilities and Special Needs' licensing function to another state agency, such as the Department of Health and Environmental Control.

7. If the licensing function remains within the Department of Disabilities and Special Needs, the agency should perform annual licensing reviews of each facility to ensure that providers are compliant with licensing requirements.

Communication with Other Agencies and Municipalities

DDSN should periodically share lists of all facilities it operates (either directly or under contract with a private service provider) with other state agencies. S.C. Code §44-7-260(B)(2) requires DDSN to provide updated lists to DHEC. DDSN must also provide quarterly updated lists to SLED as required in a memorandum of agreement between the agencies. DDSN officials reported that they also provide these updated lists to the Attorney General and the state long-term care ombudsman quarterly. Although DDSN furnished the updates in April 2008, it has not provided updates on a regular schedule.

We reviewed documentation of lists originally provided to these agencies, and found that not all have received updates on a quarterly basis. Officials from other agencies reported that they had not received updates quarterly and sometimes updated lists themselves when they received complaints regarding a facility that did not appear on their list. DDSN sent updated lists of all facilities in December 2007 and again in April 2008. We did not find documentation that the list of DDSN facilities was updated for all of these agencies on the appropriate schedule from February 2007 until December 2007.

Some of these agencies provide services that contribute to DDSN's overall mission and goal to ensure the safety, health, and welfare of DDSN consumers. Failure to communicate regularly with these agencies not only makes providing services to consumers more difficult, but in some cases may compromise the safety of DDSN consumers if appropriate agencies are unaware of the existence of some facilities. DDSN should provide updated lists of facilities to these agencies quarterly.

Local Zoning Issues

We reviewed DDSN's process for granting initial licenses to residential facilities and found that DDSN's initial licensing process has not adequately ensured provider compliance with local zoning laws.

The DDSN directive addressing the certification and licensure of residential and day facilities states: "No residential, day or respite facility shall provide services and supports unless the service provider is…compliant with applicable federal, state, and local laws." S.C. Code §6-29-770(E) outlines exemptions to zoning ordinances, including homes:

> …serving nine or fewer mentally or physically handicapped persons provided the home provides care on a twenty-four hour basis and is approved or licensed by a state agency or department or under contract with the agency or department for that purpose.

However, the law additionally states:

> Prior to locating the home for the handicapped persons, the appropriate state agency or department or the private entity operating the home under contract must first give prior notice to the local governing body administering the pertinent zoning laws, advising of the exact site of any proposed home.

DDSN stated that the Federal Fair Housing Amendments Act supercedes the state law. However, only a court can make that determination.

Local zoning authorities reported cases of becoming aware of the existence of DDSN homes for which they had received no notice prior to their establishment in the community. Although DDSN licensing standards require that the facility be in compliance with local laws, a DDSN official stated that the initial licensing process does not include checking to see whether the provider establishing the home has notified local zoning authorities of its location. There is not sufficient oversight to determine whether providers are compliant with local laws.

Although DDSN-licensed facilities may not be subject to zoning ordinances, the code does require them to provide notice to local zoning authorities regarding the location of any such home prior to its establishment. There is no way to easily determine how many homes may be in operation for which local zoning authorities have not received notice.

Recommendations

8. The Department of Disabilities and Special Needs should provide DHEC, SLED, the state long-term care ombudsman, and the Attorney General with updated lists of DDSN-operated and DDSN-contracted facilities on a quarterly basis.

9. The Department of Disabilities and Special Needs should verify and document that service providers are compliant with state law that requires them to notify local zoning boards before establishing a group home.

Criminal History Checks

The state law which requires a criminal history check for direct caregivers does not provide adequate controls over the hiring process. S.C. Code §44-7-2910 requires a State Law Enforcement Division (SLED) state criminal records check; however, it does not always require a check of records in other states.

This law applies to residential direct care entities operated, or contracted for operation, by certain state agencies, including DDSN. DDSN's direct caregivers are people who have physical contact with consumers served by DDSN and its contractors. If the caregiver cannot prove residency in South Carolina for at least one year prior to employment, state law requires that the provider complete either a Federal Bureau of Investigation (FBI) check or a state criminal history check from the previous state of residence. An applicant can prove residency by presenting South Carolina identification, a rent or mortgage receipt, bank records, or a pay stub.

Prior to October 2007, DDSN's residential licensing standards were more stringent than the statute. They required proof of ten years of residency in South Carolina to avoid a criminal history check from the previous jurisdiction of residence. This applied to caregivers serving children or adults in a community training home II or adults in a supervised living program or community residential care facility. The standards required a federal check, regardless of length of residency, for all caregivers serving children in a community training home I.

However, in October 2007, DDSN removed the ten-year residency requirement and made DDSN standards consistent with state law for all caregivers except community training home I facilities serving children. According to an agency official, DDSN adjusted the standards to become consistent with federal regulations requiring providers to follow state law regarding criminal history checks. Currently, if a potential caregiver can prove residency in South Carolina for one year preceding hire, the provider conducts only a SLED state check.

We examined statutes from five Southeastern states (Florida, Georgia, North Carolina, Tennessee, and Virginia) to determine what criminal history checks are required for direct caregivers. Three require a national check for all; one requires a national check based on residency; and one allows for but does not require a national check (see Table 2.3).

Table 2.3: Other States' Criminal History Check Requirements

REQUIREMENT	STATE
FBI Criminal History Check for All	Georgia, Florida, and Virginia
FBI Criminal History Check with a Residency Requirement	North Carolina
Allows for FBI Criminal History Check	Tennessee

Source: State statutes.

North Carolina is most similar to South Carolina because it only requires an FBI check if the person has not lived in the state for a specified length of time. Unlike South Carolina, North Carolina requires at least five years of residency to avoid a federal check. Also, when North Carolina conducts an out-of-jurisdiction check, it is an FBI check, capturing criminal activity from all parts of the FBI's jurisdiction, as opposed to data from just one other state.

If South Carolina's statute were amended to require a federal check for all direct care staff, the maximum increase in cost, based on current costs, for each hired employee would be $19.25. The total spent on criminal history checks could range between $23.25 and $44.45 per hired caregiver. Costs vary because some entities are nonprofits or have a statutorily discounted rate.

By conducting an FBI criminal history check on all direct caregivers, DDSN and its providers could ensure that the most complete criminal history information is obtained. This would lower the risk of employing:

- Convicted predators from another state.
- South Carolinians who commit crimes in other states.
- Staff who may abuse and neglect DDSN consumers.

For example, SLED conducted an FBI check on a suspect in an abuse and neglect investigation and discovered that he had a criminal conviction from another state. The crime was one that would have precluded him from hire had the provider known about it. The employee was eventually terminated, but had the provider initially run a federal check, he would never have been hired.

Recommendations

10. The General Assembly should amend §44-7-2910 to require Federal Bureau of Investigation criminal history checks for all direct caregivers without regard for the length of residency in South Carolina.

11. The Department of Disabilities and Special Needs should amend its licensing standards to require Federal Bureau of Investigation criminal history checks for all direct caregivers upon hire.

Name-Based Criminal History Searches

S.C. Code §44-7-2920 requires that criminal history checks of direct caregivers be accomplished by fingerprinting. There are civil fines associated with violating these procedures. In response to our inquiry about reference checks (see p. 24), some of DDSN's providers stated that they use the SLED Citizens Access to Criminal Histories (CATCH) system, which is a name-based search tool. On the homepage for the CATCH system, the searcher is advised that fingerprint searches are the most reliable way to conduct criminal history checks and the least likely to result in a false positive or false negative result. SLED offers this system as an alternative when fingerprint-based searches are inconvenient. Other than the cost of obtaining fingerprints at a local fingerprinting site, there is not a cost savings attached to using the CATCH system.

Recommendation

12. The Department of Disabilities and Special Needs should comply with S.C. Code §44-7-2920 and specify in its licensing standards that the required SLED criminal history check be obtained through a fingerprint search.

Threats to Consumer Safety

We reviewed DDSN's procedures to handle threats to consumer safety and found that DDSN may not have ensured enforcement of its personnel policies related to abuse, neglect, or exploitation incidents. Also, DDSN does not have an adequate system to ensure that caregivers dismissed for consumer safety infractions are not rehired elsewhere in the system.

Background

DDSN has procedures in place to react to incidents or threats to consumer health, safety, and welfare. When someone reports abuse, neglect, or exploitation, DDSN implements both internal and external investigation procedures. S.C. Code §43-35-10 provides the following definitions:

- **Abuse** is intentionally inflicting physical injury on a vulnerable adult or deliberately subjecting a vulnerable adult to threats or harassment or other forms of intimidating behavior.
- **Neglect** is a caregiver omitting or failing to provide the care, goods, or services necessary to maintain the health or safety of a vulnerable adult.
- **Exploitation** is causing or requiring a vulnerable adult to engage in improper labor; improper use of funds, assets, property, or power of attorney, or causing a vulnerable adult to purchase goods or services for the advantage of someone else through undue influence, harassment, duress, force, coercion, or swindling.

DDSN determines, through its internal review process, whether or not the accused violated provider policy. At the conclusion of the investigation, the facility administrator/executive director must follow the provider's personnel policy to discipline the caregiver, address any training issues or procedural changes identified during the review, make necessary environmental changes, and notify licensure/certification boards of licensed or accredited employees.

In addition to initiating the internal investigation, staff must immediately contact the appropriate external investigative agency following an incident or threat. Only the investigative agency can substantiate abuse, neglect, or exploitation. A 2006 amendment to the Omnibus Adult Protection Act (§43-35-5 *et seq.*) assigned external investigative duties to the Vulnerable Adults Investigations Unit of the South Carolina Law Enforcement Division (SLED); however, SLED may not conduct each investigation. SLED may direct an investigation to local law enforcement, the Attorney General's office (financial exploitation), or the Long Term Care Ombudsman (non-criminal investigations). From January 30, 2007, to January 30, 2008, SLED received 1,129 abuse and neglect reports; 625 were related to DDSN-operated or contracted facilities. The Department of Social Services' out-of- home abuse and neglect unit investigates incidents involving consumers age 17 and under. If an external investigation substantiates abuse, neglect, or exploitation, then the provider must terminate the perpetrator within 24 hours. If the victim is a child, then the perpetrator's name will also be entered on the Central Registry of Child Abuse and Neglect.

There is not a registry of abusers of vulnerable adults. Currently, the Adult Protection Coordinating Council is researching potential parameters of an adult abuse registry for South Carolina. The council, created in the Omnibus Adult Protection Act (OAPA), includes representatives of all of the agencies involved in serving and protecting vulnerable adults. If a registry is proposed, legislatively approved, and implemented, it will be an important resource for employers of people who work with vulnerable adults. The names listed on the registry from DDSN would be those perpetrators involved in substantiated cases. If a DDSN internal review finds that a person violated a disciplinary policy related to the health, safety, and welfare of a consumer, but the person is not criminally convicted, his name may not appear on the registry.

Abuse and Neglect Policy Implementation

DDSN may not have ensured that service providers comply with its policy regarding personnel actions related to a report of abuse, neglect, or exploitation. DDSN directive 534-02-DD requires that alleged perpetrators of abuse and neglect be immediately placed on administrative leave without pay, as a part of the safety plan for the consumer. According to initial reports submitted by the providers to DDSN between January 30 and July 30, 2007, there were 332 total incident reports involving staff. There were 244 administrative leaves and 16 terminations recorded in initial reports for that same time period, leaving 72 (22%) cases where the provider did not follow the safety plan.

In addition, directive 534-02-DD also requires that alleged perpetrators be terminated if the case is substantiated by an external investigative agency. During the same time period, there were 70 substantiated cases involving staff. According to DDSN records, there were 59 substantiated cases that resulted in termination, leaving 11 (16%) where the policy was not followed.

Although DDSN took more than two months to compile the data reported above, in October 2008, the agency provided a third report reflecting 100% compliance with personnel policies in directive 534-02-DD. DDSN did not provide documentation to allow us to verify the new data; therefore, the evidence is not sufficient to support a conclusion about provider compliance.

Recommendation

13. The Department of Disabilities and Special Needs should enforce abuse and neglect directive 534-02-DD by reviewing provider reports and documenting the follow-up with providers if a required action is not taken.

Reference Checks

DDSN does not have an adequate system to ensure that direct caregivers who are dismissed for consumer safety-related disciplinary infractions are not rehired elsewhere in the system. If a caregiver at a DDSN-operated facility is terminated or resigns because of an abuse or neglect incident, staff enters a code on his personnel file. If the person reapplies to a DDSN-operated facility, the hiring official has access to this information. However, there is no equivalent system maintained for local DSN boards or other providers.

Several DDSN agency officials reported that although DDSN does not have a centralized system for boards and other providers to check, they encourage detailed reference checks. S.C. Code §41-1-65 provides immunity from liability when employers respond to written reference requests with factual information contained in the employee's personnel file. This includes performance information. We contacted the local DSN boards and found that most boards exchange only minimal information such as dates of employment and position held. They do not generally exchange performance information, even if it is in the personnel record.

Although a completed job application should include information about past consumer safety incidents, the employer does not have a guarantee of receiving complete information. DDSN has a few options that would make the hiring process less risky for the providers. One possible solution is to develop an internal registry. Following an LAC recommendation, the Department of Social Services (DSS) implemented a system to track individuals allowed to resign before disciplinary action can be taken against them. According to an agency official, DSS requires supervisors at the county offices to check this system before making a final hiring decision. However, DDSN officials stated that a systemwide registry could expose the agency to unnecessary liability.

Another option is to formalize reference check procedures. DDSN officials agreed that they could mandate, through the contracts with the DSN boards and QPL providers, that specific information about employees be shared with other DDSN-contracted service providers, if requested in writing. Agency officials stated that this plan presents significantly less risk than an internal registry, would not be too difficult to implement, and would accomplish the goal of greater consumer safety.

Recommendations

14. The Department of Disabilities and Special Needs should amend its contracts with the DSN boards and other providers to require that they formally record whether they would rehire a separating employee.

15. The Department of Disabilities and Special Needs should amend its contracts with the DSN boards and other providers to require that they make all requests for references in writing.

16. The Department of Disabilities and Special Needs should amend its contracts with the DSN boards and other providers to require that they respond in writing to a written request from another system provider with the following information, documented in personnel records:

    - Written employee evaluations.
    - Official personnel notices that formally record the reasons for separation.
    - Whether the employee was voluntarily or involuntarily released from service and the reason for the separation.
    - Information about job performance.

Onmibus Adult Protection Act

The Omnibus Adult Protection Act (OAPA) should be revised to criminalize neglect of a vulnerable adult through reckless behavior. The OAPA was passed to provide protection for vulnerable adults — people 18 years or older with a physical or mental condition which substantially impairs the person from providing for his own care or protection. The OAPA defines specific crimes and provides for prosecution and punishment of perpetrators of abuse, neglect, or exploitation of a vulnerable adult. Through their representatives on the Adult Protection Coordinating Council (APCC), agencies charged with serving and protecting vulnerable adults have expressed a desire to amend the criminal portion of the OAPA.

During the course of our review, the legislative committee of the APCC presented a proposed OAPA amendment that would make neglecting a vulnerable adult as a result of acting or failing to act due to *reckless disregard* for his health or safety a misdemeanor criminal offense. Currently, all offenses are felonies that require knowing and willful commission of the crime, with the exception of a misdemeanor for failing to report abuse, neglect, or exploitation. Council members believe that the addition of the misdemeanor offense will aid in prosecuting those whose behavior, though reckless, does not rise to the level of knowingly or willfully harming a vulnerable adult.

The developmentally disabled population and other vulnerable adults can be compared to children in that they cannot provide for their own care or protection. The Children's Code provides for a Central Registry of Child Abuse and Neglect (S.C. Code §20-7-680). It also contains an offense of "cruelty to children" which is a misdemeanor that carries a lesser penalty than other crimes against children.

Recommendation

17. The General Assembly should amend the Omnibus Adult Protection Act to add a misdemeanor level charge and penalty to the criminal acts directly against vulnerable adults.

Consumer Funds

DDSN should strengthen its controls to ensure that consumers' funds are handled appropriately. DDSN has several agency directives governing the handling of consumers' funds, and the agency performs reviews of the DSN boards and other providers to verify that they are following these directives. DDSN's licensing division, DHEC's division of certification, the agency's contracted quality improvement organization, and the DDSN internal audit division all perform reviews on the handling of consumers' funds. By examining DDSN's internal audits, we found that consumers' funds are often mishandled by board staff.

In our review of DDSN's internal audits from FY 04-05 through March 2008, we found that the division regularly finds problems at the boards/providers when they perform audits of consumer funds. Some of the problems that internal audit found repeatedly include:

- Consumers' personal checks not being filled out correctly.
- Missing receipts for consumers' purchases.
- Consumer property without the consumer's name on it.
- Questionable purchases made on behalf of the consumers.
- Consumers' cash-on-hand ledgers not maintained properly.

The audit results indicate that many of the boards/providers have problems ensuring the proper management of consumer funds. One cause of inappropriate use of consumer funds could be a lack of proper training to board/provider staff. Another may be the choice of some board/provider staff to take advantage of the vulnerable population they serve. Improved employee hiring practices, such as more detailed reference checks, should ensure that qualified staff are hired (see p. 24).

The internal audit division performs training on how to properly maintain consumer funds at the request of the board or other providers. According to an agency official, most boards/providers train new employees on the use of consumer funds themselves, by having existing employees train the new employees.

According to an agency official, DDSN's internal audit has not conducted mandatory training for the boards/providers on consumer funds in approximately four years. Since they consistently find problems in this area, DDSN should conduct mandatory consumer funds training for every board and other provider. Internal audit staff should also encourage providers with questions on how to handle consumer funds to contact internal audit staff directly for guidance.

Recommendation

18. The Department of Disabilities and Special Needs should conduct mandatory training for all board/provider staff handling consumer funds and inform board/provider staff to contact internal audit staff with questions regarding consumer funds.

Room and Board

DDSN has allowed providers' room and board policies to be inconsistent and has not ensured that they are communicated to consumers and the public. The Medicaid program does not pay for the room and board of consumers; therefore, it is generally the responsibility of residential consumers to pay for their room and board. DDSN allows each board/provider to establish room and board amounts based on guidelines issued by the agency. These room and board amounts may include: rental charges, utilities, food, maintenance, exterminating, etc.

DDSN provides each board/provider with guidelines to follow to determine room and board calculations. While we found these internal guidelines adequate, the guidelines should be strengthened by establishing an agency directive on room and board that is available to the public.

We spoke with agency officials and interested parties about this issue. According to agency officials, while room and board amounts may change from board to board, the amounts should not change within a given county unless there are unusual circumstances where a particular residence's costs are above or below the norm. Also, private providers determine their own room and board amounts separately from the county DSN boards.

However, while a board may set its room and board for all its consumers, it is limited to a consumer's ability to pay. For example, if the room and board for a given county is $600 a month, then all consumers in that county are expected to pay $600. However, if a consumer only receives $500 a month in unearned and earned income, that consumer cannot be expected to pay the full $600 and will pay a lower amount. Consumers who receive more than $900 a month in unearned and earned income may have to pay the full room and board amount.

DDSN allows boards/providers to use one of three methods to determine the rental charge portion of their room and board calculations. The three methods are:

- Surveying local rental amounts or using the U.S. Department of Housing and Urban Development's (HUD) fair market rent calculations (annual calculations for average rental amounts, searchable at the county level).
- Using a home's monthly mortgage payment.
- Using a home's depreciation over the life of the home.

We reviewed three DSN boards' room and board calculations. During our review of the three boards, we found that all three did not apply DDSN's guidelines correctly. Also, according to an agency official, it may be inappropriate for the DSN boards/providers to continue to use HUD's fair market rent calculations, as those numbers are based on low-income housing rental amounts, and DDSN's homes are of a higher value.

Also, according to an agency official, the boards/providers calculate their room and board amounts themselves or have their CPA firms do it for them. DDSN does not approve the amount. DDSN should review its methods of calculating rental charges and determine a single method to implement statewide. DDSN should also implement controls to ensure that each board's/provider's calculations are correct.

Finally, DDSN's agency appeal process, outlined in department directive 535-11-DD, does not clearly state that room and board calculations may be appealed by consumers and their families. According to an agency official, however, this is the method for appeal for room and board disputes. DDSN should update its agency appeal process to clearly state that room and board calculations may be appealed by consumers and their families if they dispute the charges.

Recommendations

19. The Department of Disabilities and Special Needs should examine its methods for calculating rental charges and implement a statewide public directive specifying a single method for boards and other providers to use.

20. The Department of Disabilities and Special Needs should require each board and provider to have its room and board calculations approved annually by the agency.

21. The Department of Disabilities and Special Needs should update its agency appeal directive (535-11-DD) to specifically include room and board calculations.

Human Rights Committees

Provider human rights committees have not complied with DDSN's policy and may not fully protect consumer rights or ensure consumer welfare. S.C. Code §44-26-70 requires that human rights committees of at least five members be established for each regional center and county DSN board. The committee is appointed by the state director or his designee and must include a family member of a person with mental retardation, a client of the department, and a member of the community at large with expertise or interest in the care and treatment of persons with mental retardation and related disabilities. Committee responsibilities include the following:

- Review and advise the provider on policies pertaining to client rights.
- Hear and make recommendations to the provider on research proposals which involve consumers.
- Review and advise the provider on program plans for behavior.
- Receive notification of abuse, neglect, exploitation, or critical incidents.
- Advise the provider on other matters pertaining to consumer rights.

The statute directs the department to establish policy for the operation of the committees. DDSN directive 535-02-DD applies to all regional centers, the autism division, DSN boards, and contract service providers, although contract service providers are not required to have a board. The directive expands human rights committee membership to at least six people, requiring a community professional with behavioral or medical expertise, a member of a related organization, and other community members. In addition, the directive requires that the "family member" be related to a DDSN consumer, as opposed to the statute's requirement that the person be related to someone with mental retardation. The directive also provides specific instructions on case review and minimal training requirements.

During the first three quarters of FY 07-08, DDSN's quality improvement organization (QIO) found that just 11 of 28 (39%) eligible providers reviewed adhered to DDSN policy regarding human rights committees composition, confidentiality, and training directives. Detailed reviewer comments revealed that although committees were active in providing oversight of board activities, providers often received a "Not Met" because neither meeting minutes nor board training records contained a record of human rights committee training. An agency official stated that other reasons for receiving a "Not Met" determination included incomplete committee composition, and having an insufficient number of meetings.

It may be difficult for providers to find a person meeting each of the qualifications, who is willing to volunteer his time. It also may not be necessary for committees providing oversight of smaller boards to meet as often as the directive requires. The agency official stated that in those cases a provider should request an exception to the human rights committee licensing requirement. Between January 1, 2005, and December 31, 2007, four providers requested an exception to that requirement. According to an agency official, if after the QIO's follow-up review, the provider still has not met this indicator, the provider will receive technical assistance from the district office.

Although the QIO found that committees were active in providing oversight of board activities, the committees were frequently unable to meet DDSN's requirements. Appropriate committee composition and training are important to ensuring consumer welfare.

Recommendations

22. The Department of Disabilities and Special Needs should evaluate whether or not the statutory requirements for human rights committee composition could be effective, and if so, amend the directive to be consistent with the statute.

23. The Department of Disabilities and Special Needs should monitor whether facility/agency directors schedule human rights committee training at least once a year or more often as needed.

Direct Caregiver Training

We reviewed DDSN's direct caregiver minimum training requirements and DSN board training curriculum outlines to determine if board policies complied with DDSN policy. We found that, with few exceptions, the DSN boards' outlines met DDSN's minimum training requirements. However, training coordination and procedures may need to be reviewed further.

According to an agency official, the last major statewide curriculum revision was more than eight years ago. After that revision, training coordination duties were shifted from the central office to the regional offices. In 2007, DDSN staff and trainers from around the state updated the agency's training directive, which includes policies and a list of required topics. They are in the process of updating the DDSN-recommended training curriculum. According to an agency official, the revision process has created a forum for trainers from around the state to discuss training-related practices and issues from their counties. Also, the updated curriculum will eventually be posted online.

During our review, we determined issues for DDSN to review further:

- Abuse and neglect training may be inadequate. Early QIO reports show that, although most providers are able to document a staff person's receipt of abuse and neglect training, upon observation, staff do not demonstrate an understanding of the issue or reporting process. From July to December 2007, the QIO observed that of 17 providers documenting annual abuse and neglect training, 12 (71%) had staff that could not demonstrate knowledge from the training.
- Online availability of training information is very limited, and neither DDSN's website nor its extranet contains a list of training opportunities in different counties. The extranet is a password-protected internal site. During the course of our review, we observed that Florida's Agency for Persons with Disabilities website contains comprehensive lists of training available in the agency's geographic regions.
- Centralized training coordination may be beneficial in terms of providing technical assistance and sharing of best practices and training opportunities.

Recommendation

24. The Department of Disabilities and Special Needs should communicate training availability through its website.

Barriers to Competition and Consumer Choice

Federal regulations (42 CFR §431.51) require recipients of services funded by Medicaid to have free choice of the providers who are willing to provide the service to them. We were asked to identify barriers to competition and consumer choice within the DDSN system. We found that in South Carolina, DDSN's consumers often have little choice of providers. Most services are provided by the local disabilities and special needs (DSN) boards. We identified several barriers to competition and consumer choice that are discussed below.

Availability of Provider Choice

In the past, local disabilities and special needs boards provided nearly all services for DDSN's consumers. Beginning in 1998, DDSN began to implement a service-delivery approach called "person-centered services," which was designed to give consumers and their families more choice and control of the services they received from DDSN. DDSN gradually began to allow qualified service providers other than the DSN boards to provide services to its consumers. In 2003, DDSN solicited proposals from providers who wanted to serve its consumers, and more providers were qualified through the process that was administered by the Budget and Control Board. Providers on the qualified provider list are called QPL providers. According to procurement records, as of January 2008, DDSN had added 17 non-board providers through this process. We found that 4 of the 17 providers procured from 2003 through 2008 are no longer providing services. In October 2008, DDSN submitted information about new providers qualified through its August 2008 solicitation. The information showed that 15 new providers have been qualified to offer some services.

As of FY 06-07, just five providers of residential and day services to DDSN's consumers had been added through DDSN's solicitation for services. According to DDSN, as of December 2007, just 147 of 4,776 residential consumers were being served by these QPL providers. In FY 06-07, DDSN paid approximately $5.6 million to these providers, 3% of its total expenditures of $163 million for residential and day services. Early intervention is the only service where there was a significant choice of providers. In FY 06-07, DDSN paid 5 QPL providers $4.8 million for early intervention, approximately 37% of its expenditures for this service.

In many parts of the state, consumers have no choice of provider for residential services. We reviewed a list of residential facilities and found that there are 35 counties where a consumer would have no local choice of provider for any residential service.

Over the past few years, the federal Centers for Medicare and Medicaid Services (CMS) and the South Carolina Department of Health and Human Services (DHHS), the state Medicaid oversight agency (see p. 8), have recommended that DDSN take action to bring more providers other than DSN boards into the system. A 2004 CMS review of the MR/RD Medicaid waiver operated by DDSN recommended ". . . the continued enrollment of non-DSN board providers in order to increase choices of consumers and family members." This review also advised ". . . that actions be taken to assure that all potential providers have the opportunity to enroll to increase consumer and family choice."

DDSN requires service coordinators to offer choices to consumers and to have the consumer sign a form stating that they were offered a choice of providers. DDSN's quality assurance contractor reviews consumer files to make sure that these forms are in the files. However, if there are no providers to choose from, having consumers sign this form is, in many cases, a meaningless activity.

DDSN participates in a national core indicators survey conducted by the National Association of Directors of Developmental Disabilities Services and the Human Services Research Institute. The survey asks a sample of DDSN's consumers about their experiences and perceptions. Based on data from the 2005-2006 survey in which 20 states participated, DDSN's consumers' responses did not vary from the national average when asked questions about whether they had choice in making life decisions. However, when asked whether they had looked at more than one home or more than one job, just 4% – 6% indicated that they had, percentages far below those in all of the other participating states.

We contacted South Carolina's neighboring states to determine how many providers of residential services are available in those states. We found that consumers in Georgia, Florida, and North Carolina have a greater choice of providers than those in South Carolina. Florida's website lists 200 residential providers, Georgia's provider list includes 141 providers of residential services, and a North Carolina official stated that North Carolina has 80–100 residential providers at any one time. Including DDSN and the DSN boards, South Carolina has 45 providers of residential services. Removing some of the barriers to entry faced by providers in South Carolina should result in more choice, which could result in improved services for DDSN's consumers.

Barriers Related to the Board System

The South Carolina Mental Retardation and Related Disabilities Act of 1990 provided that a statewide network of local boards of mental retardation be established. Section 44-20-385 states that county boards of disabilities and special needs are ". . . the administrative, planning, coordinating, and service delivery body for county disabilities and special needs services . . . ." The law does not require the boards to provide services directly. They may contract with other providers to carry out the department's programs. Historically, the boards and other entities recognized by DDSN as boards (see p. 3) have planned and coordinated services and also directly provided the substantial majority of the services received by DDSN's consumers. As implemented by DDSN, the board system creates barriers to other service providers who might be qualified and wish to provide service to DDSN's consumers.

Lack of Independent Service Planning

In South Carolina, service coordination and service provision are generally performed by the same entity, the local DSN board. This creates a conflict of interest and is a barrier to choice. When a consumer's service coordinator, who informs the consumer about different providers available, is employed by one of the providers, the service coordinator's independence is compromised. Also, the board's service coordinator is responsible for determining the consumer's needs, which affects the funding allocated to services for that consumer. If that board receives those funds as a service provider, the independence of this process could be compromised. Further, when service coordination and service provision are combined, oversight is lessened and quality of service may be compromised.

According to a recent study of DDSN's quality management functions by the USC School of Public Health, national experts suggest that the service coordination function be at arm's length from service providers. The separation of these functions creates necessary "firewalls" that prevent conflicts of interest, facilitate functional outcomes, and serve as an independent oversight mechanism. The study pointed out that the separation of the two functions allows for multiple "pairs of eyes" to monitor quality, and recommended that DDSN require the separation of service provision and coordination. The S.C. Department of Health and Human Services (DHHS) has separated service coordination and service provision for the Medicaid waiver programs that it manages directly. A 2007 DHHS audit of DDSN's service coordination points out that most counties in the state only have a choice of one provider for regular service coordination. The audit stated that "DDSN should continue to find a way to bring more qualified providers into the system even if they are only neighboring DSN boards in order to provide actual choice."

We found that in Georgia, Florida, and North Carolina, service coordination is separate from service provision and cannot be done by the same entity. In each of these states, service coordination and service provision were formerly done by the same entity. In Georgia, House Bill 100, passed in 1993, found that the state had an obligation and responsibility to develop and implement planning and service delivery systems in which ". . . the functions of service planning, coordination [and] . . . contracting . . . should be separated from the actual service delivery programs." According to officials in those states, similar changes to ensure independence of service coordination occurred in Florida in the 1990s and in North Carolina around 2002.

According to a 2006 survey conducted by the National Association of State Directors of Developmental Disabilities Services, 27 states reported they do not permit providers to offer other direct services to consumers for whom they provide case management, while 20 states reported that providers could offer both case management and other direct services. Six of the 20 states reported they require case management units to operate at arms length from other agency operating units.

In its 2003 solicitation for new providers, DDSN mandated that providers responding to the solicitation could not offer both service coordination and service provision. According to a DDSN official, this was to prevent conflicts of interest. However, DDSN has continued to allow the DSN boards to provide both to the majority of their consumers.

DDSN is required by statute (S.C. Code §44-20-370) to use the most modern methods of providing services to its clients. It should require the separation of service coordination and service provision to ensure independent consumer choice. In October 2008, DDSN reported that six new providers of service coordination have been qualified through its August 2008 solicitation for services. Having independent providers available should ease the implementation of this new requirement.

Financial Barriers to Entry for Non-Board Providers

DDSN provides financial benefits to DSN board providers that discourage participation by other providers of services. When board providers are serving a consumer, DDSN pays the board an upfront payment called a band payment (see p. 47), while QPL providers are paid for services only after they have been provided and do not receive the upfront payments. For example, a board provider would be paid $6,168 per month in advance for providing services to a single consumer in a high management group home. Delayed payments can create cash flow problems for the QPL providers. The DSN boards also have a favorable financial situation when vacancies occur

in their facilities. The boards continue to be paid for providing services for 60 days or more following vacancies, while the QPL providers are not paid for empty beds. Also, until July 2008, QPL providers had to bill the DSN boards, their competitors, for some services, which can create delays. It was also inefficient, as the same provider might serve consumers in multiple counties, and it would have to bill each board separately. Beginning in July 2008, QPL providers may bill DDSN directly for additional services.

Funds for Capital Development

DDSN has provided the DSN boards capital grant funds to purchase and maintain their residential facilities and for administrative facilities. Table 3.1 summarizes the capital grant amounts awarded by DDSN for the past three years. The majority of funds (59%) were for administrative facilities. According to DDSN, many of these facilities also house day programs for consumers.

Table 3.1: DDSN's Capital Grants, FY 04-05 – FY 06-07

TYPE	FY 04-05	FY 05-06	FY 06-07	TOTAL
Residential	$665,751	$2,624,068	$4,048,194	$ 7,338,013 (41%)
Non-Residential	1,792,296	1,997,979	6,725,213	10,515,488 (59%)
TOTAL	**$2,458,047**	**$4,622,047**	**$10,773,407**	**$17,853,501 (100%)**

Source: DDSN

Financial Accountability

DDSN has not adequately implemented its contractual controls over board performance. DDSN's contracts with the DSN boards contain comprehensive provisions for DDSN to withhold or reduce payments to the boards for violations of DDSN policy, financial requirements, or service provision standards. The contracts can be terminated for breach of contract or the board's insolvency. In one instance, DDSN sanctioned a provider, Babcock Center, by forcing it to reduce its services by approximately one-half (see p. 12). As a result, other providers had an opportunity to expand their services and bring more choice into the system. In Richland and Lexington counties, 64% and 33%, respectively, of residential facilities are operated by providers other than Babcock, the DDSN-recognized "board" in these counties. However, we found that DDSN has waived financial obligations of the boards in many instances or has helped them out of financial difficulties. This is done through a process of forgiving the boards' obligations to DDSN or awarding special one-time grants to the boards. Some examples of DDSN's assistance are listed below.

- Although the DSN boards are required to reimburse DDSN when they sell property that was purchased with a capital grant from DDSN, it allowed the Chester/Lancaster and York boards to keep proceeds owed to DDSN in the total amount of $151,000 from FY 05-06 through FY 06-07.
- When Babcock Center was required to downsize, DDSN furnished a grant of $96,000 for furniture for its facilities being transferred to other boards. DDSN is still owed more than $2 million by Babcock. According to officials, it will forgive this debt when all of Babcock's transferred property has been officially transferred to other providers.
- In FY 07-08, DDSN assisted the Charleston DSN board with its financial difficulties. As part of its agreement with the board, DDSN will pay for the agency's leases in the amount of $108,000 for FY 06-07 and $110,856 for FY 07-08.
- In FY 04-05, DDSN provided special one-time grants to the Georgetown DSN board in the total amount of $267,204. One of these grants was for "one-time settlement of IRS lien."

According to DDSN officials, they cannot allow the boards to go out of business. They think of the boards not as separate stand-alone entities, but as part of DDSN's budget. They "work with" the boards so that they can continue to operate. This gives the boards a strong financial advantage compared with the QPL providers. While DDSN, beginning in FY 06-07, has given one-time grants to QPL providers and has extended the period over which they can repay penalties found in audits, prior to FY 07-08, it had not given significant financial assistance to these providers. In FY 07-08, DDSN awarded $475,065 in capital grants to one QPL provider of residential services.

Not requiring the boards to be financially accountable can have other effects in addition to limiting and discouraging competition from other providers. If the boards know they can mismanage their funds with impunity, they have less incentive to manage prudently. They also have less incentive to ensure that their services protect the health, safety, and welfare of their consumers. Many findings of DDSN's internal audits of the boards were recurring problems (see p. 26). DDSN should ensure that it requires the boards to be accountable. If a board does not manage its resources appropriately, DDSN should implement its contractual controls and, if needed, contract with other providers of services for its consumers.

Recommendations

25. The Department of Disabilities and Special Needs should require that a consumer's service coordination and service provision be performed by separate entities.

26. The Department of Disabilities and Special Needs should hold the DSN boards accountable for their fiscal management. If a board is not financially responsible, DDSN should implement its contractual controls, and, if needed, contract with other providers for services.

Allocation of Beds

DDSN's method of distributing new funding for residential services has also created barriers to providers and consumer choice. Instead of allocating new residential placements to consumers who are determined to be the most in need of these services, DDSN allocates new slots to providers. In FY 05-06, DDSN was appropriated $2.3 million in state funds as the state match to allow them to develop 130 new beds to serve consumers not previously served. In FY 06-07, they received an additional $9.2 million in state appropriations to allow for 500 new beds.

DDSN has used a process for filling vacant beds and developing new beds that focuses on providers. When an existing bed becomes vacant, DDSN allows the provider to locate a new person who has need for services to fill this vacancy. When funding became available for the 500 new beds in FY 06-07, DDSN used the following process to gather information before allocating the new beds to specific providers:

- DDSN solicited providers' proposals for new beds.
- DDSN obtained information on geographic location of consumers waiting for residential services.
- DDSN obtained data on the existing residential capacity as a percentage of total county population.

According to a DDSN official, they also considered the type of residential service needed, with the goal of increasing beds in the least restrictive categories. In addition, they considered the population served, wanting to increase services for consumers with head and spinal cord injuries and autism, who had been previously underserved. They also decided to allocate more beds to private (QPL) providers than had been allocated in the past. DDSN officials evaluated the information they obtained and then allocated new beds to specific providers. They specified what level of service would be provided in each case and from which waiting list(s) the consumer filling the beds must come. They did not designate individual consumers to receive the placements. Although DDSN had asked providers to identify the consumers they would serve if they received new beds, a review of their proposals revealed that many did not. Also, in at least one case, a provider requested the slots to meet the needs of potential consumers, and DDSN authorized the

provider to provide a different level of residential service, for which it did not have demand.

In Georgia, Florida, and North Carolina, when funding becomes available to provide residential services to clients not previously served, funds and services are allocated to specific consumers and not to providers or facilities. The consumers who are authorized to receive services then select the provider(s) that they want, often interviewing and considering various providers available.

By allocating beds to providers instead of to people, DDSN has not encouraged consumer choice. In some cases, this method of funding can result in consumers who would otherwise receive residential placements not being placed or not being placed with their choice of provider. For example, we reviewed records of four consumers who were eligible for residential placement and had chosen their preferred qualified providers. However, the providers they chose did not have beds allocated from DDSN. Two of the consumers agreed to be placed with another provider who was not their choice, and two of them preferred to wait until their preferred providers had "slots" available. When the money follows the bed instead of the person, it is another barrier to competition and consumer choice. Although most QPL residential providers are qualified to provide services in all parts of the state, according to one of these providers, when they wanted to serve consumers in new parts of the state, DDSN did not allow this. According to another provider, they have decided to stop offering services in South Carolina because they could not obtain enough slots from DDSN to make their services economically feasible.

Recommendation

27. The Department of Disabilities and Special Needs should allocate funding for services to individuals and not to providers.

Lack of Reciprocity

If a DSN board wants to provide a service that it provides in its own county in a neighboring county, it is required to apply to be a qualified provider in the other county. We could not determine any reason why a provider qualified in one county would not be qualified to provide the same service in another county. This is another disincentive to free choice of providers for consumers. One DSN provider stated that the resources they would use to go through the application process would be better spent elsewhere in service delivery.

Recommendation

28. The Department of Disabilities and Special Needs should allow DSN boards to provide services they provide in their own jurisdiction in other areas of the state without going through the provider qualification process.

Availability of Providers

As discussed previously, often there are not enough available residential service providers for consumers to have a choice of providers. Evidence indicates that other types of services needed by consumers are often not available. Three services mentioned to the LAC as not available were the following:

- Respite — service provided to care for the consumer temporarily because of the absence or need for relief of persons normally providing care, either in the home or at a different site.
- Companion — non-medical care, supervision, and socialization provided to an adult consumer.
- Behavior support — services which use research-validated methods to identify the cause of, intervene to prevent, and appropriately react to problematic behaviors.

DDSN files quarterly reports with DHHS regarding services that are needed but unavailable. We reviewed the quarterly report filed in February 2008 and noted that there were 102 reports of unavailable services. Most frequently reported as unavailable were respite care, behavior support services, and adult companion services. We consulted Babcock Center, the primary provider of respite and companion services for Richland and Lexington counties. Babcock maintains lists of qualified providers who might be available to provide respite and companion services. Just 18 respite providers and 6 companion providers were on the list as of March 2008. Based on data from DDSN, as of June 30, 2008, approximately 2,280 consumers in

Richland and Lexington counties were eligible for respite and 370 were eligible for companion services.

Consumers in the Medicaid waiver operated by DDSN are dropped from the program if they don't receive any services in 30 days. If a consumer didn't use services because they were not available, he has 90 days to begin using services during which he may return to the waiver program. Neither DDSN or DHHS compiles reports on how often consumers must leave the program because providers are not available. We reviewed the enrollment and disenrollment forms for the DDSN Medicaid waiver for calendar year 2007 and found 76 instances when consumers were disenrolled because they had not received services in 30 days. The forms did not usually indicate the reason that the consumer had not used services, but in six cases there were specific notes referring to provider unavailability.

Reasons cited for the difficulty in recruiting respite and companion providers included the low pay, training, requirements to be qualified, and the difficulty and part-time nature of the work. DDSN stated that its new solicitation for providers issued in August 2008 makes it easier for individuals to complete the paperwork and go through the qualification process. They are also redesigning services in a new waiver application to respond to the problem of availability of providers. These include a site where respite services could be provided for flexible hours based on family needs.

Management of Provider Qualification

DDSN's qualification process for providers of psychological services needs improvement. Since 2000, DDSN has been responsible for determining which providers are qualified to offer psychological services to its clients through the MR/RD waiver (see p. 5). Psychological services include counseling, testing, and behavior support services. Behavior support services have not been available to all who need them (see p. 41). As of March 31, 2008, according to DDSN's provider list, there were just 26 qualified providers of behavior support services who were accepting new clients. From FY 04-05 through FY 06-07, DDSN records show that just 56% (10 of 18) new applicants to provide behavior support services were determined by DDSN to be qualified. We reviewed DDSN's provider qualification process to determine whether it provided appropriate controls to verify qualifications. Applicants must possess the required education and experience and submit a work sample. To be found qualified, applicants must also pass an interview, in which one or two DDSN employees or contractors conduct an oral interview with the applicant.

The use of an interview to determine whether applicants are qualified is questionable, as it could be subjective and may not meet professional testing standards of validity and reliability. Although DDSN uses structured interview questions, there are no written policies for grading or scoring the interview. There is no assurance that the interview would provide consistent results or be defensible if challenged. DDSN also uses interviews to determine whether providers of psychological counseling services and testing services are qualified. Other means to determine qualifications, such as requiring the passage of a written exam or specific courses of study, would likely be more objective, valid, and reliable.

Renewal and Review of Qualified Providers

Beginning in 2002, DDSN required stringent renewal and review requirements for all providers of all psychological services which could discourage potential providers from applying. We found that DDSN did not enforce these requirements, which calls their purpose into question. Beginning in 2002, DDSN required that providers renew their qualification every two years and submit documentation of 20 hours of appropriate continuing education credits to DDSN. Also, DDSN required that providers' performance be reviewed annually. In the annual review for behavior support services, a person skilled in applied behavior analysis evaluates a sample of the provider's work to determine if it met 13 criteria established by DDSN during the qualification process. If criteria were not met, DDSN would require the provider to submit a corrective action plan and undergo a follow-up review.

We reviewed the files of 8 (31%) of the above 26 behavior support providers and found that the renewal requirements had not been enforced; providers were not required to renew every two years or submit documentation of their continuing education to DDSN. Also, the annual reviews had not been completed in most cases. Four of the providers for whom reviews would have been required since 2002-2004 had no record of ever having an annual review. After the LAC disclosed the sample findings to DDSN, DDSN management sent out notices requiring providers to send in documentation of their continuing education going back to 2004.

According to a DDSN official, they have been concerned about getting the providers they need to furnish behavior support services. DDSN has regularly made USC courses in applied behavior analysis available to its providers, staff, and interested professionals at no cost. DDSN should also revise its qualification and review process to ensure that it contains adequate, but not excessive quality controls, is objective, and consistently enforced.

Recommendations

29. The Department of Disabilities and Special Needs should ensure that barriers to individuals desiring to provide services are minimized.

30. The Department of Disabilities and Special Needs should regularly evaluate the level of response to its solicitation for providers and amend the solicitation as indicated to encourage new providers to enter the system.

31. The Department of Disabilities and Special Needs should discontinue the use of an oral interview to qualify providers and ensure that its process is based on objective criteria and documented results.

32. The Department of Disabilities and Special Needs should ensure that it enforces stated provider requirements for renewal and review.

Marketing and Provider Communication

We reviewed DDSN's marketing and communication to providers to determine whether the agency made adequate efforts to broaden the choice available to consumers by encouraging and supporting new providers. We did not find substantial evidence of recruitment or support. While DDSN issued a solicitation for new providers in 2003, we found little evidence that DDSN attempted to evaluate the response to the solicitation or make changes to encourage more providers to apply. Focus groups who participated in the USC School of Public Health study agreed that a cause for the lack of choice in the South Carolina system was ". . . in large part, due to the complexity in the process for private providers to obtain licensure or certification."

Only when the 2003 solicitation neared expiration in 2008 did DDSN consider amendments and changes to the solicitation. For example, it is considering allowing providers of 6-bed homes to provide services that were previously limited to providers of 4-bed homes. DDSN also plans to solicit providers to act as fiscal agents for consumers who do not want a DSN board to handle their funds.

However, DDSN does not see itself as responsible for recruiting providers. According to DDSN officials, who cited a U.S. Supreme Court decision not to review an appeals court decision in the state of Colorado, DDSN is not required by Medicaid law to provide services or ensure that they are provided.

DDSN does not offer training or orientation sessions to new providers to ease their way into providing services effectively. A DDSN official stated that when a provider responds to the solicitation for services, DDSN expects that they have certain knowledge, background, and experience. Georgia requires several days of new provider orientation and training that is offered twice a year. Florida has an extensive and ongoing system for new provider training. One South Carolina provider within the DSN system stated that it was difficult for his board to begin offering a new service, and they are already working in and familiar with the DDSN system.

Evidence indicates that DDSN does not have regular communications to ensure that all providers have the information they need or have the same access to assistance. One provider obtained the right to bill DDSN directly and had the frequency of its billing changed to twice a month. This billing frequency is not granted to the other QPL providers. DDSN has not ensured that all assistance was communicated or available to all providers equally.

Recommendations

33. The Department of Disabilities and Special Needs should recruit new providers by ensuring that provider requirements are not unnecessarily restrictive.

34. The Department of Disabilities and Special Needs should provide regular and intensive training and assistance to new providers.

35. The Department of Disabilities and Special Needs should pay all non-board providers of residential services on a bi-monthly schedule.

36. The Department of Disabilities and Special Needs should ensure that it provides the same benefits to all providers and that its policies are comprehensive and readily available to all providers.

Conclusion

DDSN officials stated that private providers did not want to come to South Carolina because of the low rates paid for their services in the state. However, they did not provide evidence to support this assertion. We did a limited review of rates paid to private providers for residential services (non-institutional) in Florida, Georgia, North Carolina, and South Carolina. As shown in Table 3.2, based on limited evidence about the current rates paid in these states for different levels of residential service, there is nothing to suggest that South Carolina's provider rates are too low to attract providers.

Table 3.2: Rates for Residential Services in Four Southeastern States

STATE	RATE PER DAY
NORTH CAROLINA	$102 – $175
SOUTH CAROLINA	$73 – $209
GEORGIA	$156
FLORIDA	$40 – $248

Source: DDSN and FL, GA, and NC records.

As discussed, there are many barriers to competition and consumer choice in the South Carolina system that is managed by DDSN. DDSN should take action to increase the choices available to the consumers it serves. Provider choice should work hand-in-hand with accountability. North Carolina has recently been criticized because many of its providers, especially for mental health services, were billing the state for services that may not have been needed, and the state did not have adequate controls over quality of service. According to a North Carolina official, the consumers did not have budgets or controls over the amount spent for their services; they had blank checks to purchase whatever services they wanted. DDSN has controls to ensure that services are needed and allocates budgets to individual consumers. If South Carolina is able to recruit more providers and offer more choice to its consumers, DDSN should ensure that it provides accountability for services offered by all of its providers.

Use of Funds

Band Funding

Our objective was to determine if DDSN's band payment system is effective, efficient, and accountable. The band payment system is used as a budgeting tool to fund DSN boards, which provide or arrange for consumer care. These funds are used later to pay board expenses and to make payments to providers — they are not direct payments to providers. We did not find material problems with the band payment system and found it does not violate any federal regulations. However, DDSN has not formalized a band funding policy and has no formal procedure and policy for systematically updating band funding amounts to account for cost-of-living increases. Band funding in itself does not provide accountability — as band funding was not designed to account for a consumer's services or service payments.

Background

The band payment system, modeled after a similar system in the state of Arizona, is an advance payment system designed to pre-fund county disability and special needs (DSN) boards. This budgeting tool determines the amount of funding provided to the boards. State funds are appropriated to DDSN by the South Carolina General Assembly and are paid to the DSN boards a month in advance to be available to the boards for their consumers' care. The amount of funding to the boards for each consumer is determined by the band assigned. Each band is assigned a specific dollar amount, which is the average of the costs of consumers in that band based upon prior year actual costs. The band assignment to the consumer is based upon the service needs of the consumer as determined by an assessment administered by DDSN and DSN board personnel.

Pre-funding is necessary because the boards receive their primary funding from DDSN and have few other sources of funding except for Medicaid. The boards have to meet their ongoing administrative costs and the costs of providing services. They are not "stand-alone" entities, such as other state agencies, which are funded directly by the General Assembly. They exist primarily to provide or arrange for services to DDSN consumers.

A consumer's band funding may be more or less than the amount that is paid for his services. According to agency officials, the level of services received is always based upon consumer needs, not on band amounts. The cost analysis division of DDSN analyzes funding bands assigned to individual consumers every month in order to determine if funding bands need to be changed.

"Money Follows the Person"

DDSN asserts that it has a "money follows the person" philosophy regarding funding for consumer services. This concept was begun in 1992 in connection with the migration of consumers from regional institutional settings to smaller group home residential settings, in what is referred to as "depopulation." DDSN "moves" the budgeted amounts for services with the person to the new residential setting. This philosophy has been carried over to the band funding and consumer movement from service provider to service provider within a board's domain, from board to board, and from board (or board provider) to private providers, called QPL providers (see p. 33). QPL providers do not receive pre-funded band funding, but the rates they receive for providing services are based on the band amounts.

We found that there is a lack of clarity about exactly what "money follows the person" means. Some consumers, consumers' families, and advocates may think that a consumer is "entitled" to money assigned the consumer through band funding. However, we found that band funding represents *budgeted* funds and makes those funds available for consumer care, but the amount of money spent is based upon the actual service *needs* of the consumer, regardless of the band amount. The services needed are what the consumer is entitled to — not the specific amount of money in the funding band. If the services are not in the plan of care, then they are not needed. The services will not be received, and money will not be spent for them. Service needs and their cost may be more or less than the band amount assigned.

Misunderstanding about the band funding may have caused consumers and interested parties to become suspicious and fostered the belief that DDSN has not made the proper expenditures in the procurement of services for the consumers. A written policy available to the public should provide a better understanding of the purpose and application of band funds and reduce uncertainty and suspicions regarding services purchased.

Other Budgeted Funds

DSN boards are also paid a monthly rate in advance for consumers not assigned a funding band, but who receive service coordination and some other services. These would include early intervention therapy and training for children from birth through five years, services to HASCI (head and spinal cord injury) consumers in the waiver (see p. 5), respite care that is state funded, and other individual and family supports.

Band Development

DDSN initially developed the funding bands during 1997 and 1998, culminating in the creation of five bands to provide funding for services for classifications based upon consumers' level-of-care needs. Two bands were for consumers who reside in their homes and were as follows:

- Band A consumers receive day program services.
- Band B consumers receive day program services and enhanced waiver support services.

The residential bands were assigned based on the type of residential placement the consumer needed and were as follows:

- Band C included placements in community training homes (CTHI), and supervised living programs (SLP I and II).
- Band D consumers were low needs residents in community residential care facilities (CRCF) and community training homes (CTH II).
- Band E consumers resided in high needs intermediate care facilities for the mentally retarded (ICF/MR), and high needs CRCF and CTH II placements.

Addition of Band F

We reviewed the DDSN band F, an additional band implemented in 2002. This band was created as a part of a pilot program contractually agreed upon by DDSN and the Babcock Center. Band F provided supplemental funding for consumers in CTHI residences, which are foster care placements where consumers reside with their caregivers in their caregivers' homes. According to officials, the additional funding was needed to induce new caregivers into the program by paying for more respite care to relieve the caregivers of some of the burden of their foster care duties. The agency encourages the use of less restrictive consumer placements, based upon the decision in the Olmstead case (see p. 4).

We could find no evidence that DDSN properly documented the pilot program. We found no evidence that it was announced to or known by the general public, or perhaps even known to interested parties, such as disabled consumers and their advocates. This could lead to misunderstanding, suspicion, and mistrust regarding the program and its funding. We also found no evidence that DDSN evaluated the results of the pilot program. Agency data shows no growth in the number of enhanced CTHI placements from 2003 to 2008. Proper documentation and publication of any future pilot programs should provide improved openness and transparency of DDSN's operations.

Adjustments to Band Amounts

In its February 2006 audit report, the Division of Audits of the Department of Health and Human Services (DHHS) recommended that DDSN update its band funding levels so that the amounts of the bands more closely resembled the actual costs of services.

DDSN re-based the bands in 2006. In doing so, it increased the number of bands to eight (see Table 4.1) so the bands would be more representative of actual costs. However, this re-basing was a one-time adjustment of band amounts. DDSN has updated band amounts annually, to coincide with pay raises and insurance increases for employees of DSN boards. However, it has not required regular consideration of other cost-of-living data in agency formal policy or procedure. We concluded that DDSN should develop a systematic plan to update the bands for cost-of-living factors, such as fuel and vehicle maintenance, contingent on availability of funds. This would minimize the risk of inadequate funding caused by band amounts below actual costs, which could potentially affect providers' ability to furnish consumer care.

Table 4.1: DDSN Band Funding Levels, FY 07-08

BAND	PLACEMENT	ANNUAL AMOUNT
A	Day supports only	$9,079
B	At home waiver supports	$12,598
C	Supported residential (SLP II)	$28,315
D	Supported residential (SLP I)	$18,106
E	Supported residential (CTH 1)	$22,301
F	Supported residential – Enhanced CTHI	$36,574
G	Residential low needs	$54,190
H	Residential high needs	$74,022

Source: DDSN

Medicaid Payments

The DSN board provides, or arranges for, the services required by the consumers' individual plans of care and sends notice of the expenditures to the DDSN central office. DDSN bills DHHS for the Medicaid-reimbursable portion of these services. These payments made for services provided are eventually reconciled with final cost statements for the year DDSN sends to DHHS, with DHHS acting as the fiscal intermediary for Medicaid.

Recommendations

37. The Department of Disabilities and Special Needs should develop a formal policy regarding the process for band funding and post the policy on its website.

38. The Department of Disabilities and Special Needs should develop a plan to update band amounts for cost-of-living adjustments annually.

39. The Department of Disabilities and Special Needs should develop a policy requiring the agency to document pilot programs including their structure, purpose, scope, monitoring, and evaluation.

40. The Department of Disabilities and Special Needs should make information about pilot programs available on its website.

Outlier Funding

When the services needed by a DDSN consumer are significantly more expensive than the funding band allocated to the consumer, DDSN may authorize outlier funding to supply additional funds for consumers' care. As a part of our objective to determine if DDSN's band funding system is effective, efficient, and accountable, we reviewed outlier funding since it is a part of the budgeting DDSN uses to fund the boards. We found that even though DDSN has an outlier policy it uses to approve and re-justify outlier funding, it has not formalized an overall outlier funding policy and made it accessible to the public. We also found that DDSN does not have written guidelines or written criteria for making outlier funding decisions.

Background

There are three types of outlier funds available to consumers:

- High needs residential (band H) — usually to pay for additional staff supervision.
- Enhanced home services (band B) — usually to pay for additional personal care assistance.
- Nursing — to pay for medically-authorized nursing services.

DDSN considers outlier funds for bands B and H when a consumer's annual budget exceeds a certain dollar amount "trigger." Currently the triggers are $94,583 for band H and $28,202 for band B (see p. 50). The local board in the area where the consumer resides is responsible for applying to the DDSN district office for outlier funds, both initially and annually when the outlier must be re-justified. The DDSN central office approves outlier funding.

Nursing outliers are allowed based upon a physician's order without question. However, they are subjected to DHHS-imposed daily and weekly limits, per consumer, of the number of hours of nursing services received. The cost analysis division of DDSN automatically reviews the nursing outliers quarterly for the amount of services being received and adjusts the next quarterly budget accordingly.

Review of Outlier Funding

Beginning in 2004, DDSN required that providers annually re-justify outlier funds allocated to its consumers. In its 2006 audit report, the DHHS division of audits performed a review of the annual outlier re-justifications and found no material problems. As a result, we did not review re-justifications further. However, we did review whether or not a consumer's outlier funds are impacted by a move from a DSN board or board provider to a QPL provider to determine if a consumer is disadvantaged financially because of his choice of provider. This may be an issue because QPL providers are not pre-funded as are board providers, and they are competitors of the boards. In a limited sample, we found that consumers who received services from QPL providers retained outlier funding after moving from boards or board-contracted providers.

DDSN has no comprehensive outlier funding policy available to the public. As we have seen with band funding, the lack of a policy may create consumer and advocate misunderstanding about consumers' "entitlement" to outlier funds. A written policy available to the public should provide a better understanding of the purpose and application of outlier funds and reduce uncertainty and suspicions regarding services purchased.

DDSN does not have written guidelines or criteria which would better ensure that requests for outlier funding are evaluated consistently. These criteria would provide more clarity to funding decisions.

Recommendations

41. The Department of Disabilities and Special Needs should develop a formal policy regarding outlier funding and post the policy on its website.

42. The Department of Disabilities and Special Needs should establish written criteria for outlier decisions.

Cost Reports

Cost reports are an annual compilation of costs DDSN incurs in order to provide care for its consumers. DDSN submits cost reports to the Department of Health and Human Services (DHHS) at the end of each fiscal year to claim Medicaid-allowable costs. DHHS is the Medicaid claims processor, making Medicaid payments to DDSN for Medicaid-allowable costs. Prior audits by the federal Centers for Medicare and Medicaid Services (CMS) and DHHS have recommended that DDSN's cost reports be independently audited. We found the cost reports have not been independently audited.

The process of cost reporting is an annual reconciliation between DDSN's costs and federal Medicaid reimbursement. Adjustments are made if the process reveals that DDSN's allowable costs were more or less than the reimbursements it received from interim payments throughout the year. The annual cost settlement completes the funding cycle begun by the band payments that DDSN used to pre-fund the boards. There is no reconciliation to the pre-funded band amounts, which are budgeted amounts. DDSN's costs are reconciled to the amounts reimbursed for actual services provided to consumers.

DDSN submits four regional cost reports, one each for the Midlands, Piedmont, Coastal, and Pee Dee areas. DDSN includes costs for the three waiver programs — MR/RD, HASCI, and PDD — and DDSN's other Medicaid-eligible programs. DDSN's costs for administering the programs are also reimbursed by Medicaid. DDSN uses the regional cost reports to allocate its costs to the four regions, to the waiver programs, and to its other programs. DDSN allocates its direct salary and benefits expenses, administrative costs for the central state office in Columbia, plus overhead and other general costs. In 2007 DDSN allocated approximately $64.7 million in administrative, general, and other overhead costs to the waivers and other programs, 14% of total program Medicaid costs of $451 million. Total DSN board administrative costs for fiscal year 2006 were $27.7 million, 9% of total DSN board program costs of $309.9 million.

In addition to being the basis for cost settlements made by DHHS and DDSN, the cost reports are used for setting future rates for Medicaid reimbursement of DDSN's waiver programs services. These rates include both service and administrative costs.

The Centers for Medicare and Medicaid Services, in a 2004 audit of the MR/RD waiver program, found that the state should have independent waiver-focused audits performed on Medicaid-filed cost reports. Correspondence from the federal auditors about the audit report reported concerns with DDSN's cost allocations, reimbursement and cost settlement

methodologies, as well as the correct reimbursement rate for the DSN boards' costs.

The DHHS division of audits recommended, in a 2006 limited-scope audit of the MR/RD waiver program, that DDSN obtain an external audit of the four regional cost reports. The DHHS division of audits found, in a March 2008 follow-up audit of the MR/RD waiver program, that DDSN had not complied with the recommendation. DHHS' division of audits completed an audit of DDSN's fiscal years 2005 and 2006 cost reports for service coordination, a very small portion of DDSN's overall service costs. Our review of the audit report found errors in DDSN's methodology in creating the cost reports. However, DHHS, which is involved in the cost reporting process, is not adequately independent to complete audits of DDSN's cost reports due to its relationship with DDSN. The State Auditor's office must approve procurement of audit services. As of October 2008, the auditor had not received a proposal from DDSN. DDSN's failure to implement repeated recommendations to have the cost reports audited leaves a significant gap in accountability for millions of dollars.

Recommendations

43. The Department of Disabilities and Special Needs should arrange for independent audits of all of its most recent fiscal year Medicaid-filed cost reports.

44. The Department of Disabilities and Special Needs should arrange for independent audits of all of its Medicaid-filed cost reports periodically as is appropriate based upon initial audit results.

Use of Funds for New and Expanded Services

We were asked to determine whether DDSN used state appropriations for new and expanded services in accordance with legislative intent. We reviewed DDSN's use of new state funds appropriated for the following services:

- Additional community residential beds.
- Treatment for children diagnosed with autism or other pervasive developmental disorders.
- Rehabilitation services for consumers with traumatic brain or spinal cord injuries.

Table 4.2 shows the funds appropriated to DDSN to provide these services for the period FY 05-06 through FY 07-08.

Table 4.2: DDSN Appropriations for New and Expanded Services, FY 05-06 – FY 07-08

Fiscal Year	New and Expanded Services					
	New Residential Beds		Autism Services		Head & Spinal Cord Injury Rehabilitation	
	Amount Increased	Total New Funds	Amount Increased	Total New Funds	Amount Increased	Total New Funds
05-06	$2,311,828	$2,311,828				
06-07	9,231,000	$11,542,828	$3,000,000	$3,000,000		
07-08		$11,542,828	$4,500,000	$7,500,000	$2,100,000	$2,100,000
TOTAL		**$25,397,484**		**$10,500,000**		**$2,100,000**

Source: S.C. Budget and Control Board.

We found that DDSN has not yet provided many of the new services for which it received funding. The agency has carried forward, or used for other purposes, the unspent funds. In addition, DDSN has not recouped millions in federal Medicaid dollars it could have received if services were provided.

Use of Funds for New Beds

DDSN has not developed all of the new residential placements anticipated when it received state funds for that purpose. When DDSN requested funding for new residential placements beginning in FY 05-06, it asked for funds to serve individuals in need of residential placement with autism, mental retardation and related disabilities, and head or spinal cord injuries. The funding was to address the state's need to:

- Respond to individuals who have been awaiting residential care for too long.
- Respond to aging parents and caregivers who cannot provide care at home any longer.
- Respond to the increasing number of persons awaiting residential care and to the national trend to resolve this need by litigation through the courts.

The General Assembly appropriated $2.3 million in FY 05-06 to fund approximately 130 new beds and an additional $9.2 million in FY 06-07 for an additional 500 new beds for a total of 630. Although we could not determine exactly how many beds DDSN developed to serve those not previously served, we found that DDSN had approximately 380 more people receiving residential services on June 30, 2008, than were receiving residential services on June 30, 2005.

We reviewed DDSN's planning process for developing the new beds and how it tracks bed development. For the 500 beds first funded in FY 06-07, DDSN followed a process of asking providers to request new beds, evaluating provider requests to develop beds in conjunction with other information about population and service capacity, and formally allocating the new beds to providers. (As discussed on page 39, DDSN allocated beds to providers instead of to individuals in need of those placements.)

DDSN management has tracked the development of beds as a result of new funding received in both FY 05-06 and FY 06-07. According to these tracking reports, which are used to work with the boards and other providers and to brief DDSN's commission on the status of bed development, DDSN developed 476 (76%) of the anticipated 630 new beds over the three-year period. We reviewed the back-up for the tracking reports and determined that their accuracy could not be verified and they were unreliable. DDSN then provided information showing that the agency had developed 449 (71%) of the anticipated new beds. This information was based on changes in DDSN's contracts with the DSN boards and other providers. However, these documents did not provide a method to verify whether new beds were offset by decreases in other beds formerly operated by providers or whether the beds were providing residential services to those not previously served. We concluded that information from DDSN's client data base showing how many consumers were receiving residential services, adjusted to include vacant beds that DDSN was paying for, provided the most reliable approximation of how many additional residential consumers were served over the period. Based on this information, DDSN developed approximately 380 (60%) of the anticipated 630 beds for which it received appropriations.

Use of Funds

DDSN requested state appropriations for the new beds based on the anticipated funds needed to operate the beds. The beds are funded by the federal and state governments through Medicaid; the state contributes approximately 30% and the federal government contributes approximately 70%. According to its budget requests to the General Assembly, DDSN increased its estimate of the annual state cost to operate a bed from $17,200 to $19,120 (11%) over the period FY 05-06 through FY 08-09. We used DDSN's operating cost projections and its information about the number of consumers served in the new beds to estimate the amount it spent to operate the new beds from FY 05-06 through FY 07-08. We estimated that DDSN spent just $7.6 of the $25.4 million appropriated to operate new beds. When DDSN did not spend state appropriations to operate new beds for its consumers, it did not receive the federal funds associated with these beds.

DDSN officials stated that they spent all of the funds appropriated for items related to the new beds. The officials stated that before new beds can begin operating, DDSN makes significant capital investment in new facilities and other start-up costs. DDSN makes capital grants to assist providers in purchasing homes (see p. 37). Based on information provided by DDSN about its capital grants to the DSN boards and other providers, we estimated that DDSN spent approximately $10.7 million for residential capital grants over the three-year period. In addition, DDSN officials stated they made other infrastructure grants to the DSN boards and other providers during the period with an estimated total of $12.4 million. Officials stated that these grants were associated with the residential growth because day programs and other administrative functions had to expand along with the residential growth. However, in many cases these expenditures did not appear to have any relationship to the bed expansion. For example, although Babcock Center was not awarded any new beds, DDSN granted Babcock approximately $2.4 million in infrastructure grants for a new administrative building and other non-residential purposes during this period.

DDSN did not request funding from the General Assembly for capital grants to the DSN boards and other providers. There was no evidence that the General Assembly intended for DDSN to use funds appropriated for operating new residential beds to make capital grants of more than $23 million to DSN boards.

We concluded that it was not reasonable to expect that DDSN could have been operating all of the new beds during the first year the funds were appropriated. However, it is not clear why DDSN did not develop more of the beds for which it received appropriations. As of June 2008, DDSN had 2,000 consumers waiting for residential services. DDSN tightly controlled the allocation of the new beds and refused requests of the boards and other providers to develop more beds (see p. 39). If DDSN had allowed private providers to develop more beds, its capital investment could have been less, leaving more funds to operate the beds. A DDSN official stated they are now planning not to develop 62 of the beds originally planned. However, DDSN requested new state appropriations for FY 08-09 for additional new beds, when it had not developed the beds for which it had received appropriations in FY 05-06 and FY 06-07.

Funding for Autism and Other Pervasive Developmental Disorders

DDSN has been slow to implement a new program for children who have been diagnosed with autism or other pervasive developmental disorders (PDD). These disorders are characterized by delays in the development of socialization and communication skills. This has resulted in more than $9 million in state appropriations remaining unused or being used for different purposes.

In FY 06-07, DDSN received $3 million in state appropriations to be used for treatment of children who have been diagnosed with PDD. DDSN had not requested funding for this program when the General Assembly authorized it as a pilot project for FY 06-07. DDSN officials worked with officials from the Department of Health and Human Services to develop a Medicaid waiver program for the children who would be served. The program was to provide case management and early intensive behavioral intervention services to eligible children ages three to ten. Each child may receive services for up to three years or through age ten. The federal Centers for Medicare and Medicaid Services approved the waiver program with a start date of January 1, 2007. According to DDSN, 102 children were enrolled in the program in FY 06-07. However, DDSN spent just $10,454 of the $3 million appropriated for services in that year. DDSN carried forward or used for other purposes almost $3 million.

For FY 07-08 DDSN received more funding for the new program with a total of $7.5 million in state funds appropriated. In FY 07-08, more children enrolled in the program, bringing the total enrolled to 273 by July 1, 2008. However, expenditures for services during FY 07-08 remained relatively low. DDSN spent just $661,463 in FY 07-08, leaving $6.8 million to be carried forward or used for other purposes. Based on DDSN's estimate that 85% of the children in the program are eligible for Medicaid, by not providing the funded services, the state did not receive an estimated $13.6 million in federal Medicaid funds in FY 07-08. Those who were enrolled in the program obtained an estimated $15,000 per capita in services, much less than the program's estimated $37,000 budget per participant. According to DDSN, some services may have been received but not billed for at the end of the fiscal year. Also, the agency initially did not have enough providers to serve its consumers.

Out of $10.5 million appropriated for this program over the past two years, DDSN has spent just $671,917 (6%) for services. We could not determine how DDSN has used the additional funds it received for the autism program. Some of these funds have been carried forward by DDSN; the agency carried forward $1.7 million from FY 06-07 to FY 07-08 and approximately $6.7 million from FY 07-08 to FY 08-09. According to officials, funds carried forward are not designated for specific projects or purposes.

Rehabilitation Services for Head and Spinal Cord Injury (HASCI) Consumers

DDSN used or has contracts to use approximately $1,458,000 (69%) of $2.1 million appropriated for FY 07-08 for post-acute rehabilitation for those with traumatic brain or spinal cord injuries. DDSN requested funding to fill an identified gap in services following an injured person's medical stabilization or discharge from the hospital.

In FY 07-08, the General Assembly appropriated $2.1 million for this purpose. According to a DDSN official, Medicaid does not pay for in-patient rehabilitation in South Carolina, so the agency could not obtain federal reimbursement for these services. DDSN developed contracts through which authorized consumers could obtain rehabilitation services from the three facilities in or near South Carolina which are accredited by the Commission on Accreditation of Rehabilitation Facilities (CARF). The three hospitals in the area which have this accreditation are located in Greenville, S.C., Charlotte, N.C., and Augusta, Ga. According to DDSN officials, they set aside $600,000 of the appropriation to use as an incentive to help additional hospitals in South Carolina become CARF-accredited.

During FY 07-08, services and equipment totaling $1,458,317 were authorized for 23 consumers ($721,012 paid in FY 07-08, with the remainder to be paid in FY 08-09). According to DDSN officials, no South Carolina hospitals used the funds set aside to become CARF-accredited. According to one of these officials, none of the unused funds were spent for other purposes, but all were carried forward as part of the $6.7 million DDSN carried forward into FY 08-09. For FY 08-09, DDSN has reduced its agency budget by $450,000 by cutting the allocation for this program, leaving $1,650,000 to be spent for HASCI rehab services in FY 08-09. According to a program official, they will not have a problem using these funds as there are many unserved consumers.

Recommendations

45. The Department of Disabilities and Special Needs should ensure that it develops and provides services for which it has received appropriations from the General Assembly.

46. The Department of Disabilities and Special Needs should develop funded residential services prior to requesting more funds for additional beds.

47. If the Department of Disabilities and Special Needs needs state appropriations to make capital grants to the DSN boards and other providers, it should specifically request these funds from the General Assembly.

Aging Caregiver Waiting List Policy

DDSN has allocated new beds to its consumers based on their waiting list status. Directive 502-05-DD contains policies for waiting lists for DDSN's various programs. For placement in the new beds developed with the FY 06-07 appropriations, DDSN required that new residential consumers be on one of the following waiting lists:

- Critical needs waiting list — consumers in life-threatening situations requiring immediate services.
- Priority one waiting list — consumers in urgent situations with features suggesting there is a probability they will require residential placement within the next 12 months.
- Aging caregiver waiting list — consumers residing with caregivers age 65 or older.

According to a DDSN official, when they allocate a new bed to a provider, they work with the provider to try and identify a consumer with an urgent need to be served. They try to serve consumers on the critical list first. However, they also consider compatibility in making placement decisions. It is important for all consumers in a particular facility to be compatible, so they may select consumers who are on the priority one or aging caregiver lists instead of those on the critical waiting list.

We did not review the controls and operations of DDSN's waiting lists. However, we noted that while DDSN has policies regarding eligibility for its critical and priority one waiting lists, there are no policies defining the aging caregiver waiting list. According to DDSN, as this list is not formalized, there is no aging caregiver waiting list per se. They use this information to communicate with the Governor and members of the legislature, who have expressed interest in this issue. Sometimes people on the list have not

requested residential services. DDSN tries to anticipate needs that would be caused by the caregiver's unexpected decline in health.

We noted that consumers are eligible for residential placements based on their status as living with aging caregivers. Without a policy for the aging caregiver list, it is uncertain whether eligibility for this list is consistently applied and whether consumers on the list need priority for residential services. For example, it might be inappropriate for a consumer whose parents include one aging caregiver and one younger caregiver to be placed on the aging caregiver list and given priority over those with other types of needs, such as working single parents with other children. According to a DDSN official, the consumer's service coordinator designates the primary caregiver(s), but there is no written guidance for this process.

Recommendation

48. The Department of Disabilities and Special Needs should implement appropriate controls over its aging caregiver list by establishing written policies for this list and for how service coordinators determine whom to designate as primary caregiver(s).

DDSN Grants to Private, Non-Profit Organizations

During FY 05-06 and FY 06-07, DDSN spent approximately $1.5 million on grants to private, non-profit organizations. In some cases, DDSN has funded the general operations of advocacy groups, which is a conflict of interest.

We obtained and reviewed information on grants or donations made by DDSN and the DSN boards to private, non-profit organizations. In addition to the $1.5 million mentioned above, DDSN has also awarded the Greenwood Genetic Center, its research facility, approximately $7 million in grants in each of the past three fiscal years. This funding appears to be directly related to DDSN's mission. DDSN also funds capital grants which are discussed on page 37. Also, we found that a few of the DSN boards made donations to private, non-profit groups; the boards reported that the donations were made with local funds, and we did not identify a material problem.

Advocacy Group Funding

DDSN has funded the general operating expenses of several groups that advocate for the consumers whom DDSN serves. This funding, which is mostly state funds, was not for specific projects or services for DDSN consumers. DDSN officials stated that the grant money for the South Carolina Autism Society enables the organization to exist. Table 4.3 shows grant amounts for the general operating expenses for three of these advocacy groups.

Table 4.3: DDSN Operating Funding to Advocacy Groups

ADVOCACY GROUP	FY 05-06	FY 06-07
The Arc of South Carolina	$27,900	$28,400
South Carolina Autism Society	$20,000	$190,330*
Whitten Center Parents Club	$14,400	$14,400

* Includes a capital grant in the amount of $170,330 for the purchase of an administrative office building.

Source: DDSN

These organizations' missions are to advocate for people with disabilities and their families. Advocates perform an accountability function for the agencies who serve the individuals they represent. Specifically, the constitution of the South Carolina Autism Society states the organization's purpose is ". . . to advocate continuously to service-providing agencies for appropriate lifelong services that will enable all persons with autism spectrum disorders to reach their maximum potential." Advocacy groups' ability to hold DDSN accountable is impeded by their dependence on DDSN's funding for their existence.

DDSN has also funded the operations of other advocacy groups. For other organizations, such as Family Connection and the South Carolina Spinal Cord Association, DDSN has funded specific projects in addition to providing operating funds.

No Formal Process for Grants

DDSN's funding process appears to be subjective. DDSN does not have a grant application form or policy it follows when determining which organizations will be funded. Also, there is no review committee evaluating whether organizations' requests for grants are the best use of state funds. According to staff, one agency official is responsible for authorizing the grant awards. When asked how the availability of grant money is advertised, the agency responded that the organizations who serve their consumers are aware that this funding is available.

According to officials, many organizations have received funding repeatedly over several years. We found no standard method used by the agency to determine whether or not an organization should continue to receive funding; however, the agency provided examples of grants that had been decreased. DDSN requires a year-end financial statement of most grantees. According to agency officials, the program staff is asked if the funded organizations are reaching the goals of any specific projects or services outlined in the grant awards. However, there is no programmatic review of organizations receiving operating funds since DDSN is basically funding their existence.

If the advocacy organizations found that DDSN's services were inadequate, they may be hesitant to comment negatively about DDSN since they depend on DDSN for funding.

Prevention Mini-Grants

In contrast to DDSN's practice of awarding operating grants to organizations, the process for funding the prevention mini-grants has appropriate controls. DDSN, through the Head and Spinal Cord Injury (HASCI) division, awards $2,500 prevention mini-grants, primarily for projects regarding brain injury awareness such as a bicycle helmet safety seminar. Each year DDSN puts out a request for proposals for injury prevention projects. A panel reviews the proposals and rates them on how well they respond to the request, including whether the project's target population is defined, whether there are specific objectives to meet the stated goals, and whether the project has an ongoing, appropriate evaluation plan. In the past several years, the six top-rated proposals have been funded $2,500 each. HASCI requires a six-month report of activities and expenditures. Staff conducts a site visit and offers technical assistance. We reviewed the files for this process in FY 07-08 and found that all steps of the process were documented appropriately.

Conclusion

The General Assembly has funded private, non-profit organizations such as the Special Olympics and the Greenwood Genetic Center through DDSN's budget. If the General Assembly intended for DDSN to fund the operations of other private, non-profit groups, it could fund them directly through DDSN's budget. The General Assembly funds South Carolina Share and the Alliance for the Mentally Ill, advocacy groups for mentally ill individuals, through the Department of Mental Health's budget.

If the advocacy groups are not funded by the General Assembly, DDSN should discontinue awarding grants for their operation. This money may be better used as the state match for federal funding for services for consumers. DDSN has long waiting lists of consumers who cannot obtain the services they need. The $1.5 million of state funds used for grants could have generated an additional $3.5 million in federal Medicaid funding (based on a 70/30 match) for services to consumers.

For all grants, DDSN should develop a standard grant application form and place it on the agency's website so all organizations can be aware of and apply for funding. By establishing a formal review process for all grants to private, non-profit organizations, the agency can better determine which services and/or projects offered by these organizations are the most beneficial to DDSN consumers and are the best use of state funds.

Recommendations

49. The Department of Disabilities and Special Needs should discontinue awarding grants for general operating expenses to private, non-profit advocacy organizations.

50. The Department of Disabilities and Special Needs should develop and implement a standard grant application for private, non-profit organizations.

51. The Department of Disabilities and Special Needs should establish a public directive for the review process of awarding and continuing grants to private, non-profit organizations.

Access to Information, Audits, and Other Issues

Communication of Agency Policies

DDSN's system for communicating agency policies should be more open to consumers and the public. Also, DDSN has not ensured that the policy information it communicates is current. The agency's documentation of its human resources policies also needs improvement.

DDSN policies are contained in regulations, commission policies, and directives. According to S.C. Code §1-23-10(4), regulations are ". . . each agency['s] statement of general public applicability that implements or prescribes law or policy or practice requirements of any agency." DDSN has regulations primarily for recreational camps and day programs. The agency has not promulgated new or revised regulations since 1986. In April 2007, South Carolina Protection and Advocacy for People with Disabilities, Inc. filed suit against DDSN and commission members for failing to promulgate regulations ". . . regarding issues of critical concern to applicants and recipients of its services, including but not limited to eligibility . . . appeal procedures; [and] standards for operations of its residential programs . . . ." We did not review this issue because it is pending in the Richland County Court of Common Pleas.

In addition to regulations, DDSN has an internal communication system that includes commission policies and departmental directives. According to departmental directive 100-01-DD, a DDSN commission policy is ". . . a policy or philosophical statement issued by the SCDDSN Commission and implemented by the agency," and a DDSN departmental directive is ". . . a mandate requiring compliance by applicable Central Office, District Office, Regional Center, DSN Board or Contracted Provider staff." A directive may address policy and/or more specific implementation procedures. DDSN commission policies and departmental directives are available, in part, on the agency's website.

Public Access to Policies

DDSN has not provided adequate public access to its directives. While some of DDSN's directives are available on the agency's website, others are only available on the DDSN extranet. The DDSN extranet provides access to and dissemination of current and new information to DDSN's business partners (DSN boards and other community service providers). According to an agency official, all DDSN state employees and provider executive directors have access to the extranet. Provider executive directors can choose whether or not to allow access to their employees. Consumers and the public do not have access to this site.

The agency does not have a written procedure to determine which directives should be made public. However, according to an agency official, a small

committee decides whether or not to make a directive public. Their criterion for making this determination is whether or not the directive is applicable to consumers or the public. We compared the list of public directives with the list of private directives and found that DDSN did not make public many directives that are applicable to consumers and the public. Table 5.1 shows a few of the directives that are private, but should be made public according to DDSN's criterion. This list is not exhaustive.

Most of DDSN's directives are not available to the public. Some address purely internal matters, such as human resources policy, but many private directives address subjects that are relevant to consumers and the public. In making decisions on whether or not to post a directive on the website, DDSN should release it if it at all relates to the public or consumers.

Recommendation

52. The Department of Disabilities and Special Needs should post on its website all directives that contain information that would be of consumer or public interest.

Table 5.1: Private Directives Applicable to the Public

DIRECTIVE	TITLE	JUSTIFICATION
100-04-DD	Use of Adaptive Behavior Scales	The applicability section of the directive states that it is applicable to "all DDSN Service Recipients."
100-29-DD	Medication Error/Event Reporting	This directive is similar to directives 534-02-DD (procedures for reporting abuse and neglect) and 100-09-DD (critical incident reporting), in that it provides system-wide definitions of a health, safety, and welfare risk and procedures for reporting any infractions.
133-02-DD	Freedom of Information Act Requests	This directive explains where requests should be sent.
200-02-DD	Financial Management of Personal Funds	This directive lists consumer financial rights and provides information on both consumer and provider responsibilities with regard to those funds.
200-09-DD	Fees for Residential Services Provided by the South Carolina Department of Mental Retardation*	This directive explains the fee structure for consumer residences.
502-07-DD	Procedure for Handling Referrals of New DMH Admissions Suspected of Having Mental Retardation or Related Conditions	Like 502-01-DD, which addresses admissions of individuals to DDSN- funded community residential placements, this policy explains how Department of Mental Health consumers can be admitted for DDSN services.
535-09-DD	Review and Approval of Research Involving…Persons Receiving Services	This directive explains DDSN's policy for approving research on its consumers.
600-10-DD	Individual Clothing and Personal Property-Regional Centers	This directive requires the provider to give consumer families the policy and includes the forms to provide to them.
603-09-DD	Management of Consumers Exposed to Potential Bloodborne Pathogens	This directive gives information on what happens when a consumer is exposed to this type of danger.
604-01-DD	Individual Clothing and Personal Property	Like 600-10-DD, this directive explains the management of individual personal property.
700-03-DD	Insuring Informed Choice in Living Preference for Those Residing in Community ICFs/MR	This directive explains consumer choice in living preferences. It also gives a list of services funded by the MR/RD Waiver, which is helpful to families who are not familiar with the services and what they should request.

* Former name of DDSN until 1993.

Source: DDSN and LAC analysis.

Obsolete Information

DDSN maintains obsolete information in its directives. According to an agency official, DDSN prefers the directive system over regulations because of the ease of updating. We found that DDSN has failed to maintain an up-to-date system.

Throughout this review, we looked to DDSN's directives for a current statement of its policies. There were instances where we were told that the directive posted online or on the extranet contained dated material and that they were operating using a different process. For instance, when asked about a process in directive 200-02-DD, financial management of personal funds, an agency official stated that the directive was out-of-date and that the process mentioned was not their current way of operating. Directive 200-14-DD is another example of a directive containing obsolete information. As of December 4, 2007, that directive contained references to other directives that were no longer in existence and a defunct review process. It had not been reviewed since 1992 — the date it was first issued.

According to directive 100-01-DD, DDSN's internal communication ". . . system requires an annual review process of such documents thereby eliminating the circulation of out-of-date documents and the promulgation of accurate and timely documents that are intended to govern actual practice." Each of these documents contains a date of issue, an effective date, a last review date, and a date of last revision. The last review date should be within the last year. We examined a random sample of 15 (10%) of the directives, to determine the time elapsed since the last documented review. Table 5.2 shows the results of our review.

Table 5.2: Annual Directive Review

Time Since Last Review	Number of Directives
Less than a year	5 (33%)
Between one and two years	1 (7%)
More than two years	9 (60%)

Source: DDSN

Two of the directives were last reviewed in the early 1990s. An agency official stated that a document manager annually sends a reminder to the person responsible for each directive. If the last review date is more than a year ago, it means that the person either reviewed the document and failed to notify them of the review, or that he had higher priorities on his desk. If agency staff complied with agency policies, it would lower the likelihood of out-of-date information, like that mentioned above, remaining posted year after year.

Recommendation

53. The Department of Disabilities and Special Needs should comply with departmental directive 100-01-DD and document the annual review of its posted policies. DDSN should ensure that it corrects and updates polices as a part of this review.

Human Resources Policies

DDSN's human resources policies are documented in more than one place. DDSN's departmental directives contain some of the agency's human resources policies. In 2002, DDSN also published *General Rules and Regulations: A Handbook for Employees*. Some of the online directives have different content from the same policies in the handbook. Some policies in the handbook are not included in the online directives, and vice versa. When asked whether or not the book is currently relevant and if it binds agency staff, two agency officials stated that both the online human resources directives and the book are in use. However, the content of the directive takes precedence over the handbook. This system is confusing; agency staff should not have to do a comparison of two different documents to determine what applies to them.

Recommendation

54. The Department of Disabilities and Special Needs should maintain only one comprehensive and authoritative source of human resources policies.

DDSN's Website

DDSN's website needs improvement. It does not provide adequate current information to citizens and is difficult to use. Also, it does not include provider quality information that would be useful to consumers.

- DDSN's website does not contain information that citizens could expect to find there. For example, the names and contact information for members of DDSN's commission are not on the website. Also, agency policies and directives that affect the public are not published on the website (see p. 65).
- DDSN's website contains outdated and/or incomplete information. For example, if a user selects "Autism Division" or "Practical Guide to Services," from the main menu, the information describing "Services for People with Autism" does not mention the Medicaid waiver program for children with autism which DDSN has operated since 2007 (see p. 58).

- DDSN's website has no overall search function. Within the site, if a user searches the Practical Guide to Services, he is not told what is being "searched." A user choosing to consult the site map to determine where to find desired information could find that the site map has not been updated to reflect changes to the website.
- The website is not easy to navigate, and there are few links between different parts of the site. If a user selects "Applying for Services," the site states that potential applicants must contact their local DSN board. There is no link to information about the DSN boards and the section the user is referred to, "List of Qualified Service Providers," does not offer a choice for finding your local DSN board.
- The links to information on the agency's home page are not comprehensive and do not always give an indication of content accessible through the links listed.
- The website was designed in 1999 and has not been updated to conform to basic common content principles such as using "contact us," "about us," and "frequently asked questions" pages.

Many citizens rely on the Internet to find information. A survey conducted by the Pew Internet & American Life Project in May 2008 showed that 73% of adults use the Internet, 89% of Internet users search the Internet to find information, and 66% visit government websites.

The public trusts government websites to provide current and accurate information. Citizens expect to use websites to find information about services they might use and also to conduct transactions, such as applying for government services. The U.S. government provides guidance in managing government websites (webcontent.gov) and publishes *Research-based Web Design and Usability Guidelines*. In our review of other states' agencies for this report, we noted that the website of Florida's Agency for Persons with Disabilities (APD) was user friendly and provided information that would be useful to consumers and families. For example, consumers searching for a provider of residential services can access data about a provider's performance on quality reviews, including information about their compliance with background screening and training requirements.

According to DDSN's webmaster, each area of the agency's website has a data content manager responsible for maintaining the information in that section. DDSN officials acknowledged that the agency's website could be improved in appearance and content, but, according to an agency official, as of August 2008, there was no official plan to do so.

Recommendation

55. The Department of Disabilities and Special Needs should take action to improve the content and usability of its public website.

Commission Governance

The South Carolina Commission on Disabilities and Special Needs has narrowly interpreted its governance structure in a way that denies commission members access to public information and potentially hinders performance of their fiduciary duties.

The seven-person commission determines policy and promulgates regulations regarding the Department of Disabilities and Special Needs. The commission also appoints DDSN's director and is charged with public education regarding services for DDSN's consumer population. In addition to statutory definitions of its responsibilities, the commission formalized its governance structure by issuing related commission policies in January 2007. The governance structure is based on a model called policy governance. DDSN's policies include the commission's statement of the department's mission, how the commission will govern, limits on the actions of the director, and the relationship between the commission and DDSN staff. Prior to issuing the commission policies, the board received training from a former director of the University of South Carolina's Institute for Public Service and Policy Research, Governmental Research and Service Unit. A DDSN official stated that issuing the commission policies was simply a way to formalize how they were already operating.

During the course of this review, we learned of a possible hindrance of the roles and responsibilities of commission members caused by the governance structure. During our review of the agency's Freedom of Information Act requests, we noted that the governance structure was used to deny a commissioner access to public information. Though the department eventually provided the information, it took more than two months to respond, according to department records. Following the commissioner's request and before the department eventually provided the information, the commission chairperson denied the request on behalf of the commission and the agency. The chairperson cited commission policy that ". . . only decisions of the Commission acting as a body are binding upon the Director. Decisions, instructions or requests of individuals are not binding on the Director except as specifically authorized by the Commission."

The explanation of the sample board policy used as a model for DDSN commission policies, and presented as part of the commission's training on

policy governance, clarifies any limits on board members' access to information by stating, "Individual board members can surely get their questions answered unless their doing so burdens the organization." The commission member's request was for copies of documents already in existence at DDSN. We consulted with a governance expert about whether this type of governance structure would limit a commission member's access to public information. He stated that there is no reason why this should be the case. If anything, commission members should have more access to information than other citizens, since they have a responsibility to learn for and inform residents of the Congressional districts from which they were appointed. According to the expert, it is more likely that the DDSN commission's behavior was an example of interpersonal problems that should be addressed.

Recommendation

56. The South Carolina Commission on Disabilities and Special Needs should modify its directives to ensure that commission members' rights as citizens are not encumbered and that their fiduciary duties are not hindered.

Internal Audit

We reviewed the operations of DDSN's internal audit division. In 2005, the Institute of Internal Auditors (IIA) reviewed DDSN's internal audit. IIA found that DDSN "partially conforms" to the IIA standards and made recommendations for improvement. We reviewed DDSN's response to IIA's recommendations and found areas where more action is needed.

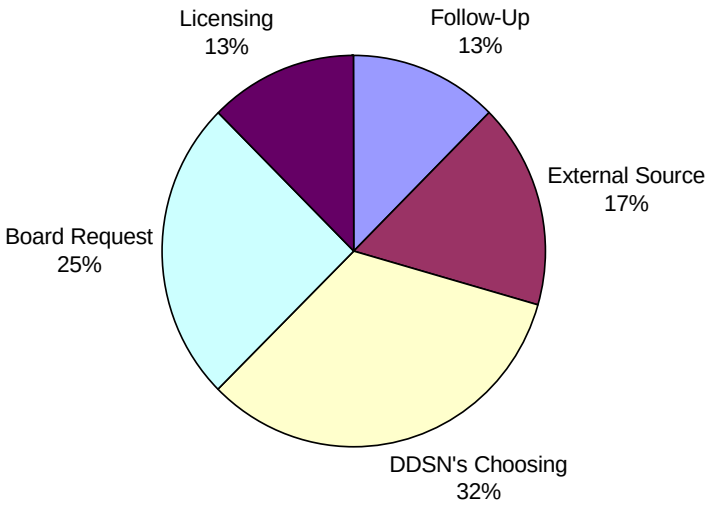
Background

DDSN's internal audit division has seven staff. The division staff perform the following types of audits: initial, follow-up, and special requests. Internal audit also performs technical assistance reviews on very specific topics at the request of DSN boards. The division also provides training to DSN board staff on consumer funds and property management.

We reviewed all of the division's audits and technical assistance reviews from FY 04-05 through March 2008. Most of the audits were of DSN boards. We found that only 2 of the 24 audits (8%) were of DDSN itself: one of an area of the finance division at the central office and one of a DDSN regional center.

Chart 5.3 shows why audits were initiated at DDSN for the period of FY 04-05 through March 2008.

Chart 5.3: Why Audits Were Initiated, FY 04-05 – March 2008



Source: DDSN

Reporting Structure

In previous reviews of other agencies, we identified problems with the resources devoted to internal audit and the independence of the internal audit function. Internal audits are an important control that agencies can use to ensure that resources are being used appropriately. We found that DDSN has an appropriate reporting structure for its internal audit division. However, the role of the DDSN commission should be strengthened.

For administrative matters, the head of DDSN's internal audit division reports to the agency director. He also reports to the DDSN commission on audit planning and the division's activities. If the internal audit director must investigate complaints against the agency director, then he is required to coordinate directly with the commission chair. This reporting structure should ensure appropriate independence for the internal audit function.

However, the DDSN commission has had minimal involvement in the work of the internal audit division. The commission had abandoned its finance/audit sub-committee until it was reinstated in 2008. This sub-committee consists of three commission members. As of May 2008, the finance/audit sub-committee had met only once.

In 2005, the IIA recommended that DDSN develop an audit committee charter that addresses the committee's mission and other responsibilities. As

of May 2008, DDSN had not approved a charter for its finance/audit sub-committee. We also found that the sub-committee members do not review the audits before they are released and are not involved in determining which audits to perform.

Recommendation

57. The Department of Disabilities and Special Needs should approve a finance/audit sub-committee charter which provides for members to participate in audit planning and review of audits before they are released.

Audit Planning

In 2005, the IIA recommended that internal audit conduct a risk assessment of DDSN's audit universe and use the results of this assessment to guide the annual audit planning process. In 2007, the division completed a partial risk assessment plan of DDSN, but it does not always use this assessment to guide its auditing process. The partial risk assessment plan includes a completed risk assessment for the DSN boards and other providers but does not include the DDSN central office, the district offices, or the regional centers. The 2005 IIA report stressed that DDSN should assess audit risk of all parts of the agency. As of March 2008, the division has conducted only one audit of DDSN's central office and only one audit of a DDSN regional center.

There have also been no audits conducted on DDSN's information technology (IT) department. DDSN uses many different computer systems, and many of those systems have large amounts of manual entry of data. Manual data entry often leads to data error, which is risky for the agency. In October 2008, we received DDSN's FY 08-09 risk assessment which included the regional centers, but not DDSN's central or district offices.

The risk assessment plan for the DSN boards and other providers rates the boards/providers on the following factors:

- Number of critical incidents they have had.
- Risk based on findings in their external certified public accountant (CPA) audits.
- Number of previous internal audits and technical assistance reviews.
- Total number of consumers served by the board.

All of these categories are ranked from 1 to 3, with 3 being the highest risk. The internal audit division then adds up these numbers to calculate a total risk factor.

Recommendations

58. The Department of Disabilities and Special Needs should update its internal audit risk assessment plan to include the central and district offices.

59. The Department of Disabilities and Special Needs should ensure that the order of priority in its internal audit risk assessment plan is followed as closely as reasonably possible.

60. The Department of Disabilities and Special Needs should perform internal audits of its information technology systems.

External Audits of DDSN

DDSN also undergoes external audits and reviews. The Department of Health and Human Services (DHHS), the federal Centers for Medicare and Medicaid Services (CMS), the Office of the State Auditor (OSA), and the Budget and Control Board (B&CB) all perform various external reviews of DDSN.

DHHS is responsible for oversight of Medicaid funding and performs external audits of DDSN required by its Memorandum of Agreement (MOA) with DDSN. DHHS has performed various audits of DDSN and its policies, including audits of Medicaid waivers, DDSN centers, and service coordination. In one of DHHS's audits, and the related follow-up to that audit, DHHS recommended that DDSN have its Medicaid waiver cost reports audited (see p. 53).

CMS is required to perform external reviews of DHHS, and thus DDSN, due to the MOA between DHHS and DDSN. CMS reviews DHHS/DDSN because of the various Medicaid waivers the two agencies together operate for CMS. CMS reviews the two agencies to determine if the waiver requirements are being met, and whether the waivers should be renewed.

The OSA performs agreed-upon procedures reviews of DDSN every year. Agreed-upon procedures reviews do not express an opinion on the agency's financial statements. These OSA reviews are required by S.C. Code §11-7-20. OSA performs agreed-upon procedures instead of financial audits because of limited staffing, timeliness, and because it now conducts the

statewide single audit. Finally, the B&CB performs procurement audits of DDSN as required by S.C. Code §11-35-1230.

DDSN's internal audit division also issues audit policies to the DSN boards that require CPA audits of the boards. The policies state what information is to be included in each audit, and specify the procedures for the independent auditors to follow during the course of the audit.

According to an agency official, only one board is not required to have a CPA audit conducted, because it does not meet the financial threshold requirements.

CPA Firms Providing Consulting Services

Several county DSN boards have hired the same CPA firms that conduct their financial audits to also provide consulting services. Providing consulting services may impair a firm's independence to conduct a board's financial audit. DDSN should strengthen its oversight of the audit process.

We obtained information from all of the DSN boards to determine if the CPA firms who conducted their annual financial audits also provided consulting services. We identified six boards whose CPA firms were also paid for consulting services. According to board records, the boards paid their CPA firms for services such as setting up a board's computer systems, conducting cost analyses, helping with revenue entries, and handling other accounting issues.

DDSN directive 275-04-DD, provider audit policy, states that annual financial audits of the DSN boards must be performed in accordance with generally accepted auditing standards by an independent certified public accountant. Government auditing standards describe the types of services that impair independence to include:

- Maintaining or preparing the audited entity's basic accounting records or maintaining or taking responsibility for basic financial or other records that the audit organization will audit.
- Posting transactions to the entity's financial records.
- Designing, developing, installing, or operating the entity's accounting system or other information systems that are material or significant to the subject matter of the audit.
- Developing an entity's policies, procedures, and internal controls.

In response to accounting scandals of many large corporations, the federal Sarbanes-Oxley Act of 2002 was enacted to strengthen auditor independence

and require additional disclosures about the services provided by the independent accountant. This act listed prohibited services to include bookkeeping or other services related to the accounting records, financial statements of the audit client, and financial information systems design and implementation.

DDSN should clarify its directive to indicate what services provided by the DSN boards' CPA firms may impair the firms' independence to conduct the financial audit. DDSN officials stated that they are not aware that any boards have had the same CPA firm conduct both financial audits and consulting services for the same year. To ensure better oversight, DDSN should require the DSN boards to annually report to DDSN all services provided by any CPA firm. This requirement would help ensure that the boards are complying with generally accepted auditing standards.

Recommendations

61. The Department of Disabilities and Special Needs should revise its provider audit policy directive to include specific guidance on which consulting services should not be performed by the CPA firms conducting a DSN board's financial audit.

62. The Department of Disabilities and Special Needs should require DSN boards to annually report all services provided by any CPA firms.

Conflicts of Interest with Former DDSN Employees

We were asked to determine whether DDSN has ensured that there are no conflicts of interest involving former employees or other individuals. We found that at least 11 DDSN employees continued to work for DSN boards after leaving DDSN; however, we identified only 1 employee who worked simultaneously for DDSN and a DSN board while performing similar duties, which appears to be a conflict of interest. This same person also worked for DDSN at the same time that he worked for a firm contracting with DDSN.

DDSN Employee Working for DSN Boards

In 2002, DDSN hired a former state director of DDSN as a temporary employee to provide initial training and orientation to newly-hired executive directors of county DSN boards. This employee worked with one DSN board's executive director for four months. For the last month (October 2005), that DSN board entered into a contract with him and paid him $1,600 in addition to his compensation from DDSN. The contract stated, in part, that

he would provide assistance to the board in developing and implementing a risk management system, a comprehensive plan, and to, "Provide leadership to key staff and or board members as requested . . . ."

Another DSN board paid the same employee $1,000 per month to provide assistance to the new executive director from February through May 2005. According to DDSN payroll records, he then provided the same services as an employee of DDSN from July through December 2005. We could not determine why he could not have provided services from February through May as a DDSN employee.

DDSN Employee Working for Contractor

In October 2001, First Health Services Corporation hired the former DDSN state director to assist in developing a proposal for the contract to provide quality assurance reviews for DDSN. After First Health was awarded the contract, he was employed by First Health as liaison with DDSN officials. Subsequent duties involved local management issues, problem solving, and national marketing. According to the former state director's attorney, this employee was not engaged in any quality assurance work for any of the providers nor did he participate in any audits of providers. He continued to work for this contractor following his employment as a temporary employee with DDSN in 2002 through at least 2006.

In response to a complaint in 2006, the South Carolina Ethics Commission found that, while there did not appear to have been any violations of the State Ethics Act by this employee, this employee's simultaneous employment with DDSN, several DSN boards, and a DDSN contractor had the appearance of impropriety. The commission advised the employee to make every effort to avoid any situation which may appear to be a conflict with his public responsibilities. Although he was listed on DDSN's organizational chart as of August 2007, we found no evidence to indicate that he had worked for the agency after September 2006.

Payments by Boards

We reviewed allegations that DDSN encouraged the DSN boards to hire this employee in order to obtain favor with DDSN. We did not find evidence to indicate that this occurred. However, it is otherwise unclear why the boards would pay for management advice and training which could have been provided by DDSN.

Despite limited funds and the need for more money for consumer services, some boards paid between $1,000 and $1,600 per month to this employee for

various services. These services included "providing consultation" and providing ". . . information to the staff of new national and state developments regarding current best practices on specific topics and general trends." Table 5.4 shows the amounts county DSN boards paid this employee over a three-year period.

Table 5.4: DSN Board Payments to Consultant (2005 – 2007)

	2005	2006	2007	TOTAL
DSN Boards*	$124,400	$155,800	$62,950	$343,150

* Represents 14 different DSN boards.

Source: Documentation from DSN boards.

Two DSN boards paid this employee more than $40,000 over this period for various consulting work. As of February 2008, the employee continued to contract with some of the DSN boards.

According to a DDSN official, DDSN district managers perform some of the same functions for the boards that were performed by this former employee. DDSN should provide needed management advice to the boards and training for board members. DDSN should ensure that DSN board executive directors can obtain technical assistance from the agency. This would help ensure that DSN boards would not have to expend limited funds by hiring consultants.

Recommendation

63. The Department of Disabilities and Special Needs should provide adequate training and technical assistance to the DSN boards' executive directors.

Agency Comments

AGENCY COMMENTS

The report confirms DDSN's overall sound fiscal systems and finds DDSN's quality assurance efforts to be well designed and comprehensive. As the second largest user of Medicaid funding in the state, the federal Medicaid agency, CMS, and South Carolina's Medicaid authority, DHHS, routinely conduct numerous audits to review DDSN's programs and financial systems to ensure compliance. They find that DDSN is in compliance with Medicaid requirements and as such, the agency is allowed to continue service provision and receive Medicaid reimbursement. The LAC report states there are no material problems with the agency's payment system. Further the report found that the amount of funding spent on consumers is based upon their actual service needs, including those with the most complex expensive needs, and that the funding is portable with the consumers. The LAC found that unlike North Carolina DDSN has controls to ensure that services are needed and allocates budgets to individual consumers.

DDSN's internal audit division was found to have an appropriate reporting structure that ensures appropriate independence for the internal audit function.

The report describes how several external entities perform different aspects of quality reviews for DDSN and recognizes that numerous entities provide oversight for various aspects of consumer health, safety and welfare.

The report confirms the importance of choice for individuals and families, which is why DDSN has more than doubled the number of qualified providers over the last several years. CMS reviews recognize DDSN is in full compliance with this requirement.

In general, the LAC report found that DDSN operates competently in many respects but the agency could improve in many areas. DDSN does not disagree and the agency will use the recommendations for improvement.

HEALTH, SAFETY, AND WELFARE

DDSN is pleased the report documents that the federal Centers for Medicare and Medicaid Services (CMS) confirms DDSN's protection of consumers' health, safety, and welfare in 2007 and 2008 stating DDSN "substantially meets this assurance" of health, safety and welfare of waiver participants. DDSN's quality assurance and quality improvement efforts are further evidenced by federal Medicaid's (CMS) renewal of DDSN's two Medicaid waivers and approval of a new waiver in January 2007. Moreover, in the 2007 CMS evaluation of the HASCI waiver, CMS wrote, "The state's system to assure health and welfare is adequate and effective, and the state demonstrates ongoing, systematic oversight of health and welfare."

In addition, DDSN conducts regular licensing reviews similar to DHEC's and DSS' processes. DDSN has a tracking system to ensure plans of correction by service providers are submitted to address deficiencies identified during licensing reviews. There is evidence that DDSN received plans of correction for 100% of annual licensing reviews in the LAC sample. DDSN has and does conduct follow-up reviews when warranted. This is similar to DHEC's process. A significant difference is that in addition DDSN's federally approved Quality Improvement Organization (QIO) conducts reviews of every provider every year, with follow-ups as required by policy. In addition to that, the State Fire Marshall inspects every facility every year for health and safety and the licensing standards require an annual electrical, sprinkler system, fire alarm system, and HVAC inspection. With these fully integrated multiple systems, DDSN goes beyond a typical licensing renewal process to assure the health, safety, and welfare of its consumers.

The report found that DDSN licensing standards are comparable to DHEC licensing standards. In South Carolina, DDSN is a separate entity from the contracted providers actually providing the service. DDSN licenses 1065 residential facilities across the state. Only 6 of these homes and 3 apartments are operated directly by DDSN so there is very little potential for conflicts of interest.

In South Carolina many of the licensing functions that other states have their licensing staff perform are carried out by DDSN's independent QIO. In addition, in a USC School of Public Health report national experts state that the oversight of service delivery has begun to move away from the traditional site-by-site review systems and toward organizational improvement monitoring which is exactly DDSN's approach.

The report also recognizes that DDSN has issued sanctions to providers for non-compliance. DDSN has documentation of when and why sanctions are issued but the agency will make improvements in the documentation to address the issues noted.

DDSN has ensured that providers comply with its policy regarding personnel actions related to abuse, neglect, or exploitation. In 100% of the cases, appropriate personnel action was taken. The LAC was originally given an erroneous report but this was corrected and provided to them.

DDSN services are provided by several thousand staff. When this is combined with turnover, errors can and do occur occasionally. For this reason DDSN mandates consumer funds training for all provider staff who handle consumer funds on a continuous basis. This training is provided by staff who have the knowledge of how consumer funds are to be managed. DDSN's Internal Audit Division offers on-site training and statewide training on consumer funds which will be added to the website as it is updated.

The report recognizes that DDSN's guidance on room and board is adequate. The guidance was also reviewed by the South Carolina Department of Health and Human Services (DHHS) as part of their oversight of the Medicaid waivers and also was found to be adequate by that agency. DDSN will formalize its practice as a directive.

BARRIERS TO COMPETITION AND CONSUMER CHOICE

Choice is a means or method by which people can have services in their life as they choose. DDSN has emphasized and required consumer choice for many years because it knows that it is important for consumers and families to have more types of services and more providers. DDSN collaborated with the State Budget and Control Board's Procurement Office in 2002 to develop an ongoing national solicitation process through a Request for Proposals (RFP). Prior to the first RFP for services, DDSN contracted with 45 providers for service (39 boards, 6 private providers). During this first six years of the RFP, 49 additional providers were added for a total of 94, a 100% increase. The latest renewal of the RFP just completed in September has already increased the number of new providers by 7, including 2 new residential providers. The service system continues to expand providers.

Further, when you include services provided by other providers, like early intervention and service coordination, the percentage rises to over 13% from the 3% stated for residential services. This does not include however, the many private providers paid by DDSN through the state's Medicaid billing system at DHHS. Each year DDSN pays the state matching funds to DHHS for approximately $83 million of services provided through their network of private providers. This amounts to approximately 15% of DDSN's real expenditures when both are combined. Taken together, approximately 28% of DDSN's services are provided by an entity other than the DSN boards within their geographic assignment. To further expand choice for respite and companion caregivers, DDSN and DHHS have submitted a new waiver request to the federal Medicaid agency and anticipates their approval in January 2009. Increasing choice is an ongoing process. CMS reviews recognize that DDSN is in full compliance with this requirement.

DDSN follows state and federal laws for service delivery and this includes offering choice of approved and willing providers. There is no federal or state prohibition for agencies providing service coordination to also provide other necessary services to consumers. Medicaid regulations and reimbursements allow the same entity to deliver both. The National Association of State Directors of Developmental Disabilities Services conducted a national study of case management programs in every state and found that 20 states use DDSN's model of allowing consumers' to choose their own service coordination provider who may also provide direct services and all 20, including DDSN, have policies in place to ensure the freedom of choice of service participants. There are no studies that show that separating service coordination from service provision makes a difference in outcomes.

In addition, North Carolina is listed as an example of a state that separates service coordination from service provision, a change that state made several years ago. Previously, North Carolina had a county board system that did both like in South Carolina. The issues identified in this audit as problems North Carolina had with billing, quality, and budget controls were a direct consequence of the way North Carolina separated the service coordination function. Authorization of services exploded as did costs. The LAC report correctly confirms that South Carolina has these controls.

The Disability and Special Needs board (DSN) system established by law is not meant to discourage provider participation but to ensure that if no private providers are available, the local DSN Board is the default service provider. This ensures consumers have access to at least one provider in their county. DDSN is like the Medicaid agency, DHHS, in having limited providers in many counties.

DDSN will continue to hold all contract providers, including boards, accountable financially and programmatically. DSN boards are created by the S. C. Code Section 44-20-375 and as such guarantees consumers at least one service provider in their county. DDSN utilizes various means to assure accountability such as temporarily limiting expansion when quality issues exist until improvements occur and/or informing the local board of directors of problems which result in new

management in some instances. The most significant action includes reducing contracts and arranging for other providers for services.

DDSN works to resolve funding issues when necessary with the boards just like other state agencies do with their county operations to assure their continued existence while still requiring corrective action and implementing consequences. The agency also works with private entities in this regard too. Private providers can choose to operate in or leave a county and can pick which consumers to serve and which services to provide, but the county DSN boards cannot as they serve as the guaranteed provider in that county for every consumer.

The funding system is always linked to the individuals DDSN serves. Service expansion must be planned and coordinated. For residential services this is similar to the Certificate of Need process for nursing homes. DDSN must plan expansion – matching factors such as individual personalities, family preferences, gender, age, disability type, functioning abilities, and health requirements. The mix of persons then drives the type of property needed, its location and proper licensing. Unlike nursing homes this expansion occurs in small residential settings from 1 to 6 beds utilizing 5 different residential options as opposed to 48 beds all having similar supports. Planning must take into account the total service need in each county while covering each of the unique needs of individuals listed above. This process is critical to the family since the average age of the residential consumer is 40 and once placed remains in residential services for decades as opposed to just over 2 years for nursing homes. Expansion of residential services requires a significantly more complex need to plan so in contrast service expansion for in-home supports are given to the individual and not a provider.

USE OF FUNDS

DDSN is pleased that the audit did not find any material problems with the agency's funding system and that it followed federal regulations. This is a similar finding to the November 2005 DHHS audit concerning the waiver funding system that stated "We did not find that the band payment system contravened any Federal Regulations, and do not have any recommendations for dramatically altering this system." However, the agency will adopt this report's recommendations to formalize some of the procedures utilized by DDSN staff and providers and place this information on the website.

The audit does recommend that DDSN develop a systematic plan to update the bands for cost-of-living increases, contingent on availability of funds. However, DDSN can only update payments when the General Assembly funds the additional cost through state appropriations. Currently, the General Assembly funds the pay and fringe cost when a pay increase is funded. This generally funds 80% of the cost increases since labor is the principal cost. DDSN monitors all costs annually through audited cost reports to determine when and if a separate request for cost increases should be submitted to the Governor and the General Assembly. Based on this process DDSN submitted an operating increase budget request for FY 06-07 and has already done so for next fiscal year.

As one of the largest providers of Medicaid services, DDSN works hard to document all Medicaid cost so as to maximize federal reimbursements. The cost reports that DDSN is required to complete documenting all Medicaid costs are submitted annually. DHHS staff review these reports regularly and the DHHS audit division has audited them separately more than once in the last several years. A 2004 Federal CMS Medicaid report found that the cost reports had not been independently audited and recommended an independent audit and any related audit adjustments. This finding to DHHS was answered by the then current DHHS Director, who documented the various audits the state provides. CMS accepted the director's response and renewed the waiver. The 2004 Federal CMS audit did not report any concerns with cost allocations, reimbursement and cost settlement methodologies. The report stated, "The review included documentation of evidence that the State has established sufficient financial oversight to assure that claims are coded and paid in accordance with the reimbursement methodology specified in the approved waiver."

In a 2006 audit, DHHS decided to change the requirements and recommend an independent audit and DDSN agreed. DDSN has already worked with DHHS and the State Auditor's Office to secure permission to have an external audit of the cost reports starting with the 2006 cost reports. These reports are to be audited this fiscal year.

While the audit finds that some new services have not been provided, DDSN has always developed and provided services for which the General Assembly has appropriated funding to the fullest extent possible. DDSN will continue to ensure that it will do so in the future. However, prudent management requires anticipating and planning for changing factors beyond the agency's control. These include plan changes due to the consumers' needs, the source of funding being non-recurring for recurring expenses, the timing of when funds are available or if they will become available, and during slowing economies, reductions in service development plans necessary to avoid taking away a service from current consumers like this year as a result of an 11.2% reduction ($21.5 million) in general funds appropriations. The bed expansion was always planned as a two-year process when each request was made in order to adequately plan with families, purchase the homes, hire and train staff, start-up and then finally operate.

DDSN's community services are documented and controlled by contracts with providers. DDSN has actual contractual amendments for the 449 beds which are part of the appropriation expansion and were completed as of June 30, 2008. New beds have been added monthly and through September 2008 an additional 31 beds were developed. The actual contracted residential beds in the community have changed from 3,508 as of June 30, 2005 to 4,018 as of November 10, 2008, a change in all residential bed contracts of 510 over the period. However, with the current budget reductions there will be no additional development.

To capitalize on Medicaid reimbursement for the PDD program, DDSN with the full participation of DHHS worked quickly to apply for and receive approval from the Federal Centers for Medicare and Medicaid Services (CMS) for a home and community based waiver. The waiver was approved by CMS with an effective start date of January 2007. With the creation of this new PDD program, DDSN had to create providers for this service as there was a shortage of providers to fully meet the demand for this service. Thus, the PDD program was not at its full potential until July 2007, a year after the initial funding was appropriated to the department. Even though it took a year for the department to secure the additional funding from Medicaid, establish processes and standards and create new providers to provide the services, this was at a faster pace than that of the private insurance sector. In June 2007, the General Assembly passed a law that private insurance companies doing business in South Carolina had to provide the pervasive developmental disorder coverage for its policyholders. As yet we are unaware that any individuals are receiving the insurance benefit.

Most of the $1.5 million in grants to private, non-profit organizations identified in the audit was for services, not for general operations. The best feedback a service agency receives is from the consumer, family, or organized advocacy groups representing them. This is a recognized method used by the federal government of creating feedback. DDSN received a federal grant from the Department of Health and Human Services specifically to form a coalition to advocate and plan for future services to the traumatic brain injury population in the state of South Carolina. This grant line-item funded the Brain Injury Association of South Carolina. Without this support many of the groups would not exist.

ACCESS TO INFORMATION, AUDITS, AND OTHER ISSUES

DDSN has recently added all directives and standards on its website. Public comments on these may be offered at any time. The agency is planning to update and improve its website and resources have been identified for this purpose.

The DSN Commission uses a nationally recognized model of governance in conducting agency business. The governance structure does not limit commission members access to public information, but does bring structure to ongoing, multiple requests by a member for the same information when that becomes burdensome to the organization. The review by the LAC's governance expert correctly quotes governance training that members can get questions answered, "unless doing so burdens the organization." The LAC's governance expert is also correct that a single interpersonal problem existed and the problem was resolved. The bottom line is that commission members have the right to request and receive the information they desire.

The LAC report states that DDSN has an appropriate reporting structure for its internal audit division and that the reporting structure should ensure appropriate independence for the internal audit function. Previously DDSN asked the Institute of Internal Auditing to audit its own internal audit division. DDSN is now finalizing the one remaining recommendation. DDSN is in full compliance with the Institute's standards.

The American Institute of CPA's (AICPA), as the licensing entity for CPAs, defines the basic standards to its members for representing attestation engagements. DDSN is in complete agreement with AICPA guidelines on independence of its membership regarding consulting and auditing services. As such, DDSN is unaware of any CPA firm that is in violation of the independence standards. If DDSN or any other party were to become aware of such a violation, then notification to the licensing body will take place immediately for appropriate action by the appropriate regulatory body.

The report does identify a former DDSN temporary employee who simultaneously worked for other entities. This situation was reviewed by the State Ethics Commission. The Commission's Decision and Order states "there is no evidence to indicate that the Respondent was performing the same work under the personal service contracts as he was assigned to perform as a DDSN employee. There was no evidence that the services offered by the Respondent in the personal contracts were services that were also available free of charge from DDSN." The Ethics Commission's Decision and Order further states "There is no doubt in the Commission's mind that there was no intent to violate the statute, nor was there any intent to create a conflict; however, the Commission unanimously agrees that an appearance of impropriety does exist." Therefore, the DDSN State Director and the part time employee both agreed it was in everyone's best interest to end the employment status in September 2006 as was documented in this audit report. The LAC report further states that it found no evidence that DDSN encouraged boards to hire the former employee.

RECOMMENDATIONS

Recommendation 1: DDSN will continue its efforts to ensure that information derived from its quality assurance processes is integrated and used to remediate problems identified. DDSN took the lead in the developmental disabilities field utilizing a federal grant to review its quality assurance and quality improvement initiatives that resulted in the report by the national association mentioned in this audit. The report also stated, "South Carolina (DDSN) appears to be the first state in the nation to have performed a comprehensive assessment of the extent to which its quality assurance system for persons with developmental disabilities addresses the quality management functions and focus areas identified by the Centers for Medicaid and Medicare Services (CMS) Quality Framework."

Recommendation 2: DDSN will continue to follow-up on reviews requiring plans of correction. Some of these will be in person while others can be documented in writing by the provider depending on the deficiencies.

Recommendation 3: DDSN will document follow-up reviews with reports assessing provider progress toward completion of plans of correction.

Recommendation 4: DDSN will revise its licensing directive to include criteria that defines when follow up visits are warranted and the type of documentation that is sufficient to demonstrate implementation of the plan of correction.

Recommendation 5: DDSN has documentation of when and why sanctions are issued but the agency will make improvements in the documentation to address the issues listed.

Recommendation 6: DDSN will review its licensing function and implement an approach that is independent. When you include South Carolina in comparison with the four states listed, it is actually 4 of the 5 states listed that have similar arrangements concerning licensing. The Georgia, Florida, and North Carolina organizations are like South Carolina's as the developmental disabilities divisions are a unit of the same agency that also is responsible for the licensing division. Tennessee is the only one listed that is actually separate. In South Carolina, DDSN is a different entity from the local providers actually providing the service.

Recommendation 7: DDSN's approach to licensing is to select a representative and statistically significant sample of every provider's residential programs every year. Each facility within each provider is visited by the licensing staff every three years which is similar to DHEC's and DSS' every two year process. The significant difference is that in addition DDSN's QIO conducts reviews of every provider every year, with follow-ups as required by policy. In addition to that, the State Fire Marshall inspects every facility every year for health and safety and the licensing standards require an annual electrical, sprinkler system, fire alarm system, and HVAC inspection. With these multiple systems, DDSN assures the health, safety, and welfare of its consumers.

Recommendation 8: DDSN will continue to provide updated lists of its licensed residential facilities to DHEC and SLED on a quarterly basis as required by state statute and MOA respectively.

Recommendation 9: The Federal Fair Housing Act 42 USC § 3601 and the State Fair Housing Act, S.C. Code Ann. §1-21-10 (Supp. 2007) both prohibit discriminatory practices. The Fair Housing Act states that any state law that is discriminatory is invalid. Both acts prohibit discrimination against handicapped individuals regarding housing and are applicable to municipal and county zoning authorities. The acts do not allow practices to apply to handicapped individuals that are not required of others.

Recommendation 10: DDSN will comply with any statue changes by the S.C. General Assembly.

Recommendation 11: DDSN will conform its policies and practices accordingly.

Recommendation 12: DDSN will continue to comply with state law that requires SLED criminal history checks and will review the practicality of obtaining more of these checks through fingerprint-based searches.

Recommendation 13: DDSN will continue to enforce its abuse and neglect directive 534-02-DD by reviewing provider reports and documenting follow up with providers if a required action is not taken.
The final corrected report reflects that in 100% of the cases, appropriate personnel action was taken.

Recommendation 14: DDSN will include in the revised reference checks directive a requirement that the DSN boards and other providers formally record whether they would rehire a separating employee.

Recommendation 15: DDSN will include in the revised reference checks directive a requirement that DSN boards and other providers make all requests for references in writing.

Recommendation 16: DDSN will include a requirement in the revised reference checks directive that DSN boards and other providers will respond in writing to a written request from another system provider with the information stated.

Recommendation 17: Implementation of this recommendation must be determined by the S.C. General Assembly. Legislation was introduced on behalf of the Adult Protection Coordinating Council during the last session. DDSN staff were active participants in the Council's efforts.

Recommendation 18: DDSN mandates consumer funds training for all provider staff who handle consumer funds. This training is provided by staff having the knowledge of how consumer funds are handled in accordance with Directive 200-12-DD. In order to assist providers in the training of consumer funds, Internal Audit will use technologies to include development of a web based video and the statewide interactive training via the use of video conferencing.

Recommendation 19: As identified in this audit, DDSN's guidance on room and board is adequate. The guidance was also reviewed by the South Carolina Department of Health and Human Services as part of their oversight of the Home and Community based waivers and also was found to be adequate by that agency. DDSN will formalize this guidance and incorporate into a department directive.

Recommendation 20: DDSN will review and approve on an annual basis the room and board calculations of all residential service providers. This process will be formalized in the department directive concerning room and board.

Recommendation 21: DDSN will amend its Appeal and Reconsideration Policy and Procedures Directive, 535-11-DD, to include in the list of possible reasons that room and board calculations can be appealed.

Recommendation 22: DDSN will evaluate whether or not the statutory requirements for human rights committee composition could be effective, and if so, amend the directive to be consistent with the statute.

Recommendation 23: To be consistent with DDSN's training requirements for governing board members, DDSN will amend its Human Rights Directive that training to members be held at least every three years or sooner if there is a change in the majority of the committee members since the last training. DDSN will monitor compliance.

Recommendation 24: DDSN will communicate its major training opportunities through its website.

Recommendation 25: DDSN follows state and federal laws for service delivery. There is no federal or state prohibition for agencies providing service coordination to also provide necessary services to consumers. Medicaid regulations and reimbursements allow the same provider to bill for both. The DSN Board system exists to ensure that if no private providers are available, that consumers are ensured at least one service provider is available in their county. DDSN is like the Medicaid agency, DHHS, in having limited providers in many counties. DDSN also encourages consumers to select the service of facilitation (now called Life Planning) should they be interested in having an independent entity conduct their planning meeting. This is especially important in counties where there is no other provider. This service is offered free of charge to consumers. Across the state there are now 31 providers of service coordination that can serve consumers other than their local board. For example, the Autism Society serves over 400 consumers.

In addition, DDSN's QIO has been and will continue to assess for provider compliance regarding free choice of service provider and case manager. DDSN's network of providers has achieved a high level of compliance as evidenced by last year's rate of 98%. Most importantly, there are no studies that show that separating service coordination from service provision makes a difference in outcomes.

Recommendation 26: DDSN will continue to hold all contract providers, including boards, accountable. Examples of private providers being held accountable are a contract reduction to Lutheran Family Services, limiting United Cerebral Palsy expansion temporarily, and financial paybacks from Bright Start and Easter Seals. The DSN boards are created by the S. C. Code Section 44-20-375 and as such guarantee consumers at least one service provider in their county. DDSN utilizes various means to assure accountability such as temporarily limiting Orangeburg's residential expansion until improvements occurred and informing the local boards of directors of problems at Marion/Dillon and Colleton Boards which resulted in new management.

The most significant action included arranging for other providers as a result of reducing Babcock's contracts for residential services by one-half. The $2 million payback mentioned concerns costs approved by the Department of Health

and Human Services as allowable and reimbursable. These costs were the direct result from the downsizing required by DDSN. DDSN worked with DHHS to fund the allowable cost but required transfer of Babcock property valued above this amount to the new providers. DDSN works to resolve funding issues when necessary with the boards just like other state agencies do with their county operations to assure their continuity while implementing corrective action. While private providers can choose to operate in or leave a county and can pick which consumers to serve and which services they want to provide, the county DSN board cannot as it serves as the guaranteed provider in that county for every consumer.

Recommendation 27: As noted in the LAC report the SC Code establishes DSN Boards as the planning and coordinating authority. Their members are publically appointed. Service expansion must be planned and coordinated. Funding is always linked to the individuals DDSN serves. The funding band mentioned later is an example. The Certificate of Need process for nursing homes is a similar planning process. DDSN must plan expansion – matching factors such as individual personalities, family preference, gender, age, disability type, functioning abilities, and health requirements. The mix of persons then drives the type of property needed, its location, and proper licensing. Unlike nursing homes this expansion occurs in small residential settings from 1 to 6 beds utilizing 5 different residential options as opposed to 48 beds all having similar supports in nursing homes. Planning must take into account the total need in each county while covering all the individual variables listed above. Since there were more consumers on the waiting list than funding available, the local boards worked with the families and private providers based on the authorized expansion. This process is critical for the family since the average age of the residential consumer is 40, and once placed, remains in residential services for decades as opposed to just over 2 years for nursing homes. However, to support the new private providers and expand choice, DDSN used this process to allocate 30% of the new beds to these providers. Expansion of residential services requires a significantly more complex need to plan, so in contrast service expansion for in-home supports was given to the individual and not a provider. Therefore, DDSN plans to continue to plan residential expansion taking into account consumer choice and private provider growth while still allocating in-home supports more individually.

Recommendation 28: DDSN cannot exempt the DSN boards from the state's procurement requirements as set forth and audited by the Budget & Control Board. By state law the boards can provide services within their jurisdiction. Once outside this area, the Budget & Control Board requires that they answer the RFP just like all other providers. Twenty-five did just this with the new RFP last month. State procurement staff estimated that it should have taken less than one business day to complete the procurement paperwork.

Recommendation 29: The solicitation in force during the period of the audit expired September 30, 2008. Prior to reissuing the solicitation DDSN rewrote the solicitation to make it clearer and to make it easier for prospective providers to respond to the solicitation. Both DDSN and State Procurement received positive feedback on the revised format. In reviewing the initial responses to the solicitation, DDSN staff noted several areas of the solicitation that could be further clarified and will again amend the solicitation to include these improvements. The initial award for the new solicitation includes all previous private service providers with several of them expanding to provide services statewide. There are 7 new service providers including 2 new residential service providers. 16 DSN Boards expanded service coordination outside of their designated county, 11 DSN Boards expanded early intervention and 2 DSN Boards expanded residential and day services.

Recommendation 30: DDSN will continue to regularly evaluate the level of response and amend the solicitation as necessary to encourage new service providers to respond to the solicitation. As noted in DDSN's response to 29 above, the review of the initial responses to the reissued solicitation indicated that a few areas could be further clarified and DDSN will amend the solicitation to provide additional clarity.

Recommendation 31: DDSN will request a change in qualifying providers for certain services that required an oral interview. This change will not require oral interviews for those professionals who are licensed and or certified for the provider type this includes. Oral interviews will still be utilized so as to maximize the availability of providers since there is a shortage as stated. This will take an amendment to the waiver and approval by DHHS and federal Medicaid. DDSN, like the LAC, is concerned with provider availability. However, CMS requires DDSN and DHHS to assure that providers are qualified. Applicants are protected due to the fact they can exercise due process as they have the right to appeal these decisions to DHHS if there is an issue with the exam.

Recommendation 32: DDSN will ensure that it enforces stated provider requirements for renewal and review.

Recommendation 33: As stated earlier DDSN has issued a new Request for Proposal which is more user-friendly and not unnecessarily restrictive for new providers. The net result was 7 new providers and many others, public and private, expanded their areas of coverage or services. While the U.S. Court of Appeals for the Tenth Circuit agreed with the decision of the Sixth and Seventh Circuits that states are only obligated to pay service providers and not provide them, DDSN has actively recruited and will continue to recruit new providers. A result of this commitment to choice is the new

RFP which generated the new providers in September 2008. The number of qualified providers has more than doubled over the last several years.

Recommendation 34: DDSN will provide training and assistance to new providers.

Recommendation 35: DDSN will accommodate any private residential service provider regarding how often they choose to bill as long as it is not overly burdensome to the agency. There is no maximum or minimum period these providers can bill.

Recommendation 36: Each provider will be treated equally considering the provider type and service to be provided. DDSN is however always open to requests from providers which do not place an unreasonable burden on the agency.

Recommendation 37: DDSN will transform its funding guidelines into a directive and post it on the website. The U.S. Department of Health and Human Services started issuing grants for the "Money Follows the Person" initiative in 2006. With this new effort states can propose new programs aimed at sustaining individuals in their homes or communities. DDSN initiated a similar policy 14 years ago without additional funding.

Recommendation 38: DDSN can only update payments when the General Assembly funds the additional cost through state appropriations. Currently as noted, the General Assembly funds the pay and fringe cost when a pay increase is funded. This generally funds 80% of the cost increases since labor is the principal cost. DDSN monitors all costs annually through audited cost reports to determine when and if a separate request for cost increases should be submitted to the Governor and the General Assembly.

Recommendation 39: DDSN will develop a policy documenting pilot programs including structure, purpose, scope, monitoring, and evaluation.

In 2001 the Babcock Center proposed a new way of funding a type of Community Training Home which is similar to foster care, the CTH I. This proposal would allow the closing of an old 44 bed Pine Lake facility that was going to cost significant funds to update physically. In addition the consumers would have better living conditions and the state would be able to close one of the largest ICF/MR programs operated in the community which has been a federal issue. The annual reimbursement for Pine Lake was $64,331 per consumer. The enhanced rate for the new CTH I program today is only $36,574. This not only resulted in a significant savings in addition to the capital saved, but also created a better CTH I program that has allowed DDSN to maintain the number of CTH I beds. Before this action the number of CTH I beds had been in steady decline.

The RFP for services does include the Enhanced CTH I program and the program was described at various conferences and a Commission meeting. The result is that six entities, four boards and two private providers, now have contracts for this service.

Recommendation 40: Until a pilot program is tested and confirmed to benefit consumers, DDSN will continue to work with providers who want to try something different on a one-to-one basis. However, it must be remembered that Medicaid will only pay for documented needs. Once a pilot proves successful, DDSN will communicate this to the appropriate parties.

Recommendation 41: As noted in this audit, DHHS audit staff reviewed DDSN's residential outlier re-justification process and found no material problems. However, DDSN will formalize its current written procedures concerning outlier funding into a department directive which will be added to the website.

Recommendation 42: DDSN will formalize in the directive the only criteria used in reviewing residential outlier funding requests which is medical necessity as determined by Medicaid which can be varied and broad which is why this funding exists outside of the more specific band funding.

Recommendation 43: DDSN has already worked with DHHS and the State Auditor's Office to secure permission to have an external audit of the four regional cost reports starting with the 2006 cost reports. These reports are to be audited this fiscal year. The 2004 Federal CMS audit did not report any concerns with cost allocations, reimbursement and cost settlement methodologies. That report states that the cost reports had not been audited and recommended an independent audit and any related audit adjustments. This finding to DHHS was answered by Mr. Robert Kerr, DHHS Director, who documented the various audits the state provides. CMS accepted Mr. Kerr's response and renewed the waiver.

In a 2006 audit, DHHS decided to recommend an independent audit and DDSN agreed. The result will be the independent audit this fiscal year.

The 2006 service coordination audit did find specific deficiencies mostly concerning documentation and some allowable cost. These have been corrected.

Recommendation 44: DDSN will have an ongoing periodic independent audit of the four regional cost reports as recommended in the 2006 DHHS audit and as DDSN agreed to carry out.

Recommendation 45: DDSN has always developed and provided services for which the General Assembly has appropriated funding to the fullest extent possible. DDSN will continue to ensure that it will do so in the future. However, prudent management requires anticipating and planning for changing factors beyond the agency's control. These include plan changes due to the consumers' needs, the source of funding being non-recurring for recurring expenses, the timing of when funds are available or if they will become available, and during slowing economies, reductions in service development plans necessary to avoid taking away a service from current consumers this year as a result of an 11.2% reduction ($21.5 million) in general funds appropriations.

The bed expansion was always planned as a two-year process when each request was made in order to adequately plan with families, purchase the homes, hire and train staff, start-up and then finally operate.

DDSN's community services are documented and controlled by contracts with providers. DDSN has actual contractual amendments for the 449 beds which are part of the appropriation expansion which were completed as of June 30, 2008. The dollars are in the contracts approved by the Commission the first of the fiscal year and payments are being made monthly to providers. Using this method, DDSN can track the contract changes for all services expanded over the last several years. Most of the bed expansion included capital expenditures which were also identified and have been expended as well. New beds have been added monthly and through September 2008 an additional 31 beds were developed. The actual contracted residential beds in the community have changed from 3,508 as of June 30, 2005 to 4,018 as of November 10, 2008, a change in all residential bed contracts of 510 over the period. However, with the current budget reductions there will be no additional development.

In purchasing/constructing new homes and providing start-up funds to train staff and up-fit homes, the department primarily used the funds appropriated by the General Assembly for residential development in the initial year as one-time capital funds. In the subsequent year, these funds are converted into ongoing operating funds that are used to provide the 24 hours/day supervision and training of consumers residing in these homes.

The expenditure amount DDSN has had for the 449 actual beds expanded as of June 30, 2008 is $10.2 million per contractual changes and payments. These beds will annualize the expenditure rates once they are on line for a full year at the $25.3 million appropriations minus budget reductions.

The dollars were utilized to purchase housing at $11.2 million and support buildings at the $12.4 million stated. This totals $33.8 million which is $8.5 million more that the total appropriations of $25.3 million. Of the $12.4 million spent on support buildings, 78% were for day programs for the consumers, approximately $9.7 million.

To capitalize on Medicaid reimbursement for the PDD program, DDSN with the full participation of DHHS worked quickly to apply for and receive approval from the Federal Center for Medicare/Medicaid Services (CMS) for a home and community based waiver. The waiver was approved by CMS with an effective start date of January 2007. With the creation of this new PDD program, DDSN had to create providers for this service as there was a shortage of providers to fully meet the demand for this service. Thus, the PDD program was not at its full potential until July 2007, a year after the initial funding was appropriated to the department. Even though it took a year for the department to secure the additional funding from Medicaid, establish processes and standards and create new providers to provide the services, this was at a faster pace than that of the private insurance sector. In June 2007, the General Assembly passed a law that private insurance companies doing business in South Carolina had to provide the pervasive developmental disorder coverage for its policyholders. As yet we are unaware that any individuals are receiving the insurance benefit.

Recommendation 46: DDSN in general agrees with this recommendation. However, the state's budgeting process timelines do not always allow this to happen. For example, the FY 08-09 budget was submitted in August 2007. At the time the residential planned expansion for 2006 and 2007 were to be completed by June 2008; just before the start of the FY 08-09 budget year.

Recommendation 47: DDSN will be more specific in the language used in the budget request documents. The residential bed request for FY 06-07 states that DDSN will "develop" and operate the homes. In the future the request will state that houses and support buildings will be purchased or constructed. However, no more dollars are required to do this since as stated in the report, DDSN utilizes the dollars to purchase the buildings through onetime grants as a onetime expense and then when the buildings are ready to operate the ongoing revenue provides the operating budget for these ongoing expenses. To request separate capital funding for the grants would mean that DDSN would be funded even more dollars. The current method maximizes the dollars since as the report points out all of the houses could not be online in one year. This has been the method utilized by DDSN for years.

Through these efforts, DDSN spent $10,250,000 operating the houses; $11,200,000 purchasing the houses and $12,300,000 on support buildings. The total expenses were $33,750,000; well in excess of the $25,300,000 received. This difference was covered by other capital budgets which DDSN grants to providers every year to maintain quality programs and buildings. Once all beds are operating for a full year after all expansion has occurred, all of the funded dollars will be needed to support the operations of all the beds expanded.

Recommendation 48: DDSN does track the number of individuals living with aging caregivers, as at any time these caregivers may not be able to provide care any longer, and the state has a responsibility to respond. Tracking these numbers aids DDSN in its planning and anticipation of future service needs. Individuals living with aging caregivers may be included on the priority one waiting list, the critical needs waiting list, or no waiting list at all, depending on the request for service made by a family and/or that family's circumstances. It is criteria for the waiting lists that will determine in the future whether a consumer receives a service if funding is available.

Recommendation 49: Most of the $1.5 million in grants was for services, not for general operations. The best feedback a service agency receives is from the consumer, family, or organized advocacy groups representing them. DDSN believes in the formation of these outside entities and supports them by providing a small sum of funding for their existence. This is a recognized method used by the federal government for creating feedback. DDSN received a federal grant from the Department of Health and Human Services specifically to form a coalition to advocate and plan for future services to the traumatic brain injury population in the state of South Carolina. This grant line-item funded the Brain Injury Association of South Carolina. Without this support many of the groups would not exist. With the total number supported by DDSN there are now advocacy groups who provide much feedback and opinion, often varying from that of the department's. Anyone who has worked with the families of individuals with disabilities knows they will make sure their opinions are heard.

Recommendation 50: DDSN will develop a grant application process for non-profits using the same format that is used by DDSN's Head and Spinal Cord Injury Division in awarding annual prevention mini-grants. This process will be used for special (non-federally funded) contract/grant applications solicited by DDSN.

Recommendation 51: DDSN established a formal review process for every special contract and grant for the 2009 awards. This will be incorporated into a directive.

Recommendation 52: DDSN has posted all directives on its website.

Recommendation 53: DDSN will comply with its departmental directive and document the review of the policy. The directive will be modified to change the review from an annual to a three year cycle or more frequently as circumstances warrant.

Recommendation 54: The General Rules and Regulations: A Handbook for Employees will be updated since many direct care employees do not have access to computers and the online system.

Recommendation 55: DDSN does plan to improve its public website.

Recommendation 56: Commission policies do not need to be modified as the review by the LAC's governance expert determined "there is no reason why" the Commission's type of governance structure and policies would limit a Commission member's access to public information. Further, the report correctly quotes governance training that members can get questions answered "unless doing so burdens the organization." The bottom line is that commission members have the right to request and receive the information they desire.

Recommendation 57: A Finance/Audit Charter has been drafted and will be presented at the next meeting of the Finance/Audit Committee.

Recommendation 58: Internal Audit included DDSN service provision operations in the fiscal year 2009 risk assessment. In many central office functions, controls already exist in the form of reviews and/or audits by external parties as noted in the LAC report. All of these reviews are considered when formulating the annual risk plan. However, the central and district offices will be included in future assessments.

Recommendation 59: Internal Audit will continue to ensure that the order of priority in its internal risk assessment plan is followed as closely as reasonably possible taking into account issues that will arise.

Recommendation 60: This audit referenced the completion of one audit of DDSN's central office, while this office technically is part of the finance division; this unit actually utilizes many different information technology systems in the completion of its work. As part of this review, Internal Audit examined how data is input and processed within these systems. Overall, we found these systems were operating as intended. And DDSN arranged for a security audit in relation to HIPAA to be conducted by the Budget and Control Board's CIO. However, Information technology systems will continue to be part of the risk assessment process utilized to determine the most appropriate audit efforts.

Recommendation 61: The American Institute of CPA's (AICPA), as the licensing entity for CPAs, defines basic standards to its members for representing attestation engagements. DDSN is in complete agreement with AICPA guidelines on independence of its membership regarding consulting and auditing services. As such, DDSN is unaware of any CPA firm that is in violation of the independence standards. If DDSN or any other party were to become aware of such a violation, then notification to the licensing body will take place immediately for appropriate action by the appropriate regulatory body.

Recommendation 62: Same response as Recommendation 61.

Recommendation 63: DDSN will provide adequate training and technical assistance to the DSN boards' executive directors.

Regarding the complaint listed in this report the State Ethics Commission Decision and Order states "there is no evidence to indicate that the Respondent was performing the same work under the personal service contracts as he was assigned to perform as a DDSN employee. There was no evidence that the services offered by the Respondent in the personal contracts were services that were also available free of charge from DDSN." The Respondent's contracts with boards were for other services that DDSN expects the boards to be able to carryout themselves or purchase the services separately. These are not services DDSN provides separately to the boards. The payment for services from DDSN already includes these supports.

The Commission's Decision and Order further states "There is no doubt in the Commission's mind that there was no intent to violate the statute, nor was there any intent to create a conflict; however, the Commission unanimously agrees that an appearance of impropriety does exist." Therefore, the State Director and the part time employee both agreed it was in everyone's best interest to end the employment status as has been documented in this audit report that no work occurred after September 2006. The fact that the organizational chart for 2007 was not updated for this change was a mistake. The district directors have had to pick up some of the duties such as orientation due to the termination of employment of the DDSN employee.

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