



SUMMARY

A Review of the Department of Disabilities and Special Needs



INTRODUCTION

Members of the General Assembly asked the Legislative Audit Council to conduct an audit of the 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.

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 live at home and receive services such as respite, day services, and other needed supports. Most DDSN services are funded by Medicaid.

DDSN's system includes 39 disability and special needs (DSN) boards. Each DSN board is the administrative, planning, coordinating, and service delivery body for county disabilities and special needs services.

The seven-member DDSN Commission governs the agency. Members are appointed by the Governor, with advice and consent of the Senate.

HEALTH, SAFETY, AND WELFARE

DDSN has a complex and multi-faceted program designed to ensure the quality of its programs and services. However, our review of DDSN's oversight of community residential facilities identified gaps in oversight that may pose risks to DDSN's consumers.

LICENSING ISSUES

- 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.

CONSUMER SAFETY

- 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 it may not have ensured enforcement of policies related to abuse, neglect, or exploitation incidents.

CONSUMER FUNDS

- By examining DDSN's internal audits, we found that consumers' funds are often mishandled by 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. DDSN should implement a public directive on room and board determination and require that 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 South Carolina consumers often have little choice. Most services are provided by local disabilities and special needs (DSN) boards. As of December 2007, just 147 (3%) of 4,776 residential consumers were being served by providers other than the boards. 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.

BARRIERS RELATED TO THE BOARD SYSTEM

- 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 the 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 (see table). 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.

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%)

OTHER BARRIERS

- DDSN's process for filling vacant beds 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. In some cases, funding providers instead of people results 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

The majority of DDSN's services to consumers are funded by Medicaid. For FY 06-07, DDSN received almost \$451 million in Medicaid funds and was the second largest user of Medicaid funding in the state. We reviewed the band 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 improve the transparency of its use of funds and more effectively prioritize funding for services.

- We did not find material problems with 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 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. This leaves a significant gap in accountability for millions of dollars.

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

We found that DDSN has not provided many of the new services for which it received funding.

- 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. Although 2,000 consumers are waiting for residential services, DDSN no longer plans to develop 62 of the beds.
- 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 recouped millions in federal Medicaid dollars it could have received 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, AUDITS, AND OTHER ISSUES

AUDITS BY THE LEGISLATIVE
AUDIT COUNCIL CONFORM TO
GENERALLY ACCEPTED
GOVERNMENT AUDITING
STANDARDS AS SET FORTH BY
THE COMPTROLLER GENERAL OF
THE UNITED STATES.

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.

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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 calls for 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, and two had not been reviewed since the early 1990s.
- 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 county 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.