



SUMMARY



DDSN's Process to Protect Consumers from Abuse, Neglect, and Exploitation, Administrative Issues, and a Follow Up to Our 2008 Audit

INTRODUCTION

Members of the General Assembly asked the Legislative Audit Council to conduct an audit of the S.C. Department of Disabilities and Special Needs (DDSN). Our audit focused on abuse, neglect, and exploitation (ANE) of consumers, procurement, and eligibility. In December 2008, we published *A Review of the Department of Disabilities and Special Needs* and made 63 recommendations. We also were asked to follow up on those recommendations.

DDSN serves approximately 13,000 consumers in its residential community settings, day programs, and residential institutions. The audit team conducted site visits at DDSN facilities of 9 providers, representing 1,738 consumers. We chose these facilities based on:

- ANE reports and dispositions from the last two fiscal years.
- Interested party letters and calls.
- Survey interviews.
- Media coverage related to ANE and consumer activities at day programs.
- Geography.

We based some conclusions throughout this report on facility observations, file reviews, and staff interviews from these visits.

In our review, we found that DDSN can improve its process for protecting DDSN consumers (individuals served by DDSN) in several ways. We also found that certain state laws should be amended to help improve the operations at DDSN. The agency should:

- Develop uniform staff training on abuse, neglect, and exploitation (ANE) to be completed annually.
- Assign specific deficiency classes to licensing indicators, considering the risks to consumers.
- Compare facility incident logs/reports to DDSN's incident management system to ensure all critical incidents are reported per agency directive.
- Require providers to evaluate consumer supervision/accountability levels during the internal incident review and adjust them as needed.

We recommend that the General Assembly amend state law to:

- Mandate that all allegations of ANE be reported to the Vulnerable Adults Investigations Unit of the South Carolina Law Enforcement Division (SLED) to avoid confusion about reporting.
- Add day programs as a facility type to ensure ANE at day programs is easily reported.
- Require vulnerable adult investigative agencies to share specific case dispositions with the relevant DDSN facility.
- Require pre-hire national fingerprint-based checks for all direct caregivers, regardless of state residency status.

PROTECTION OF DDSN CONSUMERS

We were asked to review consumer ANE and we found areas where DDSN can improve:

CONSUMER ON CONSUMER INCIDENTS — DDSN should require its regional centers and boards/providers to evaluate consumer supervision/accountability levels during internal reviews of consumer on consumer incidents and make needed adjustments.

SEXUAL ASSAULT PROTOCOL — DDSN should amend its directive regarding sexual assaults between consumers to clarify proper staff actions when a sexual assault is suspected or alleged. We found an inappropriate sexual act was reported by a consumer, but the staff determined the act to be consensual instead of reporting it to the proper authorities for investigation. We notified DDSN management about this incident and were told that an investigation would be initiated.

CONSUMER FUNDS — In our 2008 audit, we found that DDSN should strengthen its controls to ensure that consumers' funds are handled appropriately. The same problems are recurring; therefore, DDSN should develop and require annual, mandatory training of all staff handling consumer funds and Internal Audit should verify this training as part of its standard audit plan.

DAY PROGRAMS — We reviewed the effectiveness of day programs and found that consumers' annual assessments should ask if consumers are aware of other options/settings for work.

SUGGESTED IMPROVEMENTS TO CURB ANE — We interviewed officials and staff from DDSN, SLED, the Adult Protection Coordinating Council, the S.C. Commission on Prosecution Coordination, DHEC, and the quality assurance contractor to obtain ideas about how ANE can be curbed. Based on these suggestions, we recommend that the General Assembly amend state law to require an adult abuse registry and allow electronic monitoring of common areas of DDSN facilities serving consumers.

JUNE 2014

CAREGIVER BACKGROUND CHECKS

Part of protecting consumers from employee ANE involves determining whether there are adequate controls over employment of direct caregivers (employees working directly with consumers). We reviewed a sample of human resources files at DDSN regional centers and boards/providers to determine whether DDSN requirements are properly adhered to and if the requirements should be strengthened. We found that DDSN has inadequate controls, specifically because background checks are limited by residency status and frequency. Also, some facilities in our sample had not adequately conducted background checks, and some had not conducted these checks at all. Based on our statistically-valid sample, approximately 25% of all DDSN direct caregivers are hired without knowledge of their criminal histories. We recommend that all direct care staff undergo a national, fingerprint-based criminal history check and a National Sex Offender Registry check.

FOR MORE INFORMATION

Our full report, including comments from relevant agencies, is published on the Internet. Copies can also be obtained by contacting our office.

LAC.SC.GOV

SOUTH CAROLINA GENERAL ASSEMBLY

Legislative Audit Council
Independence, Reliability, Integrity

Perry K. Simpson
Director

1331 Elmwood Ave., Suite 315
Columbia, SC 29201
803.253.7612 (voice)
803.253.7639 (fax)

PROCUREMENT

We reviewed the procurement practices of DDSN and a sample of its boards/providers for compliance with state procurement laws and an agency directive. We found that DDSN's boards/providers:

- Did not always have procurement policies.
- Regularly circumvented DDSN procurement protocol.
- Violated emergency and sole source procurement exceptions.
- Are not regularly audited for procurement compliance.

We recommend that DDSN enforce its procurement directive. We also recommend that DDSN's Commission should approve all procurements of contracts exceeding \$100,000. Currently, DDSN seeks approval from the Commission for the annual amount of a contract rather than the total amount of the contract. Also, this practice should be formalized into a written policy.

ELIGIBILITY, INVOLUNTARY ADMISSIONS, AND CONSOLIDATION OF REGIONAL CENTERS

We were asked to review DDSN's process for determining a person's eligibility for services, including if the process complies with state law, if it is different for applicants with severe behavioral issues, and if any conflicts of interest exist. We found that one of DDSN's residency requirements for applicants for services is narrower than statutory requirements. Also, the agency's intellectual disability (ID) eligibility criterion for age of onset, 18, conflicts with the S.C. Supreme Court's interpretation of state law regarding an ID age of onset criterion of 22, in a waiver for which consumers with ID could qualify.

We reviewed involuntary admissions and found that DDSN is complying with state law and has qualified staff evaluating individuals for involuntary commitments.

We reviewed the possibility of consolidating regional centers and found that DDSN has taken steps to reduce costs associated with operating these centers; however, S.C. Code §44-20-365 could hinder DDSN from using agency property most efficiently.

FOLLOW-UP ON 2008 REPORT RECOMMENDATIONS

We followed up on the 63 recommendations made in the 2008 audit to determine the implementation status of these recommendations and found that DDSN had implemented 31, partially implemented 17, but did not implement 12 recommendations. The General Assembly did not implement any of the three recommendations made to amend state law.