

## SUMMARY



# A LIMITED REVIEW OF THE S.C. DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS NEW AND CONTINUING ISSUES AT DDSN



[PART 2 OF 2]

## CONSUMER PROTECTION AND RIGHTS

OCTOBER 2023

Members of the S.C. General Assembly requested that we conduct an audit of the S.C. Department of Disabilities and Special Needs (DDSN).

### OBJECTIVES

- Determine if DDSN is providing needed and timely services to consumers.
- Determine if DDSN is protecting consumers from abuse, neglect, and exploitation.
- Review staffing and operations at regional centers to determine what issues exist.
- Review training documentation for Commissioners, DDSN staff, and consumers to determine if training is adequate and if it has been completed as required.
- Gauge how effectively DDSN staff communicate and work with each other as well as with other stakeholders.
- Determine if DDSN has complied with the state procurement code and agency certifications for procurements.

The following audit findings were addressed in *Part 1* and published in March 2023:

- Changes Needed to Agency Structure
- Inappropriate Commissioner Behavior
- Increase in Commission Expenses

### A STATEWIDE ADULT ABUSE REGISTRY IS NEEDED

DDSN does not have an adequate system to ensure that employee caregivers dismissed for abuse, neglect, or exploitation (ANE) are not rehired elsewhere in the system. We found several cases where employees were terminated for ANE violations, but the employee was either rehired or allowed to have the official reason for separation noted as “personal” instead of “terminated.” We have previously noted the need for an adult abuse registry in our 2008 and 2014 audits of DDSN.

### IMPROVEMENTS ARE NEEDED TO CONSUMER EMPLOYMENT, INITIATIVES, AND ASSISTIVE TECHNOLOGY

DDSN has not done all it can to ensure compliance with the *Olmstead* decision, has not pursued needed assistive technology initiatives like Technology First, and does not maintain needed data on employed consumers being paid a subminimum wage. In our 2014 audit report, we stated that there was room for improvement in the integrated employment percentage rate. That statement remains true today.

### CONSUMER RIGHTS TRAINING IS INCONSISTENT AND NOT PROMOTED

DDSN is not promoting active, organized consumer rights training with advocacy groups, does not have an agency training director, and does not have a central repository for consumer rights training documentation. DDSN needs to improve consumer rights training documentation, recordkeeping, and procedures at the regional centers.

### REGIONAL CENTERS DO NOT ALWAYS RESPOND APPROPRIATELY TO ALLEGATIONS OF ABUSE, NEGLECT, OR EXPLOITATION

In 2021, regional center staff did not always report suspected incidents within 24 hours or the next working day. We reviewed a statistically-valid sample of 63 ANE investigations and found 11 allegations of ANE that took two or more days from the date of the incident to be reported. One incident at the Pee Dee Center was reported 82 days after it occurred; this was only because central office staff noticed suspected ANE during review of video for another incident.

We found that review of surveillance video significantly impacts the outcome of an ANE investigation. For example, in one case, regional center staff reported that employees used a consumer’s clothing to move the consumer; however, later review of video showed that the consumer was actually dragged across the floor. The discrepancies between the regional center’s report and what really occurred would not have been discovered without review of video.

Despite the impact of surveillance video, 70% of investigations of consumer-reported ANE in our sample did not include review of any video recordings.

Regional center employees involved in allegations of ANE may have been allowed to resign in lieu of termination. We found five employees listed in separation reports as having resigned for personal reasons even though the ANE investigation files stated that they were terminated.

Training in response to ANE cannot be verified. Records of employee training in response to ANE investigations are not consistently maintained by DDSN’s regional centers. DDSN’s regional centers provided training documentation for only 24% of the ANE investigation files in which training was recommended in our sample.

## FORMER MEMBERS OF DDSN'S EXECUTIVE STAFF AND THE AGENCY'S VIDEO SURVEILLANCE DIRECTIVE PREVENTED TIMELY AND THOROUGH RESPONSES TO ANE

DDSN risk management employees repeatedly warned former executive staff of a dangerous, pervasive culture of abuse and neglect at the regional centers.

Following confirmation that Pee Dee Center staff were inaccurately reporting or not reporting ANE incidents, former executive staff limited review of surveillance video and allowed only one risk management employee to watch video. Some executive staff told risk management employees that they had no right to review videos, that they needed to sign statements to review video to comply with the video surveillance directive, and that the directive limits electronic transmission of video. Former executive staff also prohibited risk management employees from directly contacting executive staff members.

DDSN's video surveillance directive does not prohibit review of video by DDSN risk management employees and appears to limit transmission to prevent confidential video from being improperly posted online. It is unlikely that the directive's intent is to prevent risk management employees from reviewing video electronically in the course of their job duties investigating ANE.

The response by DDSN's former executive staff prevented a timely review of video surveillance to determine whether additional abuse was going unreported, despite mounting evidence that regional center staff were working to hide ANE and the limitations of a 60-day recording retention policy.

## IDENTIFICATION AND INVESTIGATION OF ANE AT DDSN REGIONAL CENTERS ARE INHIBITED BY THE AGENCY'S VIDEO SURVEILLANCE SYSTEM AND STORAGE CAPABILITIES

DDSN's video surveillance directive requires video surveillance but does not specify where cameras are required to be installed at regional centers.

Unless already identified as containing evidence of ANE, video surveillance recordings are deleted on a rolling basis after 60 days due to limited storage space. The deletion of recordings after 60 days has prevented DDSN from providing video to the State Law Enforcement Division (SLED) in possible ANE cases.

There are limited maps of camera locations, which may prevent thorough investigations of ANE.

These issues prevented DDSN from providing surveillance video for LAC review in a timely manner. Our intent was to review a random sample of video to determine whether there were unreported incidents of ANE. Recordings were provided 81 working days after our initial request, included corrupted files, and did not include video for the period initially requested.

## DDSN HAS NOT PROVIDED ITS REGIONAL CENTERS WITH ADEQUATE REPAIRS AND MAINTENANCE

Our unannounced visits to the regional centers revealed:

- Broken ceiling tiles and peeling paint in multiple locations across the Coastal Center campus.
- The main door to a consumer dorm at Midlands Center did not close completely and remained unlocked.
- A courtyard that consumers use for outdoor activities at Midlands Center was covered in algae.
- An empty fire extinguisher cabinet at Coastal Center in one of the dorms.

We reviewed DDSN's budget requests for FY 22-23 and FY 23-24. While DDSN has allocated funding for certain repairs, it has not requested or designated funds for consumer equipment upgrades. By not ensuring regional centers are adequately equipped and maintained, DDSN is risking the safety of its consumers and disregarding consumers' quality of life.

## BARRIERS TO SERVICES FACED BY CONSUMERS

### DDSN'S ELIGIBILITY PROCESS APPEARS TO HAVE IMPROVED; HOWEVER, DATA IS NOT ADEQUATELY MAINTAINED OR MONITORED FOR TRENDS

DDSN appears to have improved its eligibility screening process and has reduced the amount of time applicants spend undergoing the full eligibility determination process. Analysis of DDSN's general eligibility determination process showed an incremental decrease from 2019-2021 for the percentage of applicants who were sent to an intake provider.

DDSN's reported analysis of the eligibility determination process in 2021 was based on incomplete data. In 2021, monthly eligibility reports were missing an average of 37% of early intervention data points and 44% of general eligibility data points.

The number of days for the full process—application to final eligibility determination—generally decreased from 2018–2021.

DDSN does not use unique identifiers across the three of its eligibility datasets for either individual applicants or individual applicant cases.

### IMPROVEMENTS ARE NEEDED TO DDSN'S ELIGIBILITY DIRECTIVES

DDSN does not publicize a list of generally accepted cognitive tests, which are used, in part, to evaluate some applicants for eligibility. The agency also does not survey individuals who have completed the application process, as required by agency directives. Limiting transparency to and feedback from eligibility applicants may result in communication issues and missed opportunities for improvement.

## DDSN'S APPEAL AND RECONSIDERATION PROCESSES NEED CLARIFICATION, AND DDSN IS NOT TRANSPARENT REGARDING THE RIGHT TO APPEAL FINAL ELIGIBILITY DECISIONS TO THE ADMINISTRATIVE LAW COURT (ALC)

DDSN uses inconsistent language in its processes regarding time limits, often to the advantage of the agency. We reviewed case logs for appeals and reconsiderations from 2019–2021 and found that DDSN:

- Has not overturned a single initial agency decision on appeal.
- Was not responsive to appellants in 35% of appeals, per agency time limits.
- Maintains an appeal log that contains a significant number of inaccurate date entries, omits unique identifiers, and is not recorded in electronic format.
- Maintains a reconsideration log that contains inaccurate dates, omits unique identifiers, and is incomplete.
- Overturned 61% of reconsideration cases, most of which were for assistive technology.

DDSN has not been transparent about the right to appeal its final decisions regarding eligibility for services to the ALC. We reviewed DDSN's statute, regulations, directives, eligibility determination letters, and its website and found that DDSN does not notify appellants of their right to appeal final agency decisions to the ALC. While state law does not require this, given the vulnerabilities of the population DDSN serves, withholding such information may create an unnecessary barrier to services.

## PROLONGED WAIT TIMES FOR HOME AND COMMUNITY-BASED SERVICES WAIVERS MAY BE LIMITING CONSUMERS' ACCESS TO SERVICES

As of June 15, 2023, a total of 31,073 spaces were occupied on the waiting lists for DDSN's three waivers: Intellectual Disability/Related Disability (ID/RD), Community Supports (CS), and Head and Spinal Cord Injury (HASCI). We calculated average wait times for individuals removed from the waiting lists between 2019 and 2022 and found that:

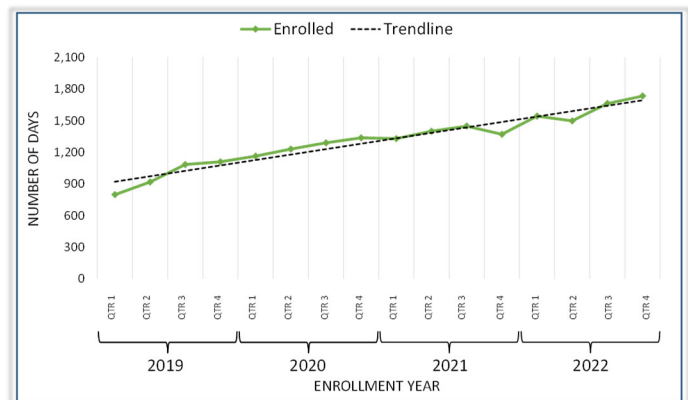
- Overall, individuals waited an average of 3 years, 7 months, and 15 days to be enrolled in a waiver.
- Average wait times from entry on any waiting list to enrollment in any waiver increased by almost nine months from 2019 to 2022.
- Average wait time for the CS waiver grew by 1 year, 7 months, and 7 days—from 2 years, 8 months, and 29 days in 2019 to 4 years, 4 months, and 6 days in 2022.
- Average wait time for the ID/RD waiver grew by 9 and a half months—from 3 years, 8 months, and 28 days in 2019 to 4 years, 6 months, and 13 days in 2022.
- A waiting list for the HASCI waiver did not exist until 2021. From 2021 to 2022, the average wait time increased by almost 2 months—from 10 months, 7 days in 2021 to 1 year, 3 days in 2022.

We found the following issues artificially increased the waiting lists and likely contributed to extended wait times:

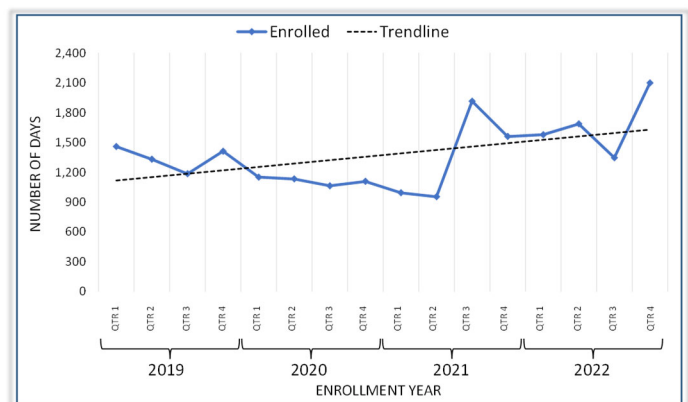
- Past waiver enrollment process inefficiencies.
- Paused disenrollments from Medicaid during the COVID-19 pandemic.
- Uninterested individuals remaining on waiting lists.
- Likely overestimation of reserved capacity slots.
- Case management errors.

### AVERAGE WAIT TIME FOR ENROLLMENT, 2019–2022

#### COMMUNITY SUPPORTS WAIVER



#### INTELLECTUAL DISABILITY/RELATED DISABILITY WAIVER



## INDIVIDUALS WITH CRITICAL NEEDS FACE DELAYS IN RESIDENTIAL PLACEMENT WHICH COULD BE ALLEVIATED BY EXPANSION OR CREATION OF NEW RESIDENTIAL FACILITIES

DDSN refers to individuals in life-threatening situations or at risk of harm as individuals with critical needs. An individual with critical needs is added to the residential needs list (formerly known as the critical needs list), which is distributed to qualified providers statewide. Qualified providers may then choose to offer residential placement to individuals on the list. We reviewed wait times for individuals on DDSN's critical needs list from 2019–2021, as well as the residential needs list as of June 2022 and found:

- An individual's average wait time for residential placement more than tripled if that individual had intensive behavioral needs.
- Extensive wait times for individuals with critical needs may have led to unnecessary institutionalizations.
- Expansion or creation of new residential facilities, specifically community training home IIs, may help address extended wait times.

### MINIMUM EDUCATIONAL AND CERTIFICATION REQUIREMENTS FOR PROVIDERS OF SERVICES FOR INDIVIDUALS WITH PROBLEM BEHAVIORS ARE NOT ENFORCED

Neither DDSN nor the S.C. Department of Health and Human Services has ensured that providers of behavior support services under the ID/RD, CS, and HASCI waivers have maintained their board certifications. Further, DDSN's minimum educational requirements for behavior support services providers are not established in the agency's services standards nor in the waivers. As of April 2022, of the 40 behavior support providers, only 45% had an active certification with the Behavioral Analyst Certification Board.

## HUMAN RESOURCES, PROCUREMENT, AND OTHER ADMINISTRATIVE ISSUES

### DDSN'S HIRING PROCESSES ARE INADEQUATE AND DO NOT ENSURE CONSUMERS ARE PROPERLY PROTECTED FROM ABUSE AND NEGLECT

We reviewed a sample of human resources' (HR) files from DDSN's five regional centers and found:

- 49% of HR files did not have documentation of the required criminal background checks, had checks that were conducted after the employee was hired, or had incomplete criminal background checks.
- 9% of former employees were hired at the same regional center or another DDSN-contracted provider despite the previous employer indicating, in writing, that these employees should not be rehired, or because the previous employer did not classify the separation properly.
- 16% of the files had no documentation that required drug tests were completed or the tests were completed after the employees were hired.
- 39% of the files did not have a sex offender registry check conducted, had checks that were conducted post-hire, or had checks that were incomplete or inaccurate.

### DDSN'S PROCUREMENT PRACTICES NEED IMPROVEMENT TO BETTER COMPLY WITH STATE LAW

We interviewed DDSN staff and reviewed DDSN's procurement records, manual, and directive, and found that required documentation for sole source procurements was incomplete. Evidence that DDSN complied with the state procurement code was not provided for contracts with waiver service providers. Further, the agency's procurement manual excludes procedural changes that were part of a corrective plan for inappropriate and unreported sole source and emergency procurements.

### IMPROVEMENTS ARE NEEDED TO DDSN'S WEBSITE TO INCREASE ACCESSIBILITY AND ENSURE INFORMATION ON REPORTING ANE IS AVAILABLE

As of May 2023, DDSN's website no longer links to the State Child Advocate's Office or the Inspector General's Office, and a link to "Report ANE of Persons Supported by DDSN" is no longer on the agency's homepage. Further, we found that individuals with disabilities, including those with visual impairments and users of assistive technology, may have difficulty fully accessing the site.

SOUTH CAROLINA GENERAL ASSEMBLY

Legislative Audit Council  
Independence, Reliability, Integrity

K. Earle Powell  
Director

1331 Elmwood Avenue  
Suite 315  
Columbia, SC 29201  
803.253.7612

LAC.SC.GOV