



PERFORMANCE AUDIT REPORT

CDDOs: Reviewing Issues Related to Community Services Provided for Individuals with Developmental Disabilities

**A Report to the Legislative Post Audit Committee
By the Legislative Division of Post Audit
State of Kansas
March 2014**

Legislative Division of Post Audit

The **Legislative Division of Post Audit** is the audit arm of the Kansas Legislature. Created in 1971, the division's mission is to conduct audits that provide the Legislature with accurate, unbiased information on the performance of state and local government. The division's audits typically examine whether agencies and programs are effective in carrying out their duties, efficient with their resources, or in compliance with relevant laws, regulations and other requirements.

The division's audits are performed at the direction of the **Legislative Post Audit Committee**, a bipartisan committee comprising five senators and five representatives. By law, individual legislators, legislative committees, or the Governor may request a performance audit, but the Legislative Post Audit Committee determines which audits will be conducted.

Although the Legislative Post Audit Committee determines the areas of government that will be audited, the audits themselves are conducted independently by the division's professional staff. The division's reports are issued without any input from the committee or other legislators. As a result, the findings, conclusions, and recommendations included in the division's audits do not necessarily reflect the views of the Legislative Post Audit Committee or any of its members.

The division conducts its audit work in accordance with applicable government auditing standards set forth by the U.S. Government Accountability Office. These standards pertain to the auditor's

professional qualifications, the quality of the audit, and the characteristics of professional and meaningful reports. The standards also have been endorsed by the American Institute of Certified Public Accountants (AICPA) and adopted by the Legislative Post Audit Committee.

LEGISLATIVE POST AUDIT COMMITTEE

Senator Jeff Longbine, Chair
Senator Anthony Hensley
Senator Laura Kelly
Senator Julia Lynn
Senator Michael O'Donnell

Representative John Barker, Vice-Chair
Representative Tom Burroughs
Representative Peggy Mast
Representative Virgil Peck, Jr.
Representative Ed Trimmer

LEGISLATIVE DIVISION OF POST AUDIT

800 SW Jackson
Suite 1200
Topeka, Kansas 66612-2212
Telephone: (785) 296-3792
Fax: (785) 296-4482
Website: <http://www.kslpa.org>

Scott Frank, Legislative Post Auditor

HOW DO I REQUEST AN AUDIT?

By law, individual legislators, legislative committees, or the Governor may request an audit, but any audit work conducted by the division must be directed by the Legislative Post Audit Committee. Any legislator who would like to request an audit should contact the division directly at (785) 296-3792.

The Legislative Division of Post Audit supports full access to the services of state government for all citizens. Upon request, the division can provide its audit reports in an appropriate alternative format to accommodate persons with visual impairments. Persons with hearing or speech disabilities may reach the division through the Kansas Relay Center at 1-800-766-3777. The division's office hours are 8:00 a.m. to 5:00 p.m., Monday through Friday.



LEGISLATURE OF KANSAS
LEGISLATIVE DIVISION OF POST AUDIT

800 SOUTHWEST JACKSON STREET, SUITE 1200
TOPEKA, KANSAS 66612-2212
TELEPHONE (785) 296-3792
FAX (785) 296-4482
WWW.KSLPA.ORG

March 12, 2014

To: Members, Legislative Post Audit Committee

Senator Jeff Longbine, Chair
Senator Anthony Hensley
Senator Laura Kelly
Senator Julia Lynn
Senator Michael O'Donnell

Representative John Barker, Vice-Chair
Representative Tom Burroughs
Representative Peggy Mast
Representative Virgil Peck, Jr.
Representative Ed Trimmer

This report contains the findings, conclusions, and recommendations from our completed performance audit, *CDDOs: Reviewing Issues Related to Community Services Provided for Individuals with Disabilities*.

In their responses, most CDDOs generally concurred with most of the report's findings and recommendations. However, some disagreed with its characterization of CDDOs and Aging and Disability Resource Centers (ADRCs) as fulfilling similar roles and functions in their respective systems. Additionally, three CDDOs from our sample of five disagreed that they had inappropriate lobbying expenditures, which led them to reject the report's recommendations. More information on these issues can be found in *Appendix D* on page 51.

The audit was requested by Senator Bruce. We would be happy to discuss the findings, recommendations, or any other items presented in this report with any legislative committees, individual legislators, or other state officials.

Sincerely,

Scott Frank
Legislative Post Auditor

This audit was conducted by Dan Bryan, Laurel Murdie, Brad Hoff, and Michael Shelton. Chris Clarke was the audit manager. If you need any additional information about the audit's findings, please contact Dan Bryan at the Division's offices.

Legislative Division of Post Audit
800 SW Jackson Street, Suite 1200
Topeka, Kansas 66612

(785) 296-3792
Website: www.kslpa.org

Table of Contents

Question 1: Do substantial conflicts of interest remain for CDDOs that have their own service providers, and how could those conflicts be resolved?

| | |
|---|----|
| <i>The Structure of the State's Developmental Disabilities System Creates an Inherent Conflict of Interest for CDDOs</i> | 13 |
| <i>Although CDDOs Have Made Efforts to Mitigate the Inherent Conflict of Interest, Stakeholders Still Cite Unfair Advantages</i> | 14 |
| <i>For the Areas We Were Able to Assess, We Did Not Find Direct Evidence That CDDOs Have Taken Advantage of the Inherent Conflict of Interest</i> | 17 |
| <i>The Kansas Department for Aging and Disability Services Provides Weak Oversight for CDDOs in Several Areas</i> | 23 |
| <i>A Bill Proposed During the 2013 Legislative Session Would Prohibit CDDOs from Providing Direct Services, Which Could Eliminate the Inherent Conflict of Interest</i> | 26 |
| <i>KanCare Has Added an Additional Layer to the Current Developmental Disability System, but on Its Own Will Not Address the Inherent Conflict of Interest Issue</i> | 28 |
| Conclusion | 31 |
| Recommendations | 31 |

Question 2: How could the community services system be changed to maximize the amount of funding available to provide services for individuals with developmental disabilities?

| | |
|---|----|
| <i>In FY 2014, CDDO Regions Will Receive About \$360 Million to Provide Services to About 8,700 Individuals with Developmental Disabilities</i> | 33 |
| <i>Consolidating CDDOs Could Reduce Administrative Costs By About \$500,000 to \$800,000 a Year</i> | 34 |
| <i>Kansas Could Increase Federal Revenues By Up to \$6.5 Million a Year by Redirecting \$5 Million in State Aid</i> | 37 |
| <i>We Identified Other Potential Cost Savings Options To Help Maximize Funding Available for Developmental Disability Services</i> | 39 |
| <i>Several CDDOs We Reviewed Spent Funds On Lobbying Activities, Which Appears to Violate Federal and Contractual Requirements</i> | 40 |
| <i>KDADS Does Little to Monitor CDDOs' Administrative Expenditures for the Developmental Disability Waiver</i> | 43 |
| Conclusion | 43 |
| Recommendations | 43 |

List of Figures

| | |
|---|----|
| Figure OV-1: Structure of the Developmental Disability System | 6 |
| Figure OV-2: Summary of the Number of Individuals Receiving Each Developmental Disability Service (Calendar Year 2013) | 8 |
| Figure OV-3: Number of Individuals Receiving or Waiting for Developmental Disability Waiver Services as of December 2013 | 10 |
| Figure 1-1: Stakeholders' Opinions About the Peer Review Process | 16 |
| Figure 1-2: Summary of Potential Conflicts of Interest, and Evidence | 19 |
| Figure 1-3: Stakeholders' Opinions About the Complaint Resolution Process | 22 |
| Figure 1-4: Stakeholders' Opinions About the Quality Assurance Process | 24 |
| Figure 1-5: How the Powers and Duties of CDDOs Would Likely Change if 2013 Senate Substitute for House Bill 2155 Became Law | 27 |
| Figure 1-6: How the Developmental Disability System Structure Will Change When KanCare is Implemented and Managed Care Organizations Are Included | 29 |
| Figure 2-1: Current Regions for Community Developmental Disability Organizations (CDDOs) and Current Regions for Aging and Disability Resource Centers (ADRCs) | 36 |
| Figure 2-2: Summary of Lobbying-Related Expenditures for Five Sampled CDDOs | 42 |

List of Appendices

| | |
|---|----|
| Appendix A: Scope Statement | 45 |
| Appendix B: CDDO Regions and the Number of Community Service Providers Within each CDDO Region | 47 |
| Appendix C: Total Aid to Community Development Disability Organizations (CDDOs) Regions | 49 |
| Appendix D: Agency Responses | 51 |

Complete CDDO responses are available in a supplemental report (R-14-006 –Supplemental)

CDDOs: Reviewing Issues Related to Community Services Provided for Individuals with Developmental Disabilities

As of December 2013, Kansas had a network of 27 Community Developmental Disability Organizations (CDDO) and about 480 service providers that served individuals with developmental disabilities in the community. CDDOs are the single point of entry, eligibility determination, and referral for anyone seeking developmental disability services. Those services include residential, day, employment, targeted case management, and family supports on behalf of individuals. CDDOs may have their own service provider and contract with community service providers in their area. As of July 2012, oversight of CDDOs was transferred from the Department for Children and Families to the Department for Aging and Disability Services (KDADS).

Legislators have expressed concerns that the current structure which allows CDDOs to provide direct services creates an inherent conflict of interest, as well as other concerns about the level of oversight provided for home and community based services and whether CDDOs and service providers are maximizing funding for those services.

This performance audit answers the following questions:

- 1. Do substantial conflicts of interest remain for CDDOs that have their own service providers, and how could those conflicts be resolved?**
- 2. How could the community services system be changed to maximize the amount of funding available to provide services for individuals with developmental disabilities?**

A copy of the scope statement for this audit approved by the Legislative Post Audit Committee is included in *Appendix A* on page 45. For reporting purposes, we combined Question One and Question Three into one question. Question Two remained the same.

To answer Question One, we performed a variety of tasks. We reviewed KDADS' program policies, recently proposed legislation, legislative testimony, state statutes and regulations, and previous audits. We also reviewed KDADS' provider licensing information and individuals' service data to determine the current service providers, as well as to determine individual tier scores, and the number of individuals receiving services. In addition, we interviewed officials from KDADS and a number of CDDOs and

service providers. We also reviewed medical records for selected individuals qualifying for extraordinary funding, as well as CDDO peer review reports and quality assurance reports. We attended a KanCare educational meeting and a developmental disabilities national speaker event coordinated by KDADS. We also visited a community service provider to better understand the services available to individuals with developmental disabilities. Finally, we examined certain internal controls including approving extraordinary funding requests and conducting peer reviews.

Our work also included surveying about 1,000 guardians of individuals with developmental disabilities, about 300 case managers, all 27 CDDOs, and about 240 community service provider officials. The response rates among the survey groups ranged from 24% to 75%. More detail is provided in the relevant figures and sections of the report.

To answer Question Two, we reviewed KDADS' contracts with CDDOs, financial records of five CDDOs and their own community service provider, if applicable. We reviewed state statutes and regulations, as well as applicable federal requirements. We also reviewed recent revenue and expenditure data that all CDDOs submit to KDADS. We reviewed recent audits and studies of other states' Medicaid and developmental disability waiver programs and reviewed information from the National Conference of State Legislatures (NCSL). In addition, we interviewed officials from the Center for Medicare and Medicaid Services, KDADS, the Kansas Department of Health and Environment, the Attorney General's office, CDDOs, and service providers. We also interviewed officials from the Kansas Council for Developmental Disabilities, Interhab, and the Disabilities Rights Center of Kansas. Finally, we examined certain internal controls related to reporting and tracking CDDO expenditures including reporting administrative funding and non-allowable expenditures.

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. As part of the standards, the U.S. Government Accountability Office requires us to assess the sufficiency and appropriateness of computer-processed data. To comply with this standard, we performed data reliability work on the BASIS database and provider information received from KDADS, as well as the data received from the CDDOs included in our sample. We found minor errors and

inconsistencies in some data but we do not believe these issues significantly affected our audit findings.

We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Our findings begin on page 13, following a brief overview of the developmental disability waiver.

Overview of the Developmental Disability Waiver

In General, Most Individuals With Developmental Disabilities Receive Services in the Community Through the Medicaid Home and Community Based Services Waiver

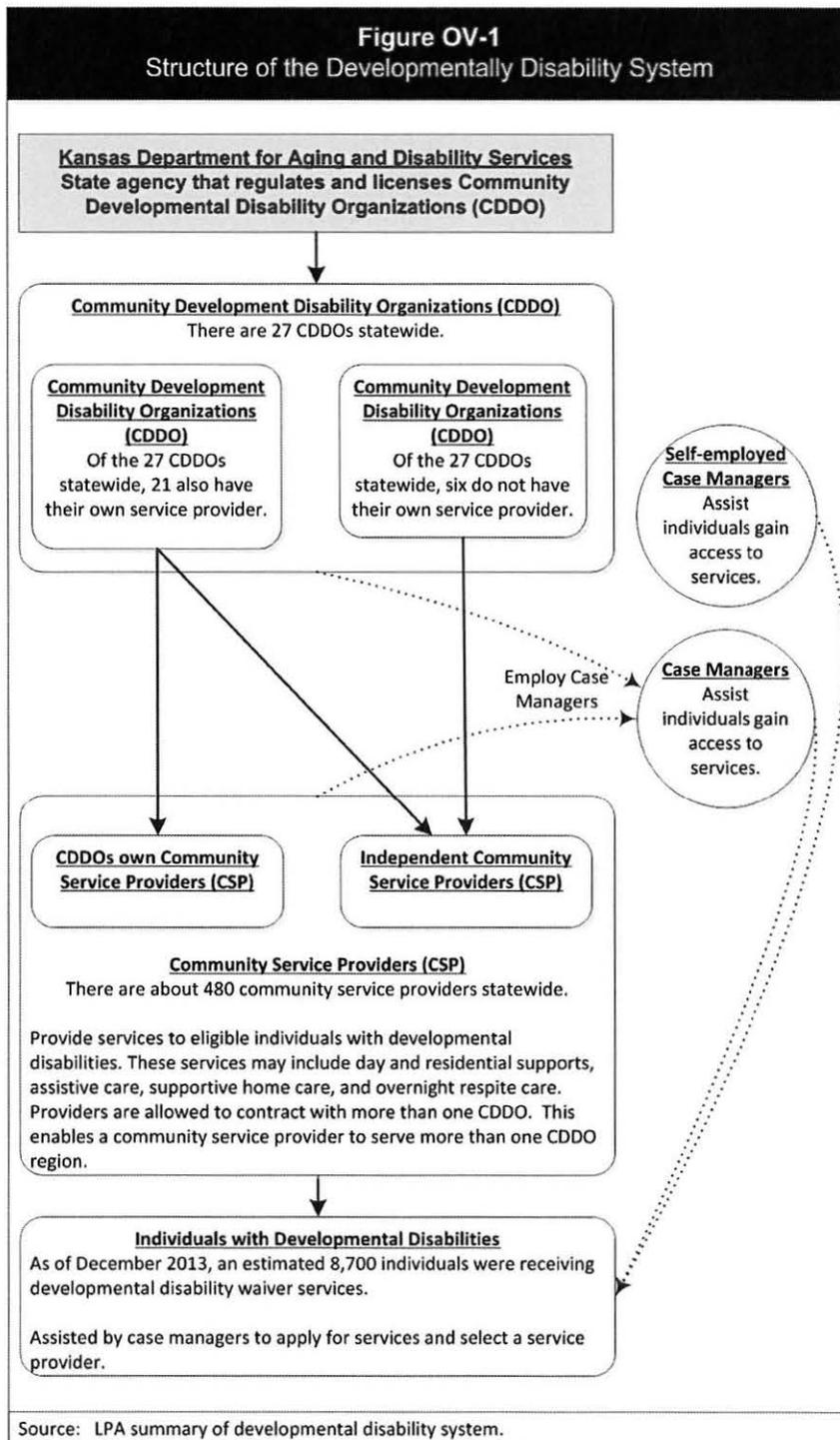
Individuals with developmental disabilities include those who have low intellectual functioning and require special protection and services, as well as other disabilities that include epilepsy, cerebral palsy, and autism. Prior to 1995, the state relied heavily on state institutions to provide services to individuals with developmental disabilities. In 1995, the Legislature passed the Developmental Disabilities Reform Act which was designed to provide individuals with developmental disabilities access to appropriate services and supports in a community setting. The act established Community Developmental Disability Organizations (CDDOs) as the single point of entry, eligibility determination, and referral for any individual seeking developmental disability waiver services.

Medicaid waiver funding pays for services for individuals with developmental disabilities living in the community. In the past, Medicaid funds could only be used to pay for long-term care provided in skilled nursing facilities. However, the Centers for Medicare and Medicaid Services (CMS) allows states to apply for a waiver in order to use Medicaid funding to provide community supports and services through the Home and Community Based Services Waiver (HCBS). The program allows individuals to choose to receive services in the community rather than an institutional setting. As of December 2013, about 8,700 individuals received developmental disability waiver services in the community and as of June 2013, only about 150 individuals received services in private intermediate care facilities.

Community Developmental Disability Organizations (CDDOs) determine whether individuals are eligible for waiver funded services. In most cases, an individual and guardian will visit their area CDDO and apply to receive developmentally disabled services. Once an individual is determined eligible to receive services, the CDDO administers an assessment to the individual, known as BASIS, to determine if the individual is eligible for waiver funded services. The assessment consists of a series of questions to determine an individual's ability to perform certain daily tasks, and other ability-based benchmarks.

Upon the completion of the BASIS assessment, CDDO officials enter the results into a database that calculates a score to determine the individual's funding level. Funding levels are based on payment tiers ranging from tier one to tier five. Tier one individuals are considered the most severely disabled, while those

Figure OV-1
Structure of the Developmentally Disability System



placed in tier five are considered the least severely disabled. There is also another group, referred to as tier zero, for individuals whose disability is not so severe that they would be eligible for Medicaid waiver funding, but who are eligible for state and federal moneys outside the HCBS Medicaid waiver.

CDDOs maintain a network of community-based service providers within their region to deliver those services. The framework of Kansas' developmental disability system is shown in *Figure OV-1* on page 6. As the figure shows, KDADS contracts with each of the 27 CDDOs. In turn, CDDOs may have their own service provider and contract with independent community service providers. While all 27 CDDOs contract with independent service providers, 21 CDDOs also have their own service provider. In total, there are about 480 licensed community service providers and each provider may choose to operate in more than one CDDO region. The figure also shows that each individual is provided the opportunity to choose a targeted case manager who may be employed by the CDDO, the service provider, or be self-employed.

As "gatekeepers" of their regions, CDDOs are also responsible for overseeing and monitoring the activities of their contracted community service providers. CDDOs monitor the services provided to each individual, and conduct quality assurance reviews to ensure that service providers are meeting the contract requirements. A map of each CDDO region and the number of licensed community service providers in that region is shown in **Appendix B** on page 47.

The CDDO is responsible for informing individuals and their guardians or families of all available service providers in the CDDO region. An individual then selects a service provider when funding becomes available for them to receive services.

Of the 13 different services available, there are three main services used by individuals with developmental disabilities. The 13 services available are summarized in *Figure OV-2* on page 8. As the figure shows, the most common services are targeted case management, day supports, and residential supports. Other services include overnight respite care, supportive home care, wellness monitoring, and sleep cycle support. Of those services, targeted case management is available to all individuals.

Figure OV-2
Summary of the Number of Individuals Receiving Each Developmental Disability Service
Calendar Year 2013 (a)

| Type of Service | Description/Examples | Number of individuals receiving service |
|--|--|---|
| Most Common Services | | |
| Targeted Case Management (b) | Case managers assist individuals by assessing their needs, helping them and their families or guardians select and obtain services and supports, and acting as an advocate for the individual. All individuals may choose case management services, including those who are currently on the waiting list. | 11,642 |
| Day Supports | Designed to assist individuals in maintaining or increasing their adaptive capabilities, productivity, independence, and participation in the community. Examples include employment, job training workshops, and recreational activities. | 6,205 |
| Residential Supports | Individuals receiving residential supports do not live with a family member. Assists individuals with daily living activities in a wide array of living arrangements—from group homes to individual homes to apartments. It is designed to help individuals develop skills and provide supports in daily living activities. Examples include personal grooming, bed making, household chores, preparing and eating food, and help developing social and adaptive skills. | 5,166 |
| Other Services | | |
| Financial Management Services | Assists the individual and family members or guardian to fulfill all applicable tax requirements, human resources documentation, and develop and maintain an internal quality assurance program. | 2,802 |
| Personal Assistant Services | Provides one-to-one assistance to individuals in the community and home. This service assists the individual with daily living activities. Examples include bathing, grooming, toileting, feeding, and exercises, among others. | 2,778 |
| Wellness Monitoring | A registered nurse evaluates an individual's health status. Examples include checking and monitoring skin characteristics, personal hygiene, and blood pressure, among others. | 1,032 |
| Supportive Home Care | Similar to residential supports, this service is provided to individuals who live with family members. It provides direct assistance to individuals to complete daily activities such as bathing, shopping, meal preparation, clean-up, etc. Individuals who receive supportive home care services are ineligible to receive residential support services. | 484 |
| Sleep Cycle Support (formerly called Night Support) | Provides overnight assistance to individuals in emergency situations. The sleep cycle support attendant is available to call a doctor or hospital, or reposition the individual. | 87 |
| Medical Alert Rental | A medical alert device that enables the individual to notify a medical responder when necessary. Medical needs that might require this service include quadriplegia, severe heart conditions, and head injury, among others. | 50 |
| Overnight Respite Care | Allows for a caregiver to spend the night with the individual and give unpaid family members a relief from taking care of the individual. | 39 |
| Specialized Medical Care | Provides long-term nursing support for medically fragile and technology dependent individuals. An RN or LPN is required to be the provider, and individuals receiving this service require a level of care that is ongoing and daily. If not for this service, the individual would live in a hospital or intermediate care facility. | 33 |
| Supported Employment | Assists the individual in developing job skills and with acquiring and maintaining employment. Ongoing monitoring of the individual's job performance and continued on the job training. | 33 |
| Assistive Services | Supports or items designed to meet an individual's need by improving and promoting the individual's health, independence, and integration into the community. Examples include wheelchair modifications, ramps, lifts, modifications to bathroom and kitchens, and assistive technology. | 3 |

(a) An individual may receive more than one type of service.

(b) Targeted case management is not a medicaid waiver funded service and is provided to individuals that don't qualify for the DD waiver (such as Tier 0).

Source: Kansas Department for Aging and Disability Services (unaudited)

In Fiscal Year 2014, About \$360 Million in Federal, State, and Local Moneys will be Used to Fund Developmental Disability Services in the Community

For fiscal year 2014, CDDO regions throughout Kansas will receive a total of about \$360 million in funding to provide developmental disability services. In general, CDDO regions receive four types of funding:

- Home and Community Based Services (HCBS) waiver funding
- Administrative funding
- State aid
- Local mill levy funding

We describe each funding type in the sections that follow.

Most funding (\$328 million) is for direct services to individuals with developmental disabilities and includes state funding matched with federal Medicaid funding. A summary of all funding provided to each of the 27 CDDO regions is shown in *Appendix C* on page 49. For fiscal year 2014, the CDDO regions will receive a total of slightly more than \$328 million to provide direct services. This funding is commonly called waiver funding and is used to fund direct services, such as day and residential supports for individuals with developmental disabilities living in each CDDO region. *Figure OV-2* on page 8 includes a summary of the developmental disability waiver services provided. Community service providers are paid on a fee-for-service basis for these types of direct services.

In fiscal year 2014, CDDOs will receive about \$30 million in federal, state, and local funding to cover administrative expenses and other costs. As mentioned earlier, CDDOs provide gatekeeping services and other administrative duties for the developmental disability system. In its contracts with each CDDO, KDADS agrees to pay a certain amount of funding to offset those administrative expenses. We discuss this and other funding below.

- **CDDOs receive about \$9 million annually to cover administrative costs, of which about half is state funding and half is federal.** Each year these funds are distributed to all 27 CDDOs based on the number of individuals served the previous year and the funds are used to cover operating expenses and infrastructure associated with the gatekeeping role. Gatekeeping includes assessing an individual's eligibility for developmental disability waiver services and providing information and referral services.
- **CDDOs receive about \$5 million in state general fund money, most of which is used to provide non-Medicaid eligible services to individuals.** Annually, CDDOs receive about \$5 million in state aid, and the money is distributed based on the number of individuals

with disabilities served. Most funds are used to provide services to individuals who are disabled but who do not qualify for Medicaid waiver services. This includes individuals commonly referred to as tier zero and children less than five years old. The remaining state aid is used on non-Medicaid related expenses, such as transportation and infrastructure.

- **Finally, CDDO regions also receive about \$17 million in local mill levy funding, which is spent at the discretion of each CDDO board.** Nearly all CDDO regions receive some local mill levy funding, but the amount varies between CDDOs because it is based on whatever amount each county commission approves. For example, in fiscal year 2012 (the latest information available), the Johnson County Developmental Supports region received about \$6 million and the Brown County Developmental Services region received about \$60,000. Each CDDO has an oversight board that decides how this funding is spent.

In December 2013, about 8,700 individuals with developmental disabilities were receiving the services they requested, and about 3,250 individuals were eligible but waiting for services.

Figure OV-3 summarizes the number of individuals receiving or

waiting for services. The total includes individuals who are not eligible for waiver services, but who received some services funded by the state aid grants. As mentioned earlier, these types of services are often referred to as tier zero. As the figure shows, of the 8,700 individuals receiving services, about 1,750 individuals were considered “underserved” because they were receiving some, but not all of the services they requested. Finally, because there was not enough waiver funding, another 3,250 individuals were determined to be eligible for services but had not received any of the waiver services requested. These individuals are considered “unserved.”

| Figure OV-3 Number of Individuals Receiving or Waiting for Developmental Disability Waiver Services as of December 2013 | |
|--|--------------------------|
| Receiving or Waiting for Services | Number of Individuals |
| Receiving services | 8,722 |
| -- Fully served | 6,978 |
| -- Underserved - waiting for additional services (a) | 1,744 |
| Unserved - waiting for services | 3,246 |
| Total (b) | 11,968 |
| (a) To avoid double counting, this line (underserved individuals) is not included when calculating the total shown because they were included in the first category "receiving services." (b) Includes only individuals receiving HCBS waiver services. For example, excludes those receiving tier 0 services. Source: LPA summary of information provided by KDADS. | |

***The Developmental
Disability Waiver
Moved to the State's
New Managed Care
System (KanCare) in
February 2014***

Currently, the Kansas Department of Health and Environment (KDHE) and KDADS administer Kansas' Medicaid programs. In general, KDHE oversees financial management of the overall program and KDADS administers all of the Medicaid waiver programs including disability services, mental health and substance abuse services. KDADS also operates the state hospitals and institutions. In an effort to control Medicaid costs, the Governor implemented a managed care system called KanCare in January 2013.

Under KanCare, managed care organizations (MCOs) are responsible for coordinating health care and ensuring all individuals receive the care they need. In return, the MCOs are paid a flat monthly rate per individual. If they can keep the cost of care less than the monthly rate, the MCOs earn profits. On the other hand, if the cost of care exceeds the monthly rate, the MCOs must absorb the loss.

In January 2013, Kansas moved the administration of almost all Medicaid programs to KanCare. In general, Medicaid includes two major services: medical care and long-term care. In January 2013, Kansas began contracting with managed care organizations (MCOs) to coordinate care for individuals receiving medical services and waiver services. With the exception of the developmental disability waiver, all community-based services were moved to KanCare at that time, including the frail elderly, physical disability, technology assisted, traumatic brain injury, and autism waivers.

A legislative proviso delayed implementing KanCare for the developmental disability waiver until January 1, 2014. In response to stakeholders' concerns, a 2012 legislative proviso delayed implementing KanCare until January 1, 2014 for individuals receiving developmental disability waiver services. However, a pilot project including about 500 individuals receiving developmental disability waiver services was completed during the second half of calendar year 2013. According to KDADS, the purpose of the pilot was to help build a relationship between the MCOs and the current developmental disability system, to define how services would be delivered, and to develop and test the provider billing process.

Centers for Medicare and Medicaid Services (CMS), KDHE, and KDADS mutually agreed to further delay the transition of the developmental disability waiver to KanCare until February 2014. As mentioned earlier, the developmental disability waiver was supposed to be included in KanCare starting January 1, 2014. However, in December 2013, the implementation was delayed to allow additional time for CMS and the state to consider public comments and to ensure a corrective action plan was approved to eliminate the waiting list of underserved individuals. In addition, CMS asked KDHE, which is Kansas' designated Medicaid agency, to better explain the role of the managed care organizations in providing services within Kansas' developmental disability system. On January 29, 2014, CMS approved Kansas' plan and KanCare was implemented for the developmental disability waiver on February 1, 2014.

Question 1: Do Substantial Conflicts of Interest Remain for CDDOs That Have Their Own Service Providers, and How Could Those Conflicts Be Resolved?

The structure of the state's developmental disabilities system creates an inherent conflict of interest for CDDOs (p.13). Although CDDOs have made efforts to mitigate the inherent conflict of interest, stakeholders still cite unfair advantages (p. 14). For the areas we were able to assess, we did not find direct evidence that CDDOs have taken advantage of the inherent conflict of interest (p.17). We did find that the Kansas Department for Aging and Disability Services provides weak oversight for CDDOs in several areas (p.23). Additionally, a bill proposed during the 2013 legislative session would prohibit CDDOs from providing direct services, which could eliminate the inherent conflict of interest (p. 26). Finally, the newly implemented KanCare system has added an additional layer to the current developmental disability system, but on its own will not address the inherent conflict of interest (p.28).

The Structure of the State's Developmental Disabilities System Creates an Inherent Conflict of Interest for CDDOs

A CDDO serves as the single point of entry, eligibility determination, and referral for any individuals seeking waiver services. Each CDDO also is responsible for oversight of all contracted community service providers in its region. In addition to this oversight role, 21 of 27 CDDOS also provide direct services through their own community service provider. This puts the CDDO in a position to favor their own provider over independent providers.

CDDOs provide referrals to and oversight of all service providers, which put them in a unique position to take advantage of the system. We identified four ways a CDDO could favor its own service provider over others, as described more fully below.

- **In their gatekeeping role, CDDOs are in a position to steer individuals toward or away from their own service providers, whichever is more advantageous.** CDDOs are the single point of entry for individuals seeking waiver services and the only entities that determine whether an individual is eligible to receive waiver services. As gatekeepers, CDDOs provide information about service provider options. This puts them in a position to steer individuals to specific service providers. Moreover, CDDOs may have a financial incentive to refer less costly individuals to their own service provider or direct costlier individuals to other service providers.

- **CDDOs are in a position to approve or deny requests for extraordinary funding for both their own service provider and from independent service providers.** Community service providers can apply for additional funds for individuals who need an extraordinary level of services. To receive the additional funding for an individual, the community service provider must document the cost of providing care for these individuals. The CDDO then determines whether the documentation supports that the individual qualifies for extraordinary funding. Because CDDOs initially approve all extraordinary funding requests, they are in a position to favor requests from their own service provider over requests from other service providers.
- **CDDOs oversee the complaint process in their region, putting them in a position to ignore complaints against their own service provider.** KDADS officials told us that CDDOs are responsible for resolving complaints made against the CDDO or community service providers in the region. However, because CDDOs oversee the complaint process, it inherently creates a system where individuals or providers might be reluctant to file a complaint against the same CDDO that will investigate the complaint. It also puts CDDOs in a position to ignore or be more lenient on complaints made against their own community service provider.
- **CDDOs are in a position to ignore deficiencies of their own service provider during quality assurance reviews.** By law, CDDOs are responsible for developing and using a quality assurance process for their region. In this process, CDDOs assess each service provider in their area on an annual basis. The quality assurance process ensures the needs of individuals are being met, and that any issues related to the abuse and neglect of individuals are being resolved. CDDOs that have their own service provider are in a position to overlook deficiencies of their own service provider and be more critical of other service providers.

Although the current structure creates an inherent conflict of interest, CDDOs are not necessarily using it to their advantage.

We identified several ways the inherent conflict of interest could be used to benefit the CDDOs own service provider; however, it cannot be assumed that CDDOs are taking advantage of them. As discussed in later sections, after looking at controls in place and the available evidence, we found no direct instances that CDDOs are taking advantage of the inherent conflict of interest.

Although CDDOs Have Made Efforts to Mitigate the Inherent Conflict of Interest, Stakeholders Still Cite Unfair Advantages

To determine what efforts CDDOs have made to mitigate this inherent conflict of interest, we interviewed CDDO officials, reviewed policies and procedures of selected CDDOs, and surveyed stakeholders. In general, we found that CDDOs have instituted some processes to mitigate the inherent conflict of interest. However, survey responses indicate that some stakeholders do not think that CDDOs have done enough to

mitigate potential conflicts of interest, and an unfair advantage still exists.

CDDOs appear to inform individuals about all service providers in their region, and parents and guardians we surveyed generally agreed. One of the CDDO's roles is to help an individual select a service provider. The CDDO is supposed to present all possible service providers to the individual, provide information about service providers, and let the individual choose a provider.

Overall, CDDO officials told us that they have implemented several policies and procedures to ensure that individuals are aware of all service provider options in the region. These include such things as:

- directories and brochures listing all service providers in the regions that CDDOs provide to individuals and their guardians
- provider choice forms that an individual and their guardian sign acknowledging they had a choice in selecting a service provider

In general, parents and guardians who responded to the survey were satisfied with how their case manager provided them options in selecting a service provider. Of the 219 parent and guardian survey respondents, 82% stated that their current case manager provided them with an adequate amount of information to select a service provider. Similarly, of the 220 parent and guardian survey respondents, 87% stated their current case manager did not try to inappropriately influence their decision.

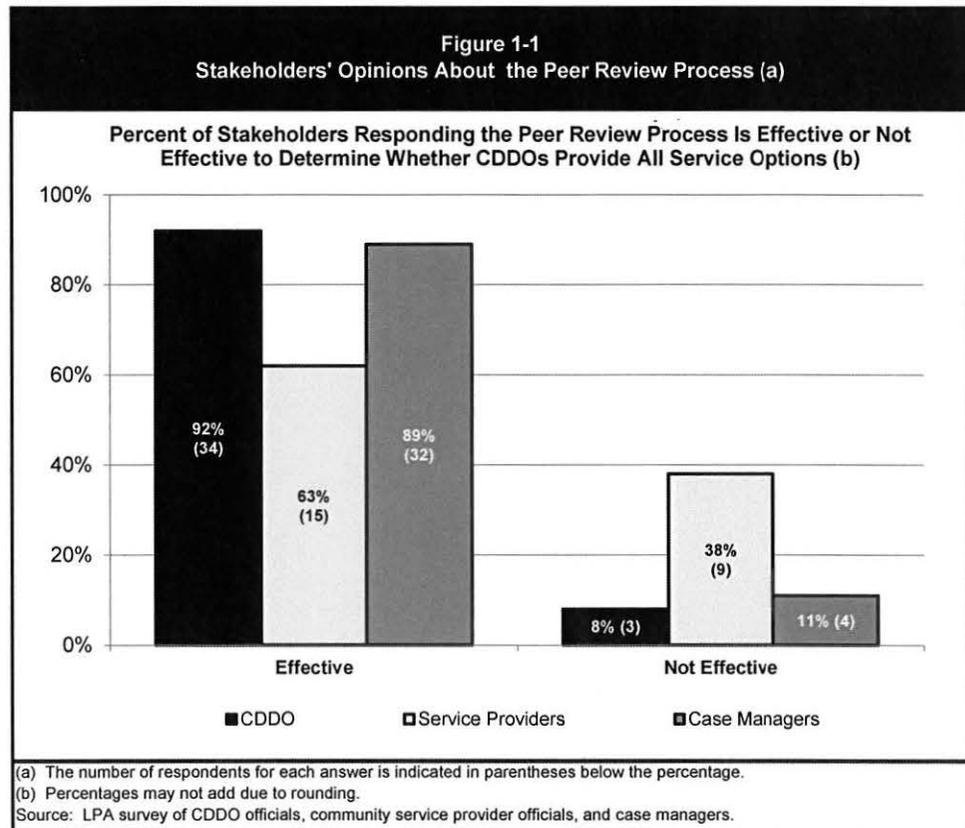
KDADS and the CDDOs have also instituted a peer review process to help ensure that they do not refer individuals to their own service provider inappropriately. The purpose of the peer review process is for a third party to evaluate whether CDDOs are providing information on all service providers, not just their own. This allows individuals and their family members or guardians to make informed choices when selecting a service provider. In general, staff from KDADS, other CDDOs, and community service providers conduct the peer reviews on site and look for provider lists, individual choice forms, and policies and procedures. The peer review team identifies any deficiencies that need to be addressed. Each CDDO is evaluated at least once every five years. Our findings related to the peer review process are summarized below.

- **The most recent peer reviews for the 26 CDDOs we reviewed identified very few problems.** Of the 26 CDDOs, 20 met all of the outcomes evaluated in the peer review process. In one CDDO

region, KDADS officials and CDDO officials were unable to provide a copy of the most recent peer review. In cases where the CDDO did not meet all of the outcomes, it was generally because of policies and procedures that needed to be updated. The overall finding was that CDDOs were providing choices to individuals and their family members and guardians when selecting a service provider.

- **Although a majority of stakeholders aware of the peer review process stated it is effective in mitigating the inherent conflict of interest, a significant percentage of community service provider officials disagree.** We surveyed case managers, CDDO officials, and community service provider officials to learn whether they thought the peer review process was effective in determining whether a CDDO was informing individuals and their guardians of all service provider options. Their survey responses are shown in **Figure 1-1** below. As the figure shows, a majority of all three stakeholder groups responded that the peer review is effective in making sure provider options are being offered.
- **However, nearly 40% of community service provider officials do not think the peer review is effective.**

Some independent community service providers surveyed still think that CDDOs with their own service provider have an unfair advantage. As stated on page 7, CDDOs have the ability to operate their own community service provider and contract with independent service providers. We surveyed community service



provider officials to determine whether the current system creates problems and unfair advantages. Below is a summary of responses from independent community service provider officials, and selected comments:

- **About 60% of the independent service providers that responded stated it is a problem if a CDDO both assesses and provides services to individuals.**
 - *“There exists an inherent conflict of interest when the gatekeeper for services in a CDDO area is also both a provider and responsible for the oversight of competing firms.”*
 - *“The organization has a vested/financial interest in the consumer they are assessing.”*
- **About 75% of the independent service providers that responded think that a CDDO with its own service provider has an unfair advantage over other service providers.**
 - *“A person entering the system will feel more comfortable with those who have helped them get into the system, therefore will want to stay with that agency for supports.”*
 - *“The ability to “cherry pick” or simply not inform someone seeking services of all potential options is not only possible but we have experienced it on many occasions.”*
- **About 52% of independent service providers that responded do not think CDDO officials have taken appropriate actions to mitigate the conflicts of interest.**
 - *“SEPARATION of CDDO and CSP [community service provider] is the only way to accomplish this feat.”*
 - *“Give up either their CDDO or their CSP status.”*
- **About 65% of independent service providers that responded do not think KDADS officials have taken appropriate actions to mitigate the conflicts of interest.**

For the Areas We Were Able to Assess, We Did Not Find Direct Evidence That CDDOs Have Taken Advantage of the Inherent Conflict of Interest

Figure 1-2 on page 19 summarizes the four main areas that we reviewed to determine if CDDOs that also have their own service provider are taking advantage of the conflicts of interest. We cannot be part of conversations between CDDOs, individuals, and their guardians, so we had to rely on any evidence we could find pointing to a conflict of interest. As the figure shows, we did not find direct evidence of the inherent conflict of interest manifesting itself. Our findings for each area are discussed more fully in the following sections.

Although independent service providers tend to serve a larger proportion of high-needs individuals than the CDDO's own service provider, this appears to be the result of providers' specialization rather than CDDOs steering individuals in the referral process. As stated on page 13, CDDOs are in a position to refer individuals toward or away from their own service provider, whichever is more beneficial. If this type of steering was happening, one way it might manifest itself would be in the proportion of individuals from different tier levels served by CDDO providers and independent providers.

To assess whether CDDOs appear to be steering individuals toward or away from their own service providers, we examined the disability (tier) scores for the clients at a sample of eight CDDO regions. For each region in the sample, we compared the percentage of tier one individuals (most severe) served by the CDDO's own service provider to the percentage served by the largest independent provider in that region. We found that independent service providers served a disproportionately large share of tier one individuals in the region. For example:

- In one CDDO region, 67% of the individuals receiving day supports at the independent service provider were tier one, whereas only 9% of individuals at the CDDO's own service provider were tier one.
- In another CDDO region, 75% of the individuals receiving residential supports at the independent service provider were tier one, whereas only 21% of individuals at the CDDO's own service provider were tier one.

We also analyzed a sample of four CDDO regions that do not have their own service provider and saw a similar trend of one provider serving a higher proportion of tier one individuals. For example, in one region 49% of the largest provider's individuals were tier one in day supports, while the next largest provider had 10% of their individuals in tier one. Independent community service provider officials provided mixed responses on whether this disparity is a problem or not. Most community service provider officials told us it is not a problem because they specialize in serving high needs individuals. However, one community service provider official told us the disparity is a problem. The official stated it hurts the provider's business operations because it is unable to diversify its caseload. This official feels that the CDDO is intentionally referring tier one individuals to this specific provider, though we were unable to verify this.

**Figure 1-2
Summary of Potential Conflicts of Interest and Evidence**

| Potential Conflict of Interest | CDDO Efforts to Mitigate Conflict of Interest | LPA find Evidence of Conflict of Interest | Summary of Findings |
|---|--|---|--|
| CDDOs are in a position to steer individuals toward or away from their own service providers, whichever is more advantageous. | <p>CDDOs provide directories to individuals listing all available service providers. In addition, some CDDOs have individuals or their guardian sign a form acknowledging that they have been informed of all available service providers.</p> <p>The peer review process is designed to ensure that CDDOs are providing opportunities to individuals and their guardians are making informed choices when selecting a provider and that potential conflicts of interest are mitigated and eliminated.</p> | No | <p>We observed independent service providers tend to serve a larger proportion of high-needs individuals than the CDDO's own service provider. Community service provider officials we talked to provided mixed responses on whether this is a problem. (page 18)</p> <p>Overall, parents and guardians responding to the survey reported that they have been provided adequate information and have not been inappropriately influenced when selecting a service provider. (page 15) However, community service provider officials still see this as an unfair advantage. (page 17)</p> |
| CDDOs are in a position to approve or deny requests for extraordinary funding for both their own service provider and from independent service providers. | None | No | <p>Of the 10 cases we reviewed, all met the minimum threshold and were correctly awarded extraordinary funding. This sample is small and cannot be projected to all extraordinary funding requests. (page 20)</p> <p>CDDO, community service provider officials, and case managers are generally satisfied with the extraordinary funding process, but we did hear a few concerns. (page 20)</p> |
| CDDOs oversee the complaint process in their service area, putting them in a position to ignore complaints against their own service provider. | None | Unable to determine | <p>We were unable to determine whether this was occurring because complaints are not being tracked. (page 20)</p> <p>Although CDDO officials responded that the complaint process is fair and impartial, community service provider officials have concerns. Even though very few complaints have been filed in the last 12 months by guardians, a few responded that they were dissatisfied with how the complaint was resolved. (page 21)</p> |
| CDDOs are in a position to ignore deficiencies of their own service provider during quality assurance reviews. | None | No | <p>We did not see evidence of CDDOs favoring their own service provider over other service providers in the quality assurance process. (page 21)</p> <p>Most CDDO and community service provider officials responding to the survey stated that the quality assurance process is fair and impartial. (page 24)</p> |

Source: LPA analysis of audited BASIS database, discussions with CDDO and provider officials, and review of documentation provided by CDDOs.

CDDOs appropriately approved extraordinary funding in all 10 cases we reviewed, including some individuals served by CDDOs and others served by independent providers. KDADS allocates about \$8.4 million a year to CDDOs, which they use to assist individuals who have extraordinary needs. The extraordinary funding process consists of the community service provider submitting documents to the CDDO showing the cost of care for that individual is more than 50% of the difference between the extraordinary funding rate and the regular tier rate.

CDDOs are charged with reviewing the documents and making an initial determination on whether the individual qualifies to receive extraordinary funding. If approved, the community service provider will receive a higher reimbursement rate to serve the needs of the individual. The conflict of interest exists because a CDDO may be lenient when approving requests for their own service provider or deny requests from independent service providers.

To determine whether CDDOs were appropriately recommending extraordinary funding, we reviewed the supporting documentation of ten individuals who receive services from both independent service providers and CDDOs own service providers to ensure that they met the cost threshold. We did not find any examples of CDDOs inappropriately awarding extraordinary funding requests. However, this sample is small and cannot be projected to all extraordinary funding requests.

Still, 17% of CDDO officials, 31% of community service provider officials, and 15% of case managers responded in the survey that CDDOs are less critical when evaluating extraordinary funding requests from their own service provider. One survey respondent said:

- *"The organization that is doing the assessment and providing the service is going to be less critical in evaluating the super-tier application so they are able to get more money for the individual."*

Because complaints are not tracked by CDDOs or KDADS, we were unable to evaluate the dispute resolution process, though many independent providers do not think the process is fair. Kansas regulations require that each CDDO implement a dispute resolution process available to all individuals receiving services from a CDDO or community service provider in its area. CDDO officials we talked to told us they do not track the number of complaints or disputes, nor does KDADS require CDDOs to submit any information regarding the number of complaints received.

There was no information available related to complaints, but **Figure 1-3** on page 22 summarizes survey respondents' opinions on the complaint process. As the figure shows, a majority of case managers and CDDO officials responded that the complaint resolution process used by CDDOs adequately addresses complaints and is fair and impartial. However, several community service provider officials responded with concerns about the complaint resolution process. These concerns include:

- "...the CDDO that has ties to another community service provider do not treat other community service providers the same. As a community service provider I feel as if trying to resolve issues with the CDDO and the community service provider that they are associated which is akin to beating a dead horse."
- "Some agencies can do anything; others are called in for minor infractions."

Finally, parent and guardian survey respondents stated that they have filed very few complaints in the last 12 months. Of those who did file a complaint, there were mixed responses on how the complaint was resolved.

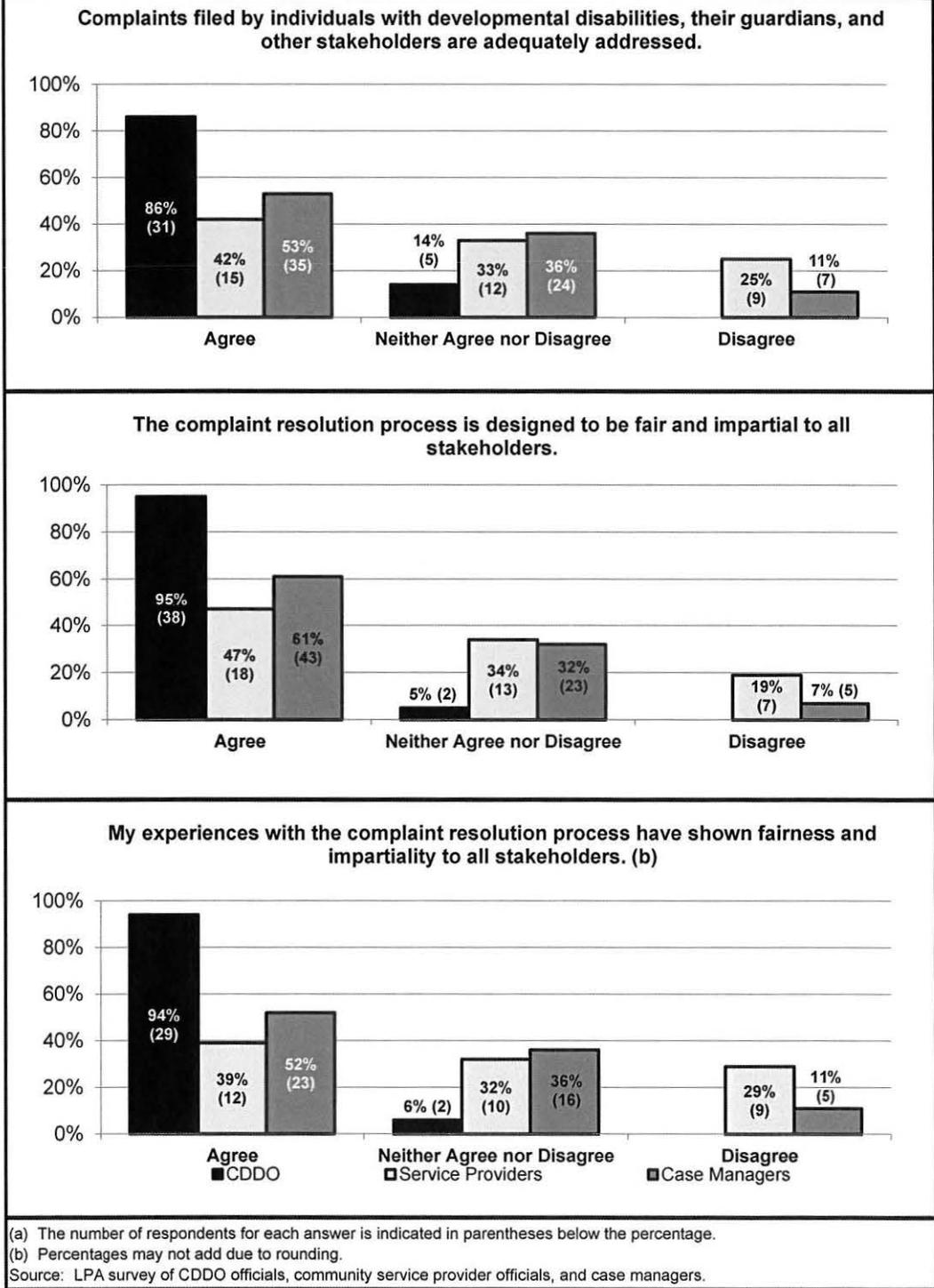
We did not find direct evidence of CDDOs favoring their own service provider when performing quality assurance reviews.

Kansas regulations require that each CDDO establish a quality assurance process to ensure that individuals are receiving quality services from their provider. Specifically, the quality assurance reviews performed by CDDOs are to make sure that services are being delivered, individuals' rights are protected, and any issues related to abuse, neglect, or exploitation have been identified and resolved. The risk in the quality assurance process is that CDDOs will favor their own service provider over other service providers in the region.

To determine whether CDDOs were favoring their own service provider, we reviewed a sample of 34 quality assurance reviews completed by five selected CDDOs. Our findings related to the quality assurance process are summarized below.

- **Of the 34 quality assurance reviews, the same review process was used for independent service providers and the CDDO's own service provider within each of the five CDDO regions.** We did not identify any instances of CDDOs favoring certain service providers and we found that CDDOs identified deficiencies equally among independent service providers and their own service provider.

**Figure 1-3
Stakeholders' Opinions About the Complaint Resolution Process (a)**



- **Community service provider officials were supportive of the quality assurance process and stated it was fair and impartial.** Because the quality assurance review evaluates community service providers, it is important to understand their opinions. As **Figure 1-4** on page 24 shows, 80% of community service provider officials stated the quality assurance review is based on appropriate outcomes, while 86% of provider officials responded it is fair and impartial.

The Kansas Department for Aging and Disability Services Provides Weak Oversight for CDDOs in Several Areas

The Kansas Department for Aging and Disability Services (KDADS) is responsible for overseeing the developmental disability waiver system. In February 2012, the Governor signed Executive Order 41, moving oversight of the developmental disability waiver system from the Department of Social and Rehabilitation Services to the Department for Aging and Disability Services. Those oversight responsibilities require KDADS to:

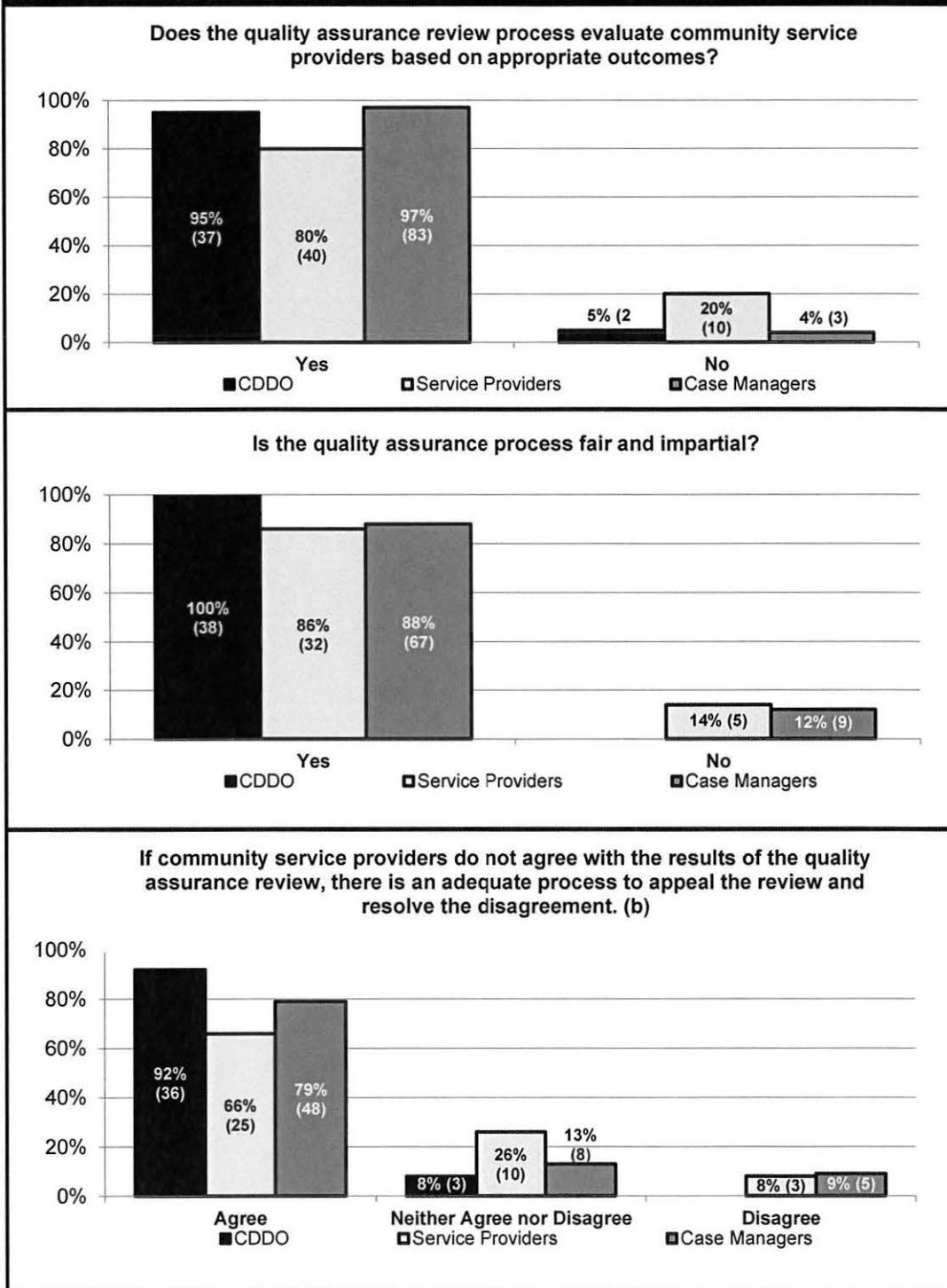
- Administer state funding to CDDOs
- Provide staff to participate in the CDDO peer review process
- Regulate CDDOs
- License community service providers
- Ability to audit and review CDDO funds

KDADS does little to oversee or provide guidance to CDDOs and community service providers. KDADS contracts with CDDOs, who are responsible for gatekeeping functions and oversight of service providers. However, KDADS is still responsible for administering and overseeing the developmental disability system as a whole, so it is important that KDADS staff have adequate controls and guidance in place. We identified four areas where improved KDADS oversight of CDDOs could mitigate the inherent conflicts of interest within the developmental disability waiver system. Each of these areas are described below.

- **KDADS has not reviewed or approved extraordinary funding requests from CDDOs.** The extraordinary funding process consists of a community service provider submitting documentation to a CDDO. This documentation shows the daily costs of caring for the individual. The CDDO reviews the documentation, and conducts interviews of family members, guardians, and direct care staff to ensure that the documentation accurately reflects the individual's needs. If CDDO officials approve the request, they submit a notification form to KDADS officials stating that extraordinary funding is warranted.

KDADS officials told us that in the past, CDDOs have simply notified the department that extraordinary funding was granted and KDADS staff "rubberstamped" the decision. In a recent change, CDDOs are now required to submit all supporting documentation to KDADS officials to verify the individual qualifies for extraordinary funding.

Figure 1-4
Stakeholders' Opinions About the Quality Assurance Process (a)



(a) The number of respondents for each answer is indicated in parentheses below the percentage.
 (b) Percentages may not add due to rounding.
 Source: LPA survey of CDDO officials, community service provider officials, and case managers.

- **Although the peer review process is viewed as effective by many stakeholders, it lacks consistent review teams and a process to follow up on identified deficiencies.** As mentioned earlier in *Figure 1-1*, 63% of community service provider officials and 92% of CDDO officials who responded to the survey told us that the peer review process is effective in making sure that individuals and guardians are informed of all service provider options. However, survey respondents and KDADS officials told us there is room for improvement. These improvements include:
 - Conduct peer reviews more frequently than once every three to five years.
 - Have at least one consistent individual on the peer review team.
 - Allow more than half a day for peer review teams to conduct their work on site.
 - Develop formal policies and procedures on how to report and follow up with deficiencies identified during the peer review process.

- **Neither KDADS nor CDDOs have a formal complaint tracking system.** Because complaints are not tracked, it is impossible to know whether they are being adequately addressed. KDADS officials told us that it is the responsibility of each CDDO to develop its own complaint resolution process. However, the risk is that CDDOs may not follow up on complaints that are against them or their own community service provider.

- **KDADS does not verify whether the BASIS assessment is accurate.** As stated in the overview, CDDOs administer a BASIS assessment to all individuals interested in receiving developmental disability services. The assessment results are entered into a database that calculates an individual's tier score. This tier score determines an individual's fee-for-service reimbursement rate. KDADS officials do not observe CDDO officials entering assessment responses into the database. KDADS staff reported that they may review a few cases but do not consistently verify that the BASIS assessment answers are accurate.

KDADS officials told us that strengthening their oversight of CDDOs is hindered by a cumbersome and ambiguous contracting process. KDADS negotiates a new contract with each of the state's 27 CDDOs each year. According to KDADS officials 50 to 70 representatives from the CDDOs and the community service providers attend and actively participate in the negotiations. This is in sharp contrast to its negotiations with Aging and Disability Resource Centers (ADRCs) and Community Mental Health Centers (CMHCs), which rely on a small contingent of individuals to negotiate. Officials told us the number of parties involved in the CDDO negotiations makes the process

cumbersome, and it is difficult to add new oversight or monitoring controls to the contracts because the parties cannot agree.

KDADS officials also told us the statute that governs the CDDO contracting process does not clearly lay out what would happen if the parties are unable to reach an agreement. The statute does direct the parties to seek mediation when they are at an impasse, but officials told us they are unclear what happens if mediation fails. Our reading of the statute suggests the process is not necessarily clear, but it appears if mediation fails the CDDOs and service providers would continue to operate under the existing or a temporary contract.

A Bill Proposed During the 2013 Legislative Session Would Prohibit CDDOs from Providing Direct Services, Which Could Eliminate the Inherent Conflict of Interest

As part of our work for this audit, we were asked to determine the potential effect on the developmental disability system if Senate Substitute for House Bill 2155 were passed.

2013 Senate Substitute for House Bill 2155 would prohibit CDDOs from both determining an individual's eligibility and providing services through their own service provider. As discussed throughout this question, the conflict of interest is inherent in Kansas' developmental disability system because CDDOs not only serve as gatekeepers—the single point of entry for eligibility determination and referral for services—but they can also provide direct services through their own service provider. Of 27 CDDOs, 21 also have their own service provider.

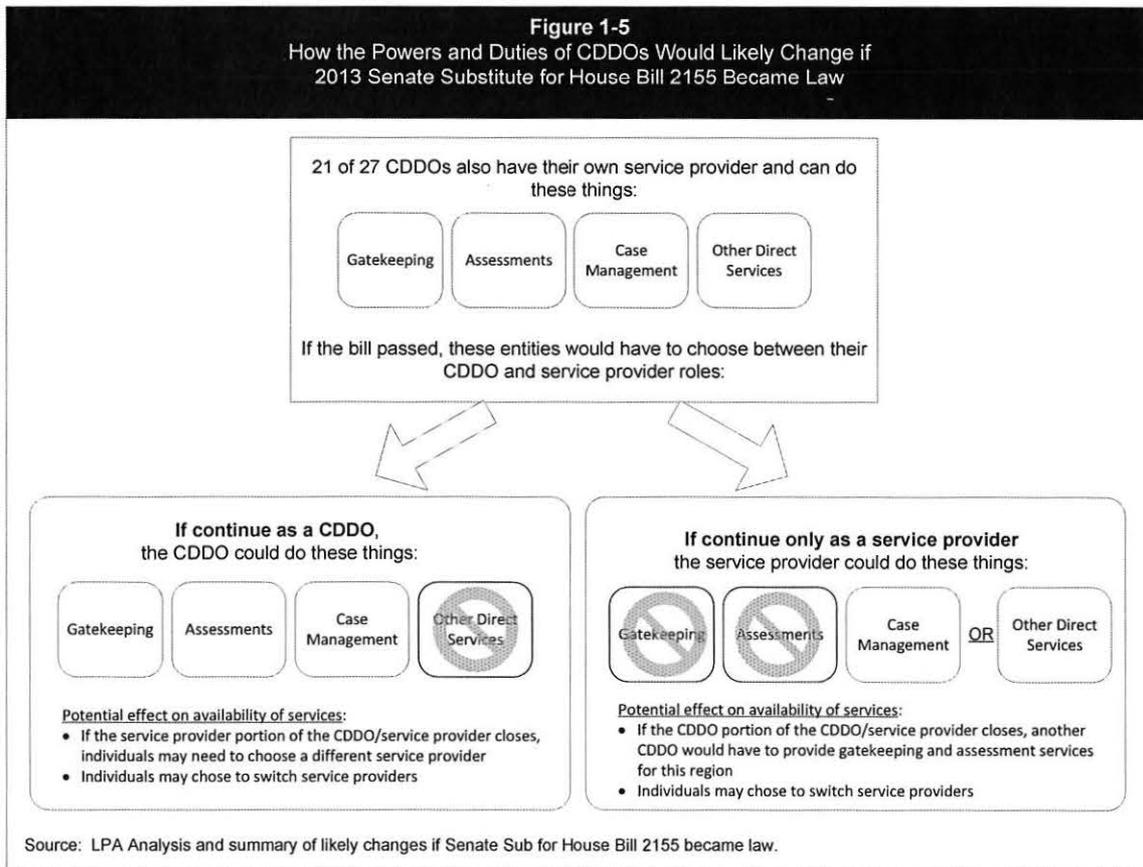
During the 2013 Legislative session, Senate Substitute for House Bill 2155 was introduced. If passed, the 21 CDDOS would have to decide whether to keep the CDDO function or the service provider function, since the bill would prohibit them from doing both. The bill would also limit current CDDO services in other ways. In **Figure 1-5** on page 27, we summarize how the powers and duties of CDDOs would change if the bill were passed. As shown in the figure, if passed, the bill would:

- Prohibit CDDOs from determining eligibility and providing services to developmentally disabled individuals
- Prohibit CDDOs from conducting a needs assessment and providing services
- Prohibit a case manager from working for a service provider

The effectiveness of the bill in addressing the inherent conflict of interest would depend on whether CDDOs completely separate from their own community service provider. For CDDOs that have their own community service provider, it is difficult to distinguish between the two entities. For example, of the 21 CDDOs that currently provide gatekeeping and direct services, several claim they are separate from their service provider. However, they are difficult to tell apart because they often:

- share the same working space
- share the same name
- share the same board

If Senate Substitute for House Bill 2155 was passed, KDADS may need to develop policies or regulations describing how to separate gatekeeping from providing services. As written, the bill does not specify what constitutes separation between a CDDO and its service provider. Without clear guidance and oversight from KDADS, it could be difficult to know whether a CDDO truly separates itself from its service provider or just creates some administrative separation, i.e. “separated on paper.”



KanCare Has Added an Additional Layer to the Current Developmental Disability System, but on Its Own Will Not Address the Inherent Conflict of Interest Issue

In an effort to slow the growth of Medicaid costs, KanCare was implemented in January 2013. Under KanCare, Kansas has contracted with three managed care organizations (MCOs) to coordinate the health care for nearly all individuals receiving Medicaid. Medicaid includes two major services: medical care and long-term care. KanCare was implemented for regular medical services and all long-term-care waivers except for the developmental disability waiver in January 2013.

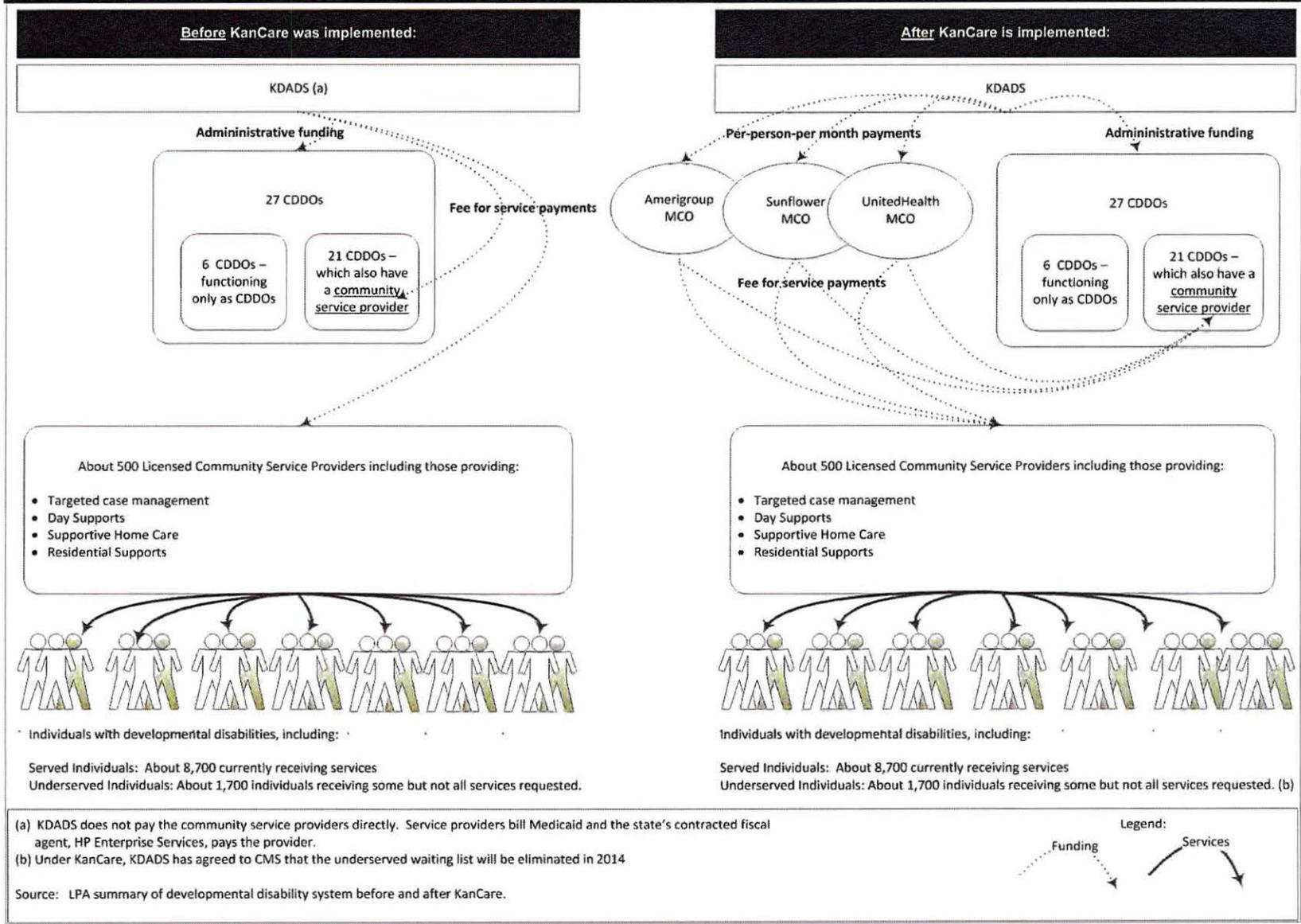
The developmental disability waiver was added to KanCare on February 1, 2014. With the exception of individuals receiving developmental disability waiver services, KanCare was implemented for all other individuals receiving HCBS waiver services on January 1, 2013. In response to stakeholders' concerns, a 2012 legislative proviso delayed implementing KanCare until January 1, 2014, for individuals with developmental disabilities receiving waiver services. However in December 2013, the Centers for Medicare and Medicaid Services (CMS) further delayed the transition of that waiver to KanCare.

In January 2014, CMS's concerns were addressed and as of February 1, 2014, individuals with developmental disabilities receive coordinated care from one of the three MCOs. For each individual, the MCOs are paid between \$3,600 and \$4,700 per month to coordinate care. *Figure 1-6* on page 29 shows how the developmental disability system structure looks now that MCOs are included. As shown in the figure, MCOs do not provide direct services and are essentially an additional layer between KDADS and service providers.

Managed Care Organizations (MCOs) add an additional layer of review to the system but do not address the conflict of interest issue. KDADS officials told us the same service providers are in place now, as compared to before KanCare was implemented. This means CDDOs that also have their own service provider will continue to provide the same types of services as other service providers. Adding MCOs to the structure does not address this inherent conflict of interest. However, with KanCare, other aspects of the developmental disability system have changed:

- **Rather than paying service providers directly, KDADS will pay the MCOs a capitated rate and the MCOs will pay the service providers on a fee-for-service basis.** As shown in the *Figure 1-6*, KDADS no longer pays service providers directly. Instead, the service providers directly bill the MCOs for any services provided and the MCOs authorize payment based on the current tier rates already in place.

Figure 1-6
How the Developmental Disability System Structure Will Change When KanCare is Implemented and Managed Care Organizations Are Included



- **In addition to the plan of care that is currently developed, the MCO staff will create an “integrated service plan” that will be used to determine what developmental disability services the individual will receive.** Under KanCare, this additional plan of care is developed and MCOs essentially add an additional layer of review if that plan includes a reduction in service. According to KDADS officials, all such reductions then have to be submitted to KDADS for approval.

CDDO officials had additional concerns if Senate Substitute for House Bill 2155 were passed after KanCare has been implemented. Officials with the five sampled CDDOs explained that with KanCare implemented, MCOs are reviewing individuals’ plans of care with the goal of reducing overall Medicaid waiver costs. If the bill were passed, MCOs would also be allowed to provide targeted case management. Officials said that determining which services will or will not be provided conflicts with a targeted case manager’s role of ensuring that individuals receive all services needed.

It is difficult to predict how the developmental disability system would change if Senate Substitute for House Bill 2155 were passed now that KanCare has been implemented. As discussed earlier, Senate Substitute for House Bill 2155 could potentially eliminate the inherent conflict of interest because it would prohibit CDDOs from both determining an individual’s eligibility and providing services. However, all three CDDOs we asked (Tri-Valley, Developmental Services of Northwest Kansas, and Johnson County) said without consulting their boards or county commissioners, they could not determine whether they would continue only to provide gatekeeping or choose only to provide direct services. Therefore, it is difficult to know how the system would look if the bill were passed now that KanCare is implemented.

Conclusion

Potential conflicts of interest will continue to be present in the developmental disability waiver system as long as CDDOs are able to establish their own service providers. We did not find direct evidence that CDDOs are taking advantage of the inherent conflict of interest but the structure of CDDOS having their own service provider causes some stakeholders to distrust the system. While the Managed Care Organizations under KanCare will provide an additional layer of review and management, only separating the gatekeeping and service providing functions would fully eliminate potential conflicts of interest.

Recommendations for Executive Action

1. To address the problems related to the lack of oversight by the Department for Aging and Disability Services (KDADS) in approving extraordinary funding, KDADS should develop and implement a system that allows KDADS officials to screen and thoroughly review extraordinary funding applications before funding is approved (page 23-25).
2. To address the issues of the peer review process, KDADS should (page 25):
 - a. Develop process and procedures to ensure consistency of peer review teams.
 - b. Develop and implement policies and procedures that provide guidance on how to follow up with CDDOs that have deficiencies identified in the peer review. Items to consider including are follow-up deadlines, penalties that will be incurred if a deficiency is not resolved, and a system to track whether the deficiency has been resolved.
 - c. Consider increasing the amount of time the peer review team has to conduct file reviews and other on-site work.
 - d. Consider conducting peer reviews on a more frequent basis.
3. To address the issue of KDADS or CDDO officials not tracking complaints, KDADS officials should work with CDDOs to develop and implement a complaint tracking system that (page 25):
 - a. Requires CDDOs to log and track the status of all complaints to know whether they have been resolved.

- b. Requires CDDOs to submit periodic reports to KDADS on the status of all complaints. Consider including such things as the nature of the most common complaints and whether the complaints have been adequately resolved in a timely manner.
4. To address the issue of KDADS having no role in the BASIS assessment process and providing no oversight in the eligibility process, KDADS officials should develop and implement policies and procedures to ensure BASIS assessments are accurate and consistent. Two potential options exist to address this recommendation (page 25-26):
 - a. KDADS staff review a sample of BASIS assessment tests and supporting documentation to ensure individuals are in the appropriate tier.
 - b. KDADS staff develop and conduct their own assessment to verify the validity of the BASIS assessment test results.
 5. If legislation is passed that prohibits CDDOs from serving as both a gatekeeper and service provider, KDADS should develop a process for approving all reorganizations (pages 26-28).

***Recommendations for
Legislative Action***

None

Question 2: How Could the Community Services System Be Changed to Maximize the Amount of Funding Available to Provide Services for Individuals With Developmental Disabilities?

For FY 2014, CDDO regions will receive about \$360 million to provide services to about 8,700 individuals with developmental disabilities (p.33). Consolidating CDDOs could reduce administrative costs by about \$500,000 to \$800,000 a year (p.34). Furthermore, Kansas could increase federal revenues by up to \$6.5 million a year by redirecting \$5 million in state aid (p.37). We also identified other potential cost savings options to help maximize funding available for developmental disability services, including using more bundled payments and adopting more preventative controls to reduce the risk of Medicaid fraud (p.39).

We also found that several CDDOs we reviewed spend funds on lobbying-related activities, which appears to violate federal and contractual requirements (p.40). Finally, we found that KDADS does little to monitor CDDOs' administrative expenditures for the developmental disability waiver (p.43).

In FY 2014, CDDO Regions Will Receive About \$360 Million to Provide Services to About 8,700 Individuals with Developmental Disabilities

As noted in the Overview, CDDO regions receive four types of funding:

- Home and Community Based Services (HCBS) Waiver Funding: \$328 million to provide direct services to individuals with disabilities, of which 43% is state funding and 57% is federal
- Administrative Funding: \$9 million to cover administrative costs, of which half is state funding and half is federal
- State Aid: \$5 million in state general fund money to provide services to individuals who do not qualify for the HCBS waiver
- Local Mill Levy: \$17 million in local mill levy funding which CDDOs use for various purposes

Each of these funding types is discussed in more detail in the overview on beginning on page 9.

Most funding is used to provide direct services to individuals with developmental disabilities. As of December 2013, about 8,700 individuals were receiving developmental disability waiver services. However, the waiver currently does not have enough funding to serve all those who qualify. Of the 8,700 individuals receiving waiver services, about 1,750 individuals were “underserved” meaning they were receiving some but not all

needed services. Further, about another 3,250 individuals were “unserved” and had not received any services. Current information of individuals receiving tier zero services was not readily available.

As part of our work for this audit, we were asked to identify ways the developmental disability system could maximize funding available to provide services to individuals with developmental disabilities. In the sections that follow, we discuss the options we identified for maximizing the funding available to provide services to individuals with developmental disabilities who qualify for waiver services.

***Consolidating CDDOs
Could Reduce
Administrative Costs
By About \$500,000 to
\$800,000 a Year***

We estimated cost savings based on consolidating the state’s 27 CDDOs. These cost estimates serve as a guide, but we did not conduct detailed analysis to determine the exact consolidation model and resulting savings.

With 27 CDDOs, Kansas has significantly more administrative entities for the developmental disability waiver than it does for the physical disability or frail elderly waivers. In addition to the developmental disabilities waiver, Kansas has six other home and community based services (HCBS) waiver programs, including the frail elderly and physical disability waivers. Beginning January 2013, Aging and Disability Resource Centers (ADRCs) became the single point of entry for individuals applying for most waivers except the developmental disability waiver. Currently, there are 11 ADRCs located throughout the state. For calendar year 2013, these 11 ADRCs provided assessment and eligibility services for about 13,000 individuals for the frail elderly, physical disability, and traumatic brain injury waivers. Conversely, the state has 27 CDDOs that provide similar gatekeeping and administrative services for 8,700 individuals receiving services through the developmental disability waiver.

Reducing the number of CDDOs could save an estimated \$500,000 to \$800,000 each year in administrative costs. We calculated average administrative cost per individual for each CDDO and saw a wide range from about \$790 to \$1,900. In general, CDDOs serving the largest numbers of individuals with developmental disabilities had lower administrative costs per individual. That is because the administrative costs are often fixed costs that decrease on a per-person basis when they can be allocated across more individuals. The Sedgwick County Developmental Disability Organization served the most individuals and had administrative expenses of about \$900 per individual. On the other hand, the Nemaha County Training Center provided

gatekeeping services to the fewest individuals and had administrative expenses of about \$1,900 per individual.

Without a detailed study, it is difficult to know how much actual savings could result from consolidating CDDOs. Such an analysis is beyond the scope of this audit. However, we calculated a rough savings estimate by using CDDOs' current administrative costs per individual and estimated economies of scale that would result from consolidating CDDOs. In fiscal year 2013, the median administrative cost per individual for all CDDOs was \$1,140. Using this median and a range of about plus or minus 20%, we estimated that consolidated CDDOs would spend about \$500,000 and \$800,000 less on total administrative costs annually. Any reduction in administrative costs could potentially be applied toward serving more individuals on the waiver.

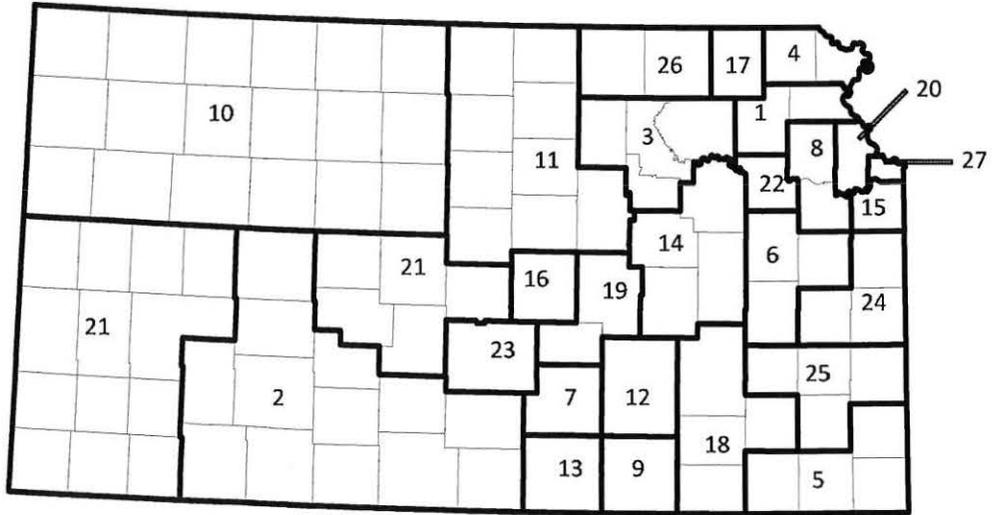
There could be some off-setting costs to our savings estimates. For example, consolidated CDDOs may have to cover a larger geographic area, which could result in increased staff travel time and expenses. In addition, some counties may choose to not continue providing mill levy funding to a newly consolidated CDDO region if they are unsure of how the funding will benefit their county. We did not try to estimate how much our savings estimates would be affected by either of these factors.

The 11 Aging and Disability Resource Centers (ADRCs) across the state could be used as a model for consolidating CDDO regions. *Figure 2-1* on page 36 shows the current regions for ADRCs and CDDOs. As shown in the figure, there are 11 ADRC regions, which is less than half the number of CDDO regions used to provide gatekeeping services for the developmental disability waiver. As stated earlier, among other things, ADRCs (which were formerly the Area Agencies on Aging) conduct functional assessments for the frail elderly, physical disability and traumatic brain injury waivers. This assessment function appears to be similar to what CDDOs do for the developmental disability waiver and KDADS officials generally agreed.

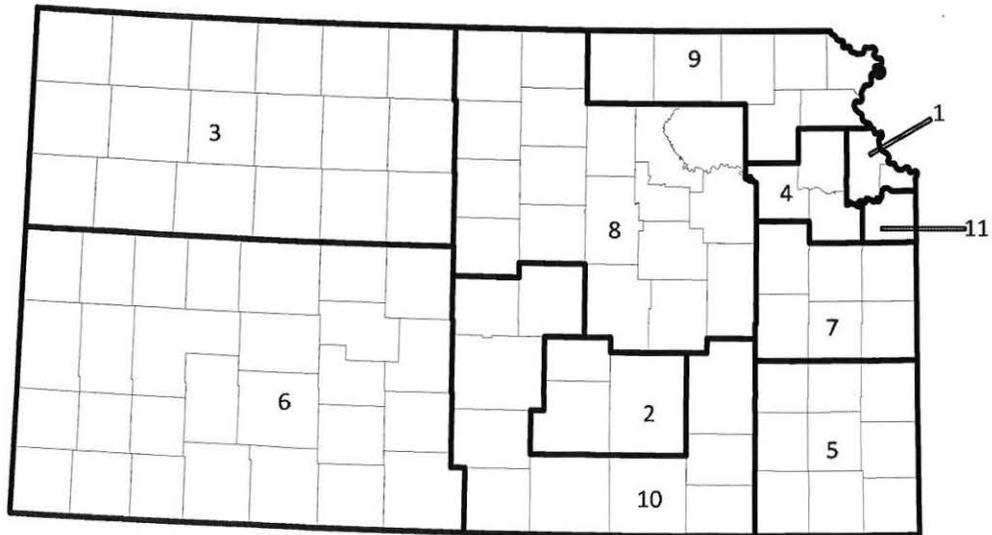
KDADS provides considerably more administrative funding to CDDOs than it does ADRCs. For fiscal year 2014, KDADS will provide about \$9 million in administrative funding to the 27 CDDOs who provide gatekeeping services to 8,700 individuals with developmental disabilities.

**Figure 2-1:
Current Regions for Community Developmental Disability Organizations (CDDOs)
and Current Regions for Aging and Disability Resource Centers (ADRCs)**

27 CDDO Regions



11 ADRC Regions



Source: LPA generated map from data provided by Kansas Department for Aging and Disability Services officials.

In comparison, KDADS will provide about \$4 million in administrative funding to 11 ADRCs who provide assessment services to about 13,000 individuals accessing the physical disability, frail elderly, and traumatic brain injury waivers.

To further reduce overall administrative costs, the Kansas Legislature could consider combining the CDDOs with the ADRCs. Now that all waivers and mental health services are within one agency, KDADS officials told us they are considering how to better coordinate services so that individuals' needs are better met. Combining CDDOs and ADRCs is something the Legislature could at least consider for several reasons. First, combining CDDOs and ADRCs could potentially realize additional savings in administrative costs, such as buildings and human resource functions. Second, both CDDOs and ADRCs have similar duties by serving as gatekeepers for Medicaid waiver programs. Third, as shown in *Figure 2-1* on page 36, ADRCs have locations and regions throughout the state, so gatekeeping services would continue to be available in all geographic areas. Finally, KDADS already has oversight responsibilities for both CDDOs and ADRCs. We did not try to estimate the potential savings or any offsetting costs from combining CDDOs and ADRCs.

Kansas Could Increase Federal Revenues By Up to \$6.5 Million a Year by Redirecting \$5 Million in State Aid

State law requires KDADS to match state funds with federal funds whenever possible. The majority of state aid appropriated to the developmental disability waiver is matched with federal funding. However, the Legislature has a longstanding appropriation of about \$5 million to CDDOs as an additional state grant. This additional state-aid grant is not eligible for federal matching funds.

KDADS distributes \$5 million in state aid to CDDOs and this money is used to provide non-Medicaid services that are not matched with federal funding. Matching federal funds are only available for money spent on Medicaid services. Most of this state aid is spent on tier zero individuals and children less than five years old, who were identified as needing some services but were not eligible for Medicaid developmental disability waiver services. Additionally, CDDOs spend a portion of the state aid on non-Medicaid costs including infrastructure, transportation, and administrative expenses. Because these expenditures are not Medicaid related, they cannot be used to draw down federal matching funds. A KDADS official told us using the state aid to provide these non-Medicaid eligible services seems to be the original intent of the appropriation.

Using the \$5 million in state aid for Medicaid-eligible waiver services instead would generate an additional \$6.5 million in federal matching funds. The Legislature would have to re-appropriate the funds for Medicaid-eligible waiver purposes to draw down federal matching funds. The current federal match rate is 43% state and 57% federal. If all \$5 million were re-appropriated, they could draw down about \$6.5 million in federal matching funds for a total of \$11.6 million for services.

During the 2013 legislative session, an amendment to the appropriations bill was proposed to redirect \$3 million in state aid to provide services to Medicaid-eligible waiver individuals with developmental disabilities. The amendment did not pass. If it had, it would have drawn down about \$4 million in federal matching funds. KDADS officials estimated this would provide enough funding to provide services to 165 individuals on the waiting list.

Taking this action would help some individuals with developmental disabilities but could potentially cause others to lose services. Specifically:

- **If funding was redirected to Medicaid-eligible waiver services, it could be used to fund services for some of the individuals waiting for developmental disability services.** When funding is not available to provide services to individuals with developmental disabilities, they are placed on a waiting list. As of December 2013, about 3,250 individuals had not received any of the services requested and were waiting for services. At the current match rate, the state aid funds combined with federal matching funds could be used to provide services for about 280 individuals on the waiting list.
- **However, redirecting state aid funding to Medicaid-eligible waiver expenditures would mean that non-Medicaid-eligible individuals currently receiving services would likely lose those services.** As mentioned above, the majority of this state aid funding is currently spent on individuals who were identified as needing some services but were not eligible for Medicaid developmental disability waiver services. Information about the number of individuals served with this funding was not readily available.

Redirecting these funds is a policy choice the Legislature would have to make. If the state aid continues to be used to fund services for individuals who are not eligible for waiver services, it will be used to provide services to more individuals with less severe developmental disabilities but who are in need of some services. If the funding is redirected to fund Medicaid-eligible waiver expenditures (individuals receiving waiver services) then the funding will provide services to overall fewer individuals who may have more severe developmental disabilities that are on the waiting list.

***We Identified Other
Potential Cost Savings
Options To Help
Maximize Funding
Available for
Developmental
Disability Services***

As part of our effort to identify ways the developmental disability system could maximize funding available to provide services to individuals, we reviewed best practices and information from other states. Generally, cost savings ideas focused on Medicaid payment reform and preventing Medicaid fraud. We briefly reviewed Kansas' current efforts in these areas and summarized our findings below.

Kansas could further reduce its costs associated with paying service providers by using fewer fee-for-service payments. It is unlikely that all fee-for-service payments could be eliminated, but using fewer where possible could result in some savings. Currently, community service providers within the developmental disability system are generally paid a fee for each service provided. For example, providers are paid a fee for each 15 minutes of day service provided. In contrast, payment reform could include paying a single negotiated fee (sometimes called a bundled payment) for all services provided over a defined time period rather than a payment for each individual service.

According to information from the National Conference of State Legislatures, single fee payments or bundled payments are commonly used for acute services such as hospitalization, but they are also used for services associated with managing chronic health conditions (which many developmentally disabled individuals have). Because the provider receives a set payment, any costs above that must be absorbed by the provider. Likewise, the provider keeps the savings if costs are lower.

Now that KanCare is implemented for the developmental disability waiver, KDADS pays the managed care organizations (MCOs) a set rate per individual per month. The MCOs then pay service providers on a fee-for-service basis. KDADS officials told us moving away from a fee-for-service payment system would require renegotiating the contract with CDDOs and changing from the BASIS assessment and current tier payment system.

Kansas could adopt more preventative controls to reduce the risk of inappropriate Medicaid waiver payments and fraud. Our review of information from other states showed that Medicaid fraud detection efforts are typically one of two types: preventative or "pay and chase." Officials from both KDADS and the Attorney General's Medicaid Fraud and Abuse Division told us that Kansas generally has a "pay and chase" approach. KDHE officials told us Kansas does not have a solely pay and chase model, but agrees there is room for improvement.

Preventative controls mean establishing steps to ensure that inappropriate, inaccurate, or fraudulent claims are not paid. Good preventative approaches include conducting background checks on service providers before allowing them to participate in the waiver programs and establishing automatic edits or “red flags” in the claims payment system to prevent inappropriate claims from being paid. In contrast, a pay and chase approach generally means Medicaid claims are paid as they come in. Then, if it is later discovered the claim was fraudulent, efforts are made to recover the funding. The preventative approach is more effective because recovering improperly paid claims is time consuming and difficult. Attorney General officials said that although Kansas has some preventative steps in place, they are not as effective as they could be and that Kansas does not have the administrative capacity to implement a more effective approach.

OTHER FINDINGS

Several CDDOs We Reviewed Spent Funds On Lobbying Activities Which Appears to Violate Federal and Contractual Requirements

As part of our work, we reviewed CDDO expenditures to determine whether state and federal funds were spent for allowable purposes. We reviewed the past two fiscal or calendar years’ worth of expenditures for five of the 27 CDDOs’ and compared those expenditures to what is allowed. We worked with the sample CDDOs to review documentation to determine which identified expenses were allowable.

Federal requirements and CDDOs’ contracts with KDADS prohibit CDDOs from using certain funds to pay for lobbying activities. Although state law does not include any specific restrictions, KDADS’ contracts with CDDOs have clauses that prohibit the CDDO from using contract funds to influence or attempt to influence an officer or employee of any agency in the awarding, renewal or modification of any government contract or grant. Specifically the contract states, “No part of the funds provided through this contract shall be used to influence or attempt to influence an officer or employee of any State of Kansas agency or a member of the Legislature regarding any pending legislation, or the awarding, extension, continuation, renewal, amendment or modification of any government contract, grant, loan or cooperative agreement.”

In addition, the federal Office of Management and Budget (OMB) has issued two circulars (A-87 for government agencies and A-122 for non-profits) which have similar provisions against lobbying-related activities. The federal circulars include prohibitions against using federal funds to cover the cost of influencing activities associated with obtaining grants or contracts. A-122 specifies that

the costs associated with “legislative liaison activities, including attendance at legislative sessions or committee hearings” are also unallowable.

Three of five CDDOs we reviewed spent a total of about \$104,000 on membership dues to Interhab during the past two years. Interhab is an association that represents 21 of the state’s 27 CDDOs and is a registered lobbying group. According to Interhab officials, the organization provides CDDOs a variety of services, including lobbying, training, technical assistance, and professional networking opportunities. Some of the services (such as training and networking) can be paid for with federal and state funds. Other activities cannot be paid for with certain funds. The payment of dues allows members to access these InterHab services.

The funds used to pay these membership dues included both restricted and unrestricted funds. Because the funds were comingled and cannot be separated, the restrictions against lobbying-related activities then apply to all of the funds used.

This is not to say that CDDOs cannot be members of InterHab and cannot pay for lobbying-related activities. Rather, because certain CDDO funding sources have restrictions on what they can be spent on, any spending on lobbying needs to come from clearly designated funds that do not carry these restrictions. Further, we noted that KDADS has routinely disallowed membership dues paid to InterHab from state administrative funding.

Figure 2-2 on page 42 shows the CDDOs included in our review and the amount each paid in dues to Interhab. As shown in the figure, three CDDOs we reviewed paid dues to Interhab. However, these CDDOs could not verify the sources of funds used to pay these costs. These results cannot be projected to all CDDOs because of the way we selected the sample.

Four of the five CDDOs paid Interhab an additional \$38,000 for various services. Because CDDO’s accounting records did not include detail about the purpose of each expenditure or the source of funding, we were not able to determine which of these expenditures were allowable. However, a review of CDDO records showed that some expenditures appeared to be legislative liaison activities such as attending legislative meetings and analyzing the effect of managed care. The A-122 federal OMB circular specifics these activities cannot be paid for with federal funds. Other expenditures appeared to be for contract planning meetings

between CDDOs and Interhab, but records were not detailed enough for us to determine if the expenditures were allowable.

Interhab officials told us all the expenditures were allowable.

InterHab officials disagreed that the role InterHab plays in CDDOs' contract negotiations is lobbying. InterHab legal counsel stated that CDDO expenses for legal representation related to contract negotiations are allowable based on federal guidelines for non-profit organizations. However, none of the expenditures we questioned were for legal expenses.

Figure 2-2
Summary of Lobbying-Related Expenditures
for Five Sampled CDDOs (a)

| Selected CDDO/Community Service Provider (CSP) (b) | Membership dues-related expenditures Identified | Other expenditures Identified |
|--|---|-------------------------------|
| Johnson County Developmental Services (CDDO/CSP) | \$41,231 | \$23,965 |
| Developmental Services of Northwest Kansas (CDDO/CSP) | \$37,938 | \$5,801 |
| Tri-Valley Developmental Services (CDDO/CSP) | \$24,479 | \$5,295 |
| Sedgwick County Developmental Disability Organization (CDDO) | \$0 | \$3,285 |
| Southwest Developmental Services, Inc. (CDDO) | \$0 | \$0 |
| Total | \$103,648 | \$38,346 |

(a) Included a review of the past two calendar or fiscal years of expenditures for each CDDO.
 (b) SDSI and Sedgwick County are CDDOs only, and do not have their own service provider.
 Source: LPA analysis of five CDDOs' expenditure information.

Finally, two CDDOs claimed the lobbying-related expenditures were allowable because they were made by their service provider, but we found those claims not compelling. The CDDOs claimed that most of the lobbying-related expenses we identified as unallowable were not incurred by them, but were incurred by their service provider. Such a claim does not seem compelling because:

- **Many of the lobbying-related expenditures were related to the CDDOs' contract with KDADS, and service providers are not a party to those contracts.** Every year, KDADS signs contracts with each of the 27 CDDOs but does not contract with each of the hundreds of service providers. (CDDOs contract with service providers.) Therefore, the lobbying expenditures related to discussing KDADS contracts were likely incurred by the CDDO and not the service provider.
- **The same board oversees both the CDDO and the service provider, and in some instances the funding was co-mingled.** For each of the three CDDOs that have their own service provider (Tri-Valley, Johnson County, and DSNWK), the same board oversees both the CDDO and the service provider. In some instances, funding was co-mingled between the CDDO and its service provider, which makes it impossible to know which funding was used to pay for which expenses.

KDADS Does Little to Monitor CDDOs' Administrative Expenditures for the Developmental Disability Waiver

Although there are restrictions on how CDDOs can spend administrative funding, KDADS does little to monitor how these funds are spent. KDADS requires CDDOs to submit quarterly reports on how administrative funding and state aid is spent, but officials told us they have not reviewed these reports in detail and typically they only check the reports for self-reported lobbying-related expenditures. Agency officials reported a few instances where the CDDO was required to remove expenditures from the quarterly report that were self-reported as lobbying-related payments by the CDDO. Overall, KDADS officials told us the agency does not have a process for thoroughly monitoring how CDDOs spend administrative funding or state aid. Further, KDADS officials said this is a shortcoming that they are currently trying to address.

Conclusion

For about 15 years, the Department of Social and Rehabilitation Services and the Department on Aging divided the responsibility for oversight of state's Medicaid long-term care waivers. In 2012 the Governor reorganized and renamed both agencies, and since that reorganization, all of the state's long-term care waivers have been managed by the Department for Aging and Disability Services (KDADS). The findings in this question show there are steps that can be taken to make the developmental disability system more efficient, and having all of the waivers within one agency provides the best opportunity for Kansas to make many of those changes.

Recommendations for Executive Action

1. To address the issue of reducing the costs associated with paying service providers on a fee-for-service basis, KDADS and KDHE should consider implementing more cost effective payment reform options such as bundled or capitated payments to community services providers (page 39).
2. To address the issue of reducing the risk of inappropriate Medicaid payments and fraud through effective prevention efforts, KDHE, the Attorney General, and KDADS should collaborate and develop a plan for implementing additional preventative efforts such as conducting background checks of services providers before contracting and reviewing claims for suspicious patterns before paying them (pages 39-40).

3. To address the issue of CDDOs inappropriately spending funds on lobbying-related activities, KDADS should develop a process to more actively monitor expenditures, which could include sampling and reviewing actual expenditure records or requiring independent audits to review and report on such expenditures (pages 40-43).
4. To address the issue of CDDOs in appropriately spending funds on lobbying-related activities, the four sampled CDDOs that had non-allowable expenditures identified should take the steps necessary to ensure the funding is not state or federal funding (for example, eliminate co-mingling by separating and tracking different funding sources) (pages 40-43)

***Recommendations for
Legislative Action***

1. To address the issue of reducing administrative costs within the developmental disability system, the Legislative Post Audit Committee should consider introducing legislation to reduce the number of CDDO regions (pages 34-37).
2. To address the issue of not matching all available state funds with federal matching funds, the Legislative Post Audit Committee should consider introducing a bill to redirect all or a portion of the \$5 million in state aid to provide Medicaid-eligible services. Doing so would allow these state aid funds to be matched with federal funds (pages 37-38).

APPENDIX A Scope Statement

This appendix contains the scope statement approved by the Legislative Post Audit Committee for this audit on July 23, 2013. The audit was requested by Senator Bruce.

CDDOs: Reviewing Issues Related to Community Services Provided for Individuals with Disabilities

As of December 2011, Kansas had a network of 27 Community Developmental Disability Organizations (CDDO) and about 200 service providers that served individuals with developmental disabilities in the community. CDDOs are the single point of entry, eligibility determination, and referral for anyone seeking developmental disability services. Those services include direct care, work opportunities, and medical services on behalf of individuals. CDDOs may provide some or all services themselves, or they may contract with other community service providers in their area. As of July 2012, oversight of CDDOs was transferred from the Department for Children and Families to the Department for Aging and Disability Services.

Our 1999 and 2003 audits identified a number of problems created by the developmental disability community service structure. Most importantly, those audits found conflicts of interest problems related to client referrals, contract terms, funding distributions, and quality assurance reviews. Those conflicts of interest exist because many CDDOs—which act as the gatekeeper to disability services—also provide services that are sometimes in direct competition with the service providers they contract with.

Over the years, the Legislature has considered bills that would address some of these inherent conflicts of interest. Most recently, the Senate Public Health and Welfare Committee passed Senate Substitute for House Bill 2155. Among other things, that bill would prohibit CDDOs from providing services and also conducting eligibility determinations or needs assessments. During the 2013 legislative session, the bill was passed over by the Committee of the Whole but retained on the calendar.

Legislators have expressed concerns about these potential conflicts of interest, as well as other issues including the level of oversight provided for home and community services and whether CDDOs and service providers are maximizing funding for those services.

A performance audit in this area would address the following questions:

1. **Do substantial conflicts of interest remain for CDDOs that both provide and contract for services, and how could those conflicts be resolved?** To answer this question, we would review past State policy, actions, and audits to determine what prior efforts have been taken to mitigate conflicts of interest in the system and whether they have been successful. We would also work with officials from the Department for Disability and Aging Services, CDDOs, and service providers to understand the current community-based system for individuals with disabilities. As part of that work, we would talk with officials from other states and the Centers for Medicare and Medicaid Services (CMS) to identify ways in which these conflicts of interest can or have been

resolved. Further, we would perform work to evaluate the potential effect of conflicts of interest in areas such as client eligibility, client referral, case management, fund distribution, contract negotiations, and quality assurance reviews. As necessary, we would survey and interview CDDO staff, service providers, and some guardians to determine whether they thought service providers' interests were adequately represented and that client referrals were unbiased. As needed, we would also analyze available data to determine whether certain funds were equitably distributed by CDDOs and would identify relevant patterns in service provision (e.g. which CDDOs and providers serve the most costly individuals). Finally, we would determine whether sufficient controls exist to ensure that individuals are placed into appropriate tier levels when they enter the system. We would perform additional work in this area as necessary.

2. **How could the community services system be changed to maximize the amount of funding available to provide services for individuals with disabilities?** To answer this question, we would review the funding structure for CDDOs to identify all of their revenue sources and the factors that influence funding levels. Further, we would review state law and work with CDDO and Department on Aging and Disability Services officials to identify any limitations or requirements regarding how that funding can or should be spent. For a sample of CDDOs, we would compare previous year's expenditures to relevant limitations or requirements we identified to ensure those funds were spent for allowable purposes. We would work with various stakeholders to identify ways to maximize those funds. Potential alternatives we would examine would include opportunities to increase the drawdown of federal funds and the possible consolidation of some CDDOs. For feasible options we identified, we would attempt to estimate how much new money or savings those actions might generate that could be used to provide services to individuals currently on the Home and Community Based Services waiver (HCBS) waiting list. Finally, we would determine whether the current funding structure includes incentives for CDDOs or service providers to keep individuals on the HCBS waiting list and if so, what could be done to remove them. We would perform additional work in this area as necessary.
3. **What would be the potential effect of implementing the provisions of Senate Substitute for House Bill 2155 on the community based service system?** To answer this question, we would review the provisions of Senate Substitute for House Bill 2155 to determine what changes would be made to the current community based service system if the bill was passed. We would interview stakeholders to determine the potential advantages and disadvantages related to this type of change. Moreover, we would determine how many individuals are currently served by CDDOs and what types of services they receive. By working with CDDO and service provider staff, we would estimate how those individuals and services might be affected if Senate Substitute for House Bill 2155 was passed. Specifically, we would determine whether service providers currently have enough capacity to serve CDDO clients and how long that transition might take. We would perform additional work in this area as necessary.

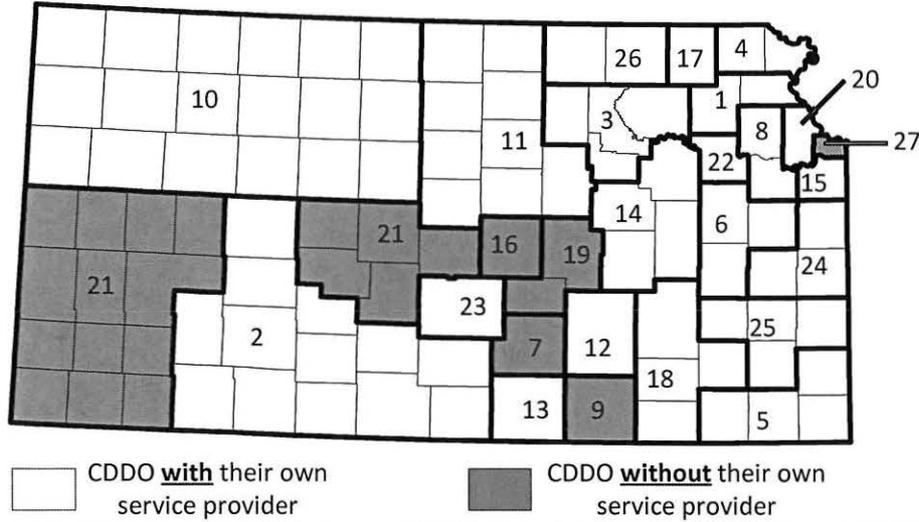
Estimated Resources: 3 LPA staff

Estimated Time: 6 months (a)

(a) *From the audit start date to our best estimate of when it would be ready for the committee.*

APPENDIX B
CDDO Regions and the Number of Community Service Providers
Within each CDDO Region

This appendix contains a map of the CDDO regions and the number of community service providers in each region.



| CDDO Region | CDDO Name | # of Community Service Providers |
|---|---|----------------------------------|
| 1 | Achievement | 11 |
| 2 | Arrowhead West, Inc. | 4 |
| 3 | Big Lakes Development Center | 10 |
| 4 | Brown County Developmental Center | 6 |
| 5 | CDDO of Southeast Kansas (CLASS) | 25 |
| 6 | COF Training Center | 12 |
| 7 | Sedgwick County CDDO (CDDO Only) | 38 |
| 8 | Cottonwood, Inc. | 30 |
| 9 | Cowley County CDDO (CDDO Only) | 12 |
| 10 | Developmental Services of Northwest Kansas, Inc. (DSNWK) | 16 |
| 11 | Disability Planning Organization of Kansas (DPOK) | 10 |
| 12 | Butler County CDDO | 14 |
| 13 | Futures Unlimited | 9 |
| 14 | Hetlinger Developmental Services, Inc. | 17 |
| 15 | Johnson County Developmental Supports | 74 |
| 16 | McPherson County Developmental Services (CDDO Only) | 18 |
| 17 | Nemaha County Training Center | 3 |
| 18 | New Beginnings Enterprises | 8 |
| 19 | Harvey-Marion County CDDO (CDDO Only) | 16 |
| 20 | Riverside Resources, Inc. | 11 |
| 21 | Southwest Developmental Services, Inc. (SDSI) (CDDO Only) | 32 |
| 22 | Shawnee County CDDO | 45 |
| 23 | Reno County CDDO | 8 |
| 24 | Tri-Ko, Inc. | 11 |
| 25 | Tri-Valley Developmental Service, Inc. | 12 |
| 26 | Twin Valley Developmental Services | 4 |
| 27 | Wyandotte County CDDO (CDDO Only) | 25 |
| TOTAL | | 481 |
| Source: KDADS' list of CDDOs and community service providers. | | |

This appendix shows the amount of funding by source for the 27 CDDO regions for fiscal year 2014.

APPENDIX C
Total Aid to Community Developmental Disability Organizations (CDDOs) Regions

| Appendix C Total Aid to Community Developmental Disability Organizations (CDDO) Regions Fiscal Year 2014 | | | | | | | | | |
|--|---------------------------------|----------------------|--------------------|--------------------|--------------------|------------------|------------------------------------|-----------------------------|----------------------|
| CDDO | State and Federal funding | | | | | | | Local Mill Levy Funding (e) | Total All Funding |
| | HCBS MRDD Waiver Allocation (a) | | CDDO Admin (b) | | State Aid (c) | Other (d) | Subtotal State and Federal Funding | | |
| | State Funding | Federal Funding | State Funding | Federal Funding | | | | | |
| Achievement Services of Northeast Kansas | \$1,239,603 | \$1,630,513 | \$42,564 | \$42,547 | \$26,201 | \$0 | \$2,981,428 | \$73,000 | \$3,054,428 |
| Arrowhead West Inc. | \$2,676,055 | \$3,519,951 | \$118,546 | \$118,498 | \$285,588 | \$0 | \$6,718,638 | \$495,308 | \$7,213,946 |
| Big Lakes Development Center | \$2,857,811 | \$3,759,025 | \$95,681 | \$95,642 | \$228,795 | \$0 | \$7,036,954 | \$481,644 | \$7,518,598 |
| Brown County Developmental Services, Inc. | \$1,032,067 | \$1,357,531 | \$28,141 | \$28,130 | \$19,615 | \$0 | \$2,465,484 | \$58,052 | \$2,523,536 |
| CDDO of Southeast Kansas | \$10,423,323 | \$13,710,326 | \$267,162 | \$251,061 | \$156,013 | \$0 | \$24,807,885 | \$516,597 | \$25,324,482 |
| COF Training Services, Inc | \$3,556,969 | \$4,678,662 | \$115,380 | \$115,334 | \$103,376 | \$0 | \$8,569,721 | \$286,500 | \$8,856,221 |
| Sedgwick County Developmental Disability Organization | \$19,250,380 | \$25,321,002 | \$856,202 | \$855,859 | \$1,121,807 | \$45,866 | \$47,451,116 | \$2,569,368 | \$50,020,484 |
| Cottonwood Inc. | \$6,924,917 | \$9,108,696 | \$223,724 | \$223,635 | \$119,674 | \$0 | \$16,600,646 | \$729,400 | \$17,330,046 |
| Cowley County CDDO | \$6,047,178 | \$7,954,161 | \$96,384 | \$96,346 | \$50,428 | \$0 | \$14,244,497 | \$90,000 | \$14,334,497 |
| Disability Planning Organization of Kansas (DPOK) | \$7,968,068 | \$10,480,804 | \$242,368 | \$242,271 | \$203,207 | \$0 | \$19,136,718 | \$0 | \$19,136,718 |
| Developmental Services of Northwest Kansas (DSNWK) | \$5,703,193 | \$7,501,700 | \$162,165 | \$162,100 | \$395,253 | \$0 | \$13,924,411 | \$884,616 | \$14,809,027 |
| Butler County CDDO | \$2,795,909 | \$3,677,601 | \$94,274 | \$94,236 | \$101,402 | \$0 | \$6,763,422 | \$200,000 | \$6,963,422 |
| Futures Unlimited | \$1,201,500 | \$1,580,394 | \$39,750 | \$39,734 | \$53,653 | \$0 | \$2,915,031 | \$168,983 | \$3,084,014 |
| Harvey-Marion County CDDO | \$2,339,002 | \$3,076,608 | \$82,665 | \$82,632 | \$162,793 | \$0 | \$5,743,700 | \$164,500 | \$5,908,200 |
| Hettinger Developmental Services, Inc. | \$3,016,344 | \$3,967,551 | \$95,681 | \$95,642 | \$55,630 | \$0 | \$7,230,848 | \$46,000 | \$7,276,848 |
| Johnson County Developmental Supports (JCDS) | \$17,363,319 | \$22,838,856 | \$648,307 | \$648,048 | \$384,408 | \$0 | \$41,882,938 | \$6,045,292 | \$47,928,230 |
| McPherson County Developmental Services (MCDS) | \$3,625,668 | \$4,769,026 | \$86,183 | \$86,149 | \$130,126 | \$0 | \$8,697,152 | \$116,434 | \$8,813,586 |
| Nemaha County Training Center | \$637,555 | \$838,608 | \$23,920 | \$23,911 | \$29,765 | \$0 | \$1,553,759 | \$80,000 | \$1,633,759 |
| New Beginnings Enterprises | \$767,583 | \$1,009,641 | \$30,604 | \$30,592 | \$16,057 | \$0 | \$1,854,477 | \$91,000 | \$1,945,477 |
| Riverside Resources, Inc. | \$898,040 | \$1,181,237 | \$46,433 | \$46,415 | \$136,912 | \$0 | \$2,309,037 | \$97,100 | \$2,406,137 |
| Southwest Developmental Services, Inc. (SDSI) | \$11,092,586 | \$14,590,642 | \$390,462 | \$390,306 | \$351,636 | \$0 | \$26,815,632 | \$746,617 | \$27,562,249 |
| Shawnee County CDDO | \$12,972,420 | \$17,063,282 | \$376,743 | \$376,592 | \$259,588 | \$48,158 | \$31,096,783 | \$1,025,539 | \$32,122,322 |
| Reno County CDDO | \$3,707,544 | \$4,876,720 | \$116,083 | \$116,037 | \$175,252 | \$0 | \$8,991,636 | \$540,000 | \$9,531,636 |
| Tri-Ko, Inc. | \$4,003,269 | \$5,265,704 | \$86,183 | \$86,149 | \$117,058 | \$45,866 | \$9,604,229 | \$247,025 | \$9,851,254 |
| Tri-Valley Developmental Services, Inc. | \$3,023,297 | \$3,976,697 | \$91,811 | \$91,775 | \$102,985 | \$0 | \$7,286,565 | \$195,787 | \$7,482,352 |
| Twin Valley Developmental Services | \$1,538,809 | \$2,024,074 | \$41,860 | \$41,844 | \$65,588 | \$0 | \$3,712,175 | \$103,000 | \$3,815,175 |
| Wyandotte County CDDO | \$5,020,529 | \$6,603,756 | \$182,567 | \$182,494 | \$155,472 | \$0 | \$12,144,818 | \$564,279 | \$12,709,097 |
| TOTALS | \$141,682,938 | \$186,362,768 | \$4,681,843 | \$4,663,979 | \$5,008,282 | \$139,890 | \$342,539,700 | \$16,616,041 | \$359,155,741 |
| | \$328,045,706 | | \$9,345,822 | | | | | | |

(a) HCBS MRDD Waiver Allocation as shown in KDADS Fiscal Year 2014 initial contracts with CDDOs. This is the bulk of funding used to provide direct services to individuals with disabilities. This funding also includes state funding matched with federal funding. Mid-year, with the implementation of KanCare, KDADS amended its contracts with CDDOs and this funding is no longer included as part of those contracts.

(b) CDDO Administrative funding is provided to all 27 CDDOs to cover administrative costs. About one-half the funding is state funding and the other half is federal.

(c) State Aid is state general fund money used to provide services to individuals who do not qualify for the HCBS waiver. These are commonly referred to as "tier 0" services.

(d) Other funding is state general funding provided to three CDDOs to support residential services for children with intellectual and developmental disabilities.

(e) Funding is for Fiscal Year 2012, the latest information available.

Source: LPA summary of information from KDADS' FY2014 contracts with CDDOs.

APPENDIX D

Agency Responses

On February 18, 2014 we provided copies of the full draft audit report to the Department for Aging and Disability Services (KDADS), the 27 Community Developmental Disability Organizations (CDDOs), and Interhab, an association that represents most CDDOs. We also provided selected report sections and recommendations to Kansas Department of Health and Environment (KDHE) and the Kansas Attorney General. The CDDO responses are included in a supplemental report. This appendix includes the responses from KDADS, KDHE, Attorney General, and Interhab. It also includes brief summaries of several CDDO responses.

Kansas Department for Aging and Disability Services [Pages 53 to 60]

The agency generally concurred with the report's findings, conclusions, and recommendations. However, agency officials disagreed that membership dues paid by CDDOs to Interhab were not allowable under the state's contract. We reviewed the contract and believe that Interhab's direct participation in the contracting meetings is a non-allowable lobbying expense, if paid for with contracted funds. We also made minor corrections and clarifications to the final report as a result of feedback received from the Kansas Department for Aging and Disability Services that did not affect any of our findings or conclusions.

Office of the Attorney General [Pages 61 to 62]

The agency generally concurred with the report's findings, conclusions, and recommendations.

Kansas Department of Health and Environment [Pages 63 to 64]

The agency generally concurred with the report's findings, conclusions, and recommendations. We made minor corrections and clarifications to the final report as a result of feedback received from the Kansas Department of Health and Environment that did not affect any of our findings or conclusions.

Interhab [Pages 65 to 70]

Organization officials disagreed that membership dues paid by CDDOs to Interhab were not allowable under the state's contract. We reviewed the contract and believe that Interhab's direct participation in the contracting meetings is a non-allowable lobbying expense, if paid for with contracted funds. Officials also said the report findings included Interhab services such as training and technical support in non-allowable costs. We worked with CDDOs to ensure that allowable expenditures such as training were excluded from the finding. Finally, officials disagreed with a number of other statements or assertions in the draft report. After carefully reviewing the response, our documentation, we think our findings, conclusions, and recommendations are appropriate. However, we made minor corrections and clarifications to the final report as a result of feedback received from Interhab that did not affect any of our findings or conclusion.

Community Developmental Disability Organizations with Recommendations [Pages 70]

Four CDDOs included in our audit work had recommendations related to using restricted funds for non-allowable lobbying expenses. Of the four CDDOs, three disagreed with the audit's finding that the CDDO's use of state and federal funds to pay for Interhab membership dues was lobbying-related and therefore unallowable. CDDO officials responded that they do not believe Interhab's involvement in contract negotiations is lobbying and disagree with the audit's findings that the CDDOs' co-mingled funds. We reviewed the contract and believe that Interhab's direct participation in the contracting meetings is a non-allowable lobbying expense, if paid for with contracted funds. Additionally, upon further discussion with the CDDOs we believe that these CDDOs co-mingle funds from different revenue sources or comingle funds between the CDDO and their own service provider.

All Community Developmental Disability Organizations [Pages 71 to 77]

We invited all CDDO's to provide a brief response to be included in this appendix and complete responses to be included in a supplemental report. Of the 27 CDDOs, 14 provided complete responses and seven provided brief responses.

In their responses, several CDDO officials disagreed with a number of finding and conclusions. CDDOs raised disagreements with our findings related to consolidation of CDDOs, lobbying-related expenses, and several other findings. After carefully reviewing the CDDOs' responses, any supporting documents they provided, as well as our original documentation, we think our findings, conclusions, and recommendations are appropriate. We made minor corrections and clarifications to the final report as a result of feedback received from CDDO's that did not affect any of our findings or conclusion. Copies of CDDOs' complete responses and more detail about the disagreements raised are included in the supplemental report (R-14-006-Supplemental).

Office of the Secretary
New England Building
503 South Kansas Avenue
Topeka, KS 66603-3404

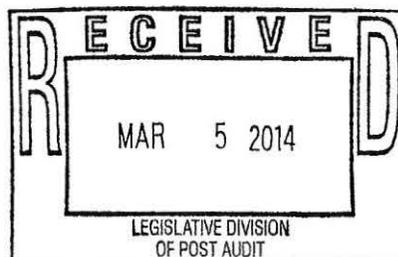


Phone: (785) 296-4986
Fax: (785) 296-0256
wwwmail@kdads.ks.gov
www.kdads.ks.gov

Shawn Sullivan, Secretary

Sam Brownback, Governor

March 5, 2013



Mr. Scott Frank, Auditor
Legislative Division of Post Audit
800 Southwest Jackson Street, Suite 1200
Topeka, Kansas 66612-2212

Dear Mr. Frank:

Thank you for the opportunity to review and comment on the draft copy of your performance audit: *CDDOs: Reviewing Issues Related to Community Services Provided for Individuals with Disabilities*. The administration and oversight of the State's Intellectual and Developmental Disability (I/DD) program is a responsibility we take seriously. It is critical that the long-term services and supports provided to the individuals served are of high quality and that there is proper oversight of this \$360 million dollar program.

The first question asked in the audit of "Do substantial conflict of interest remain for CDDOs that have their own service providers, and how could those conflicts be resolved" is a question that has now been asked in three separate LPA audits. We agree with the LPA report that the structure of the State's I/DD system creates an inherent conflict of interest for CDDOs. We found a similar structure with an inherent conflict of interest in the State's Physical Disability, Frail Elderly and Traumatic Brain Injury Home and Community Based Services (HCBS) programs. As a result, in November of 2012 we separated gatekeeping from the service provision and contracted with a separate entity to serve as the gatekeeper for these programs. The entity serving in this capacity is known as the Aging and Disability Resource Centers (ADRCs) and they are not allowed by contract to provide direct services for these HCBS programs.

From our reading of the draft LPA CDDO audit it still seems unclear as to whether there is direct evidence that CDDOs have taken advantage of the inherent conflict of interest. It is concerning that 60% of independent service providers responding to the LPA survey stated that it is a problem if a CDDO both assesses and provides services to individuals. The survey also pointed out that 75% of independent service providers responding think that a CDDO with its own service provider has an unfair advantage over other service providers and that 52% did not think that CDDO officials have taken appropriate actions to mitigate the conflict of interest.

KDADS does acknowledge and support the findings of the audit that there was no direct evidence that CDDOs took advantage of the inherent conflict of interest as it relates to extraordinary funding reviews and in quality assurance reviews. We also support the finding that independent service providers tend to serve a larger proportion of high-needs individuals than the CDDO's own service provider and that this may be a result of providers' specialization rather than CDDOs steering individuals in the referral process. This area does appear that it may warrant further study to determine why such a large percentage of the independent service providers surveyed by LPA believe that the CDDO has an unfair advantage in this respect.

KDADS would suggest that an additional area to be studied to determine if there is any direct evidence that CDDOs have taken advantage of the inherent conflict of interest is whether the level of services authorized in the plans of

36-59

care for CDDOs that provide case management and direct services is higher as compared to the CDDOs that do not provide direct services.

It is concerning that 65% of independent service providers responding did not think that KDADS has taken appropriate actions to mitigate the conflicts of interest and also that LPA determined there is weak oversight for CDDOs in several areas including extraordinary funding requests, peer review process, complaint tracking and BASIS assessments. In January 2014 our agency began a new process for extraordinary funding requests that enhances the oversight of the process. We will continue to work with CDDO and the Managed Care Organizations (MCOs) to fine-tune this process.

The agency does perform quality review for BASIS assessments, which is the functional eligibility tool that CDDOs complete. KDADS quality assurance staff conducts a review of BASIS assessments during their quality review process by applying the Kansas Lifestyle Outcomes (KLO) quality survey. The KLO reviews consumer intake and eligibility determinations, including BASIS assessments, to ensure processes are understandable, user-friendly and identifies each individual's need and eligibility for HCBS. The KDADS quality management specialists also review the eligibility determinations for timeliness and proper notification. Additionally, in October 2013, KDADS quality management specialists began administering the National Core Indicators (NCI) survey, which provides a standardized national tool for quality assurance and measurements. The CDDOs and KDADS also agreed to a new contract provision that started July 1, 2013 where the CDDOs work in cooperation with KDADS to provide ongoing training to all BASIS assessment staff.

The CDDOs and the State also agreed to new contractual measures last year with the CDDO peer review process. These measures are related to the development of an adequate statewide pool of trained reviewers, coordination and planning for each CDDO, and information to be provided prior to the peer review completed at each CDDO.

Despite these enhancements made by CDDOs and the State over the last year, we agree that measures need to be taken to enhance oversight. The CDDOs represented by Interhab and KDADS have had several discussions over the last few weeks on this subject and have agreed to make improvements to the peer review process, formal complaint tracking process and BASIS eligibility assessment system.

In order to continue improvement of the CDDO peer review process, KDADS will work with the CDDO's, one of our university contractors and our KDADS I/DD Friends and Family Advisory Team to review and update our policies and procedures related to the peer review process in order to create more consistency, a better tracking system, and to determine the proper frequency and length of each peer review.

In order to improve the system's complaint tracking, KDADS will work with the CDDO's, one of our university contractors and our KDADS I/DD Friends and Family Advisory Team to update policies and procedures around complaint tracking. This work will explore the logging, tracking and documenting of the initial complaints and their resolution.

To continue improvement of the BASIS eligibility assessment system, KDADS will work with the CDDO's and one of our university contractors to develop policies and procedures for regular sampling of the BASIS assessments for quality assurance purposes. KDADS and the CDDO's will also work with one of our university contractors to update validity testing plans and procedures for the BASIS assessment.

The agency also believes that the inclusion of the I/DD HCBS program greatly enhances the oversight of the system. Each of the 8,600 individuals served on the program are assigned a Care Coordinator from the MCO they are a member of. The Care Coordinator works in tandem with the Community Targeted Case Manager to create the integrated service place for each person. In the former system the CDDO would complete the BASIS eligibility assessment and then the Targeted Case Manager who often works for the same organization would complete the care plan and the same organization would often provide direct services. In KanCare, the Care Coordinator brings balance to the process as the MCO is authorizing the integrated service plan that is developed for the person.

30-50

The second question asked in the audit of "How could the community service system be changed to maximize the amount of funding available to provide services for individuals with developmental disabilities" is an important question to ask as Kansas spends 20% more per capita than the national average and 37% more than our border states on our I/DD HCBS program and yet we still have more than 3,000 individuals on the unserved waiting list.

We do agree with the LPA finding that Kansas could increase federal revenues by up to \$6.5 million by redirecting \$5 million in state aid to the HCBS I/DD program. We also agree that taking this action would help some individuals on the unserved waiting list access services but could potentially cause others to lose services. The CDDOs and KDADS agreed to new contract language in 2013 to increase the oversight, accountability and targeted use of I/DD State Aid funding. As per the contract, KDADS required State Aid funding to be used in three main service areas of transportation, children's services and direct services. In addition, KDADS revised the quarterly reporting of State Aid funding to include expenditures, persons served and units provided from each CDDO by service category and provider. We will report back to the Legislature on the findings and our additional dialogue with CDDOs on this topic.

We are supportive of alternative payments models such as the bundling of payments and fewer fee-for-service payments recommended by LPA. KDADS and KDHE along with a broad group of stakeholders are developing a Health Home model to be launched in July 2014, for members with serious mental illness or defined chronic conditions. Additionally, KanCare MCOs may contract with providers on other than a fee-for-service basis if agreed by the provider and approved by the State.

It is also worth noting that the State has a number of preventative controls in place to reduce the risk of inappropriate Medicaid payments and fraud. The preventative controls related to provider enrollment, the MMIS system, prior authorization and KanCare. KDADS will work with KDHE and the Attorney General's office to explore if additional fraud preventative measures are necessary, including the possibility of requiring background checks for our community service providers. Additionally, KDADS will explore if additional measures are necessary to review suspicious claims.

Finally, to the LPA recommendation related to CDDO lobbying-related activities, KDADS is in the process of reviewing audit and financial reporting policies to ensure appropriate oversight of agency funding that is allocated to CDDOs. This includes, but is not limited to, independent audit requirements, KDADS audit processes and CDDO Administrative funding reporting. We do believe that CDDOs paying membership dues to Interhab for the purpose of contract negotiation with KDADS or for training, technical assistance, and professional networking opportunities is an allowable expense and does not meet the definition of lobbying found in provision 13 of the DA-146a attachment to the KDADS contract. The agency believes that further study is warranted to determine whether other activities noted by LPA are allowable expenses through the same contract provision.

The agency's response to the all LPA recommendations for executive action is included in the attached matrix. We appreciate the opportunity to evaluate this audit report and its recommendations.

Sincerely,



Shawn Sullivan
Secretary
Kansas Department for Aging and Disability Services

30-61

Itemized Response to LPA Recommendations

Audit Title: LPA 13-006 – CDDOs: Reviewing Issues Related to Community Services Provided for Individuals with Disabilities

Agency: KDADS

| LPA Recommendation | Agency Action Plan |
|---|--|
| Question 1 | |
| 1. KDADS should develop and implement a system that allows their officials to screen and thoroughly review extraordinary funding applications before funding is approved. | KDADS HCBS staff have already implemented a plan of enhanced oversight for extraordinary funding requests. Additionally, KDADS staff will work with the CDDO's and MCO's over the next several months to propose new policy and procedures that address how these requests will be addressed moving forward. |
| 2. To address the issues of the peer review process, KDADS should: | |
| a. Develop process and procedures to ensure consistency of peer review teams. | KDADS has will work with the CDDO's, one of our university contractors and our KDADS I/DD Friends and Family Advisory Team to review and update our policies and procedures related to the peer review process and as part of this work, will determine the best course for assuring consistency in the reviews. |
| b. Develop and implement policies and procedures that provide guidance on how to follow up with CDDOs that have deficiencies identified in the peer review. Items to consider including are follow-up deadlines, penalties that will be incurred if a deficiency is not resolved, and a system to track whether the deficiency has been resolved. | KDADS will work with the CDDO's, one of our university contractors and our KDADS I/DD Friends and Family Advisory Team to update policies and procedures around the peer review process. This work will consider what follow up will occur when deficiencies are noted, whether penalties should be incurred, and a tracking system for assuring deficient issues are resolved. |
| c. Consider increasing the amount of time the peer review team has to conduct file reviews and other on-site work. | KDADS will work with the CDDO's, one of our university contractors and our KDADS I/DD Friends and Family Advisory Team to update polices and procedures around the peer review process. We will also take into consideration whether we should increase the amount of time we spend on this process as a whole, if adequate time exists to review files and whether more on-sight work is warranted. |
| d. Consider conducting peer reviews on a more frequent basis. | KDADS will work with the CDDO's, one of our university contractors and our KDADS I/DD Friends and Family Advisory Team to update the policy and procedures around the peer review process and will take into consideration whether more frequent reviews should occur. |
| 3. To address the issue of KDADS or CDDO officials not tracking complaints, KDADS officials should work with CDDOs to develop and implement a complaint tracking system that: | |

30-62

Itemized Response to LPA Recommendations

Audit Title: LPA 13-006 – CDDOs: Reviewing Issues Related to Community Services Provided for Individuals with Disabilities

Agency: KDADS

| LPA Recommendation | Agency Action Plan |
|--|---|
| Question 1 | |
| a. Requires CDDOs to log and track the status of all complaints to know whether they have been resolved. | KDADS will work with the CDDO's, one of our university contractors and our KDADS I/DD Friends and Family Advisory Team to update policies and procedures around complaint tracking. This work will explore the logging, tracking and documenting of the initial complaints and their resolution. |
| b. Requires CDDOs to submit periodic reports to KDADS on the status of all complaints. Consider including such things as the nature of the most common complaints and whether the complaints have been adequately resolved in a timely manner. | The policies developed in conjunction with the CDDO's, our university contractor and our KDADS I/DD Friends and Family Advisory Team will require submission of agreed upon elements to KDADS for on-going review. |
| 4. To address the issue of KDADS having no role in the BASIS assessment process and providing no oversight in the eligibility process, KDADS officials should develop and implement policies and procedures to ensure BASIS assessments are accurate and consistent. Two potential options exist to address this recommendation: | |
| a. KDADS staff review a sample of BASIS assessment tests and supporting documentation to ensure individuals are in the appropriate tier. | The agency does perform quality review for BASIS assessments. KDADS quality assurance staff conducts a review of BASIS assessments during their quality review process by applying the Kansas Lifestyle Outcomes (KLO) quality survey. The KLO reviews consumer intake and eligibility determinations, including BASIS assessments, to ensure processes are understandable, user-friendly and identifies each individual's need and eligibility for HCBS. The KDADS quality management specialists also review the eligibility determinations for timeliness and proper notification. Additionally, in October 2013, KDADS quality management specialists began administering the National Core Indicators (NCI) survey, which provides a standardized national tool for quality assurance and measurements. The CDDOs and KDADS also agreed to a new contract provision that started July 1, 2013 where the CDDOs work in cooperation with KDADS to provide ongoing training to all BASIS assessment staff. KDADS will work with the CDDO's and one of our university contractors to develop policies and procedures for regular sampling of the BASIS assessments for quality assurance purposes. |
| b. KDADS staff develop and conduct their own assessment to verify the validity of the BASIS assessment test results. | KDADS and the CDDO's will also work with one of our university contractors to update validity testing plans and procedures for the BASIS assessment. |

30-63

Itemized Response to LPA Recommendations

Audit Title: LPA 13-006 – CDDOs: Reviewing Issues Related to Community Services Provided for Individuals with Disabilities

Agency: KDADS

| LPA Recommendation | | Agency Action Plan |
|--------------------|--|---|
| Question 1 | | |
| 5. | If legislation is passed that prohibits CDDOs from serving as both a gatekeeper and service provider, KDADS should develop a process for approving all reorganizations. | No action plan is needed. There has not been legislation passed to prohibit CDDOs from serving as both a gatekeeper and a service provider. |
| Question 2 | | |
| 1. | To address the issue of reducing the costs associated with paying service providers on a fee-for-service basis, KDADS and KDHE should consider implementing more cost effective payment reform options such as bundled or capitated payments to community services providers | We are supportive of alternative payments models such as the bundling of payments and fewer fee-for-service payments recommended by LPA. KDADS and KDHE along with a broad group of stakeholders are developing a Health Home model to be launched in July 2014, for members with serious mental illness or defined chronic conditions. Additionally, KanCare MCOs may contract with providers on other than a fee-for-service basis if agreed by the provider and approved by the State. |

30-67

Itemized Response to LPA Recommendations

Audit Title: LPA 13-006 – CDDOs: Reviewing Issues Related to Community Services Provided for Individuals with Disabilities

Agency: KDADS

| LPA Recommendation | Agency Action Plan |
|--|--|
| Question 1 | |
| <p>2. To address the issue of reducing the risk of inappropriate Medicaid payments and fraud through effective prevention efforts, KDHE, the Attorney General, and KDADS should collaborate and develop a plan for implementing additional preventative efforts such as conducting background checks of services providers before contracting and reviewing claims for suspicious patterns before paying them.</p> | <p>There are numerous preventive activities already in place to prevent inappropriate payment of claims, including:</p> <ul style="list-style-type: none"> • Provider enrollment. The enrollment process includes a number of verifications used to ensure the provider has an active license to practice (as applicable) and the provider, owners or managing employees are not excluded from participation in government programs. This is verified by accessing the Federal Exclusion list. Exclusion verifications are conducted monthly on an ongoing basis as long as the providers remain enrolled. The enrollment staff also checks the Social Security Death Master File for the person requesting the enrollment and all included on the Disclosure of Ownership form. Additional monthly matches are performed against the KDHE's vital statistics information. • MMIS. The State's claims processing system, the MMIS, has a number of edits designed to prevent potentially fraudulent claims from being paid. Examples include verification of eligibility, verification that the service provider is the provider listed on the plan of care, and prevention of payment of claims above authorized limits. • Prior Authorization. Additionally, certain services must be prior authorized. Examples include durable medical equipment (DME), defined medications, and home health. • KanCare MCOs. The three KanCare MCOs also have comparable processes in place in their systems. <p>KDADS will work with KDHE and the AG's office to explore if additional fraud preventative measures are necessary, including the possibility of requiring background checks for our community service providers. Additionally, KDADS will explore if additional measures are necessary to review suspicious claims.</p> |

30-15

Itemized Response to LPA Recommendations

Audit Title: LPA 13-006 – CDDOs: Reviewing Issues Related to Community Services Provided for Individuals with Disabilities

Agency: KDADS

| LPA Recommendation | Agency Action Plan |
|---|--|
| Question 1 | |
| <p>3. To address the issue of CDDOs inappropriately spending funds on lobbying-related activities, KDADS should develop a process to more actively monitor expenditures, which could include sampling and reviewing actual expenditure records or requiring independent audits to review and report on such expenditures.</p> | <p>KDADS is in the process of reviewing audit and financial reporting policies to ensure appropriate oversight of agency funding that is allocated to CDDOs. This includes, but is not limited to, independent audit requirements, KDADS audit processes and CDDO Administrative funding reporting. We do believe that CDDOs paying membership dues to Interhab for the purpose of contract negotiation with KDADS or for training, technical assistance, and professional networking opportunities is an allowable expense and does not meet the definition of lobbying found in provision 13 of the DA-146a attachment to the KDADS contract. The agency believes that further study is warranted to determine whether other activities noted by LPA are allowable expenses through the same contract provision.</p> |

30-606

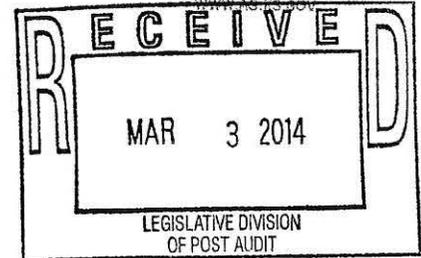


STATE OF KANSAS
OFFICE OF THE ATTORNEY GENERAL

DEREK SCHMIDT
ATTORNEY GENERAL

MEMORIAL HALL
120 SW 10TH AVE., 2ND FLOOR
TOPEKA, KS 66612-1597
(785) 296-2215 • FAX (785) 296-6296
WWW.KS.GOV

March 3, 2014



Scott Frank
Legislative Post Auditor
800 SW Jackson Street
Suite 1200
Topeka, KS 66613

Dear Scott:

Thank you for this opportunity to provide information in response to the performance audit *CDDOs: Reviewing Issues Related to Community Services Provided for Individuals with Disabilities*.

The Office of the Attorney General strongly supports efforts to reduce fraud and inappropriate payments within the Kansas Medicaid program. The audit's recommendation for additional collaboration among the paying agencies and the Office of the Attorney General is reasonable, and we would be happy to participate.

In addition, we would recommend that Kansas consider taking advantage of new changes in federal law that allow Medicaid Fraud Control Units (MFCU), such as the one housed in our office, to begin the use of data analysis to identify suspect payment patterns and focus enforcement on data-driven priorities. This change, which has been federally approved only in the past year, is potentially monumental in allowing a more efficient and effective focus on identifying Medicaid fraud.

This new data-driven approach would need to be led by the Office of the Attorney General because we house the MFCU. It would require close collaboration with the agencies that administer the Kansas Medicaid program, including access to their data. It also would require the retention on contract of analytical firms specializing in these data-review operations.

Thank you for considering our response.

Sincerely,

Derek Schmidt
Kansas Attorney General

30-67

Itemized Response to LPA Recommendations

Audit Title: LPA 13-006 – CDDOs: Reviewing Issues Related to Community Services
Provided for Individuals with Disabilities
Agency: Attorney General

| LPA Recommendation | | Agency Action Plan |
|--------------------|--|--|
| Question 2 | | |
| 2. | To address the issue of reducing the risk of inappropriate Medicaid payments and fraud through effective prevention efforts, KDHE, the Attorney General, and KDADS should collaborate and develop a plan for implementing additional preventative efforts such as conducting background checks of services providers before contracting and reviewing claims for suspicious patterns before paying them. | The Office of Attorney General would be happy to participate in these discussions regarding administration of the Medicaid program if they are initiated by the agencies that administer the Medicaid program. |

30-68



Landon State Office Building
900 SW Jackson Street, Room 900-N
Topeka, KS 66612

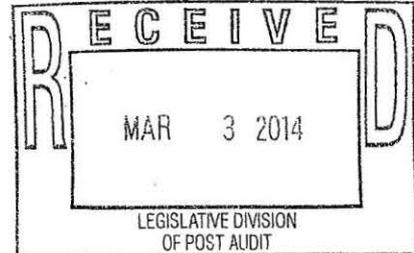
Phone: 785-296-3981
Fax: 785-296-4813
www.kdheks.gov/hcf/

Robert Moser, MD, Secretary

Sam Brownback, Governor

March 3, 2014

Mr. Scott Frank
Legislative Post Auditor
800 SW Jackson Street, Suite 1200
Topeka, KS 66612-2212



Dear Mr. Frank:

The Division of Health Care Finance (DHCF) has reviewed select recommendations related to the Kansas Department of Health and Environment (KDHE) presented in the Legislative Division of Post Audit's (LPA) report titled, *CDDOs: Reviewing Issues Related to Community Services Provided for Individuals with Disabilities*. DHCF reviewed two LPA recommendations and the LPA responses to two questions.

The KDHE response to the two LPA recommendations is included in the attached matrix. Additionally, KDHE would like to clarify that the reasons cited for delaying the transition of long term services and supports for members with intellectual or developmental disabilities into KanCare from January 2014 to February 2014 were: 1) to allow additional time for the Centers for Medicare & Medicaid Services (CMS) and Kansas to consider public comments; 2) to ensure a corrective action plan had been approved to eliminate the list of individuals receiving some but not all requested I/DD waiver services (commonly known as the "underserved list").

We appreciate the opportunity to evaluate portions of this audit report and two of its recommendations.

Sincerely,


Robert Moser, MD
Secretary
Kansas Department of Health and Environment

30-69

Itemized Response to LPA Recommendations

Audit Title: LPA 13-006 – CDDOs: Reviewing Issues Related to Community Services
 Provided for Individuals with Disabilities

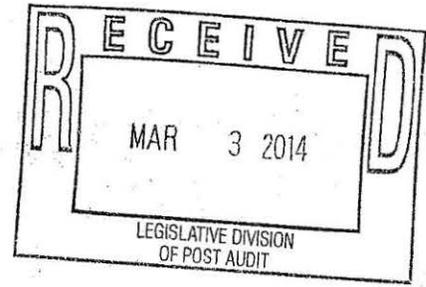
Agency: KDHE

| LPA Recommendation | | Agency Action Plan |
|--------------------|--|---|
| Question 2 | | |
| 1. | To address the issue of reducing the costs associated with paying service providers on a fee-for-service basis, KDADS and KDHE should consider implementing more cost effective payment reform options such as bundled or capitated payments to community services providers. | KDHE is committed to continuous program improvement, including in care and payment models. For example, KDHE is working with a broad group of stakeholders on development of the Health Home model, scheduled to launch in July 2014, for members with serious mental illness or defined chronic conditions. Additionally, KanCare MCOs may contract with providers on other than a fee-for-service basis if agreed by the provider and approved by the State. |
| 2. | To address the issue of reducing the risk of inappropriate Medicaid payments and fraud through effective prevention efforts, KDHE, the Attorney General, and KDADS should collaborate and develop a plan for implementing additional preventative efforts such as conducting background checks of services providers before contracting and reviewing claims for suspicious patterns before paying them. | <p>KDHE points out that numerous preventive activities are already in place to prevent inappropriate payment of claims, including:</p> <ul style="list-style-type: none"> • Provider enrollment. The enrollment process includes a number of verifications used to ensure the provider has an active license to practice (as applicable) and the provider, owners or managing employees are not excluded from participation in government programs. This is verified by accessing the Federal Exclusion list. Exclusion verifications are conducted monthly on an ongoing basis as long as the providers remain enrolled. The enrollment staff also checks the Social Security Death Master File for the person requesting the enrollment and all included on the Disclosure of Ownership form. Additional monthly matches are performed against the KDHE's vital statistics information. • MMIS. The State's claims processing system, the MMIS, has a number of edits designed to prevent potentially fraudulent claims from being paid. Examples include verification of eligibility, verification that the service provider is the provider listed on the plan of care, and prevention of payment of claims above authorized limits. • Prior Authorization. Additionally, certain services must be prior authorized. Examples include durable medical equipment (DME), defined medications, and home health. • KanCare MCOs. The three KanCare MCOs also have comparable processes in place in their systems. |

30-78



INDEPENDENCE
INCLUSION
INNOVATION



March 3, 2014

InterHab response to the findings of the Legislative Post Audit study regarding the operation and financing of the intellectual/developmental disability (I/DD) community service network.

1. We concur with the principal findings of this report that:

- a. There is no evidence of community developmental disability organizations (CDDOs) unfairly managing requests from CSPs for extraordinary funding requests;
- b. There is no evidence of CDDOs exploiting the statutory design of the system to create advantages for community service providers (CSPs) that operate under the same organizational umbrella as the CDDO;
- c. There is no evidence of CDDOs unfairly overseeing quality assurance activities;

If however it is deemed important to increase administrative activities (and related costs) to further oversee the system on the above points, we would work closely with the State to evaluate and improve the management of extraordinary funding requests, quality assurance but most especially those matters which assure the rights of and the quality of services for persons with I/DD.

2. We concur with the finding that a review of the current peer-reviewed evaluation of the CDDO system may be helpful, and we would participate with the State and other stakeholders to strengthen the process.

We would also recommend that LPA and KDADS staff provide the committee with details that illustrate the comprehensive nature of the current peer review process, and the results thus far, which give high marks to the CDDO system. We are disappointed so little mention was made of the highly positive evaluation results.

Finally, it should be noted that CDDO staff and CSP staff who currently assist in the peer review process are reimbursed for their travel expenses, but the work is a *pro bono* contribution of their employing organizations; therefore, it would be appropriate to recognize the unreimbursed costs incurred by CSPs and CDDOs, and to estimate the additional costs to be incurred should the system become more time consuming for State and Community officials. Costs such as those should be covered by the State.

30-74

3. We concur with the finding that a uniform statewide approach to track formal complaints does not exist that would enable the State to more efficiently review the nature of formal complaints and the means by which formal complaints are resolved. We would gladly assist the State in designing such a system.

4. We concur with the finding that no formal State review process exists to evaluate BASIS assessments, as had previously been the case in prior administrations, and CDDOs would cooperate as in the past with any State effort to renew procedures to routinely sample and analyze BASIS assessments.

5. We concur with the LPA analysis that a shift of State Aid SGF to the waiver would result in loss or reduction of services to an aggregated number of persons far greater than the number of persons who would benefit. For that reason, among others, we do not recommend such a funding shift.

We would also like to register our comments on the following points, where we disagree, or where we believe additional information would make for a more accurate report.

1. The report briefly describes the history (beginning on page 4) of the creation of CDDOs. However, it should be known that the Kansas system did not suddenly appear as a result of the DD Reform Act. The system began forming years before that, matured, and evolved in ways which were then formalized in statute via the DDRA. The following historical perspective may be helpful in understanding the structure of today's network:

Community service organizations slowly emerged and became active in dozens of communities to meet the expressed needs of persons needing services and their families who did not want their sons and daughters placed in out of town institutional care. This activity began before most of the eventual State and Federal policy formation on community based services.

In the 1970s as the community movement grew, State and Federal policy emerged to promote community-based services for persons with I/DD. At that point the Legislature directed every county to singly or jointly designate county government, or local private not-for-profit organizations, to be service centers for persons and their families facing the challenges of developmental disabilities. These county-run or private not for profit organizations were chosen by counties (with State approval) to be Community Mental Retardation Centers (CMRCs)

In 1995, because the system had worked well and to the increasing satisfaction of affected parties, and because far more persons were being served in community based settings than in institutions, the Legislature refined and formalized statutory assignments in the Developmental Disability Reform Act, and handed off more administrative functions to the community, which lessened the administrative overhead of the State. The new name for the CMRC role became Community Developmental Disability Organization (CDDO).

30-72

It is especially important to understand that before these organizations accepted the roles and responsibilities incumbent upon CMRCs (subsequently expanded as CDDOs) the vast majority of these organizations were direct service organizations, and most remain so today.

The current structure has sustained a strong service network, a strong collaborative relationship with State and Community officials, and multiple positive programmatic outcomes for the State. All of this occurred without requiring the creation of a new set of administrative offices, which would have certainly increased the administrative costs of the system.

2. On page 5, it is noted that CDDOs are responsible for informing individuals or families of all CSPs in the system. It should also be noted that the targeted case manager (TCM) chosen by that person or family assists in the choice-making process. TCMs are rarely employed by CDDOs.

3. It is important to examine CDDO administration (as discussed on page 6) as a percentage of the total waiver program. \$9 million which is expended for administration in the \$328 million program, represents a 2.74% administrative cost allocation. We would challenge any State sponsored program or State agency to match the CDDO administrative efficiency.

4. Regarding the discussion of the uses of State aid on pages 6 and 7 it is important also to note that the population of persons not eligible for the HCBS I/DD waiver also includes the families of children with I/DD who are ineligible for waiver services simply because of their age.

5. Regarding the discussion on page 9, the study implies that CDDOs are solely responsible for the choices made by persons, families and guardians in terms of what entity will provide services for the consumer, which is not accurate. CDDOs are responsible for making sure all CSP options are known to the family. Consumers, families and guardians then choose their case manager from among all case managers in the area, and it is the case managers that assist the person/family/guardian who then is solely responsible for choosing service providers.

6. Also regarding discussions on pages 9 and 10 as to the authority CDDOs may exert over CSPs, the report overstates CDDO authority by ignoring the reality that CSPs do not operate under the authority of the CDDO but under the licensure authority of the State. All CSPs have equal rights, including the right to administrative appeal of any decision of the CDDO.

7. Throughout the study there is little mention of the stakeholders who have and continue to collaborate to assure that system management is properly undertaken. The State agency, community service providers, and consumers and families have worked and continue to work with CDDOs to design and refine systems that have withstood a high degree of scrutiny. The IDD system has been designed and overseen employing more stakeholder collaboration than any other programs the State runs or sponsors.

8. Reference is made on pages 13 and 14 regarding areas of the State in which persons with high-need diagnostic profiles seem to be concentrated with few providers. The area in question

30-73

was not cited, but the Cowley and Butler County region is certainly one such region, if not the only one. During the closure of Winfield State Hospital and Training Center (WSHTC), the State actively supported the creation of a new specialized service provider and shepherded persons formerly living at WSHTC to that service provider. The resulting concentration of persons with that provider occurred not because of CDDO activity, but because the State wanted that to be the outcome. The CDDO was not involved due to State intervention.

9. We disagree with the assertion attributed to the State agency that contract talks are too cumbersome to enable them to successfully discuss stronger oversight activities. We believe that is not the case, and the evidence of many years of collaborative state and community negotiations would also refute that assertion.

10. We appreciate LPA staff acknowledgement that more information should be reviewed before judgments are made regarding a reconfiguration of the community I/DD network. However, we would note the mention made regarding the comparability of the Aging and Disability Resource Centers (ADRCs) to CDDOs in their scope of work. The scope of work of CDDOs is vastly more complex and varied than the work assigned to ADRCs, and such comparisons are not applicable.

11. The report is correct in pointing out on page 28 that moving State Aid dollars to the waiver would result in a loss of services to a number of persons, but failed to point out that the shift of state aid, which currently benefits all regions of the State would result in a geographic shift of most dollars from rural areas to urban areas (where the HCBS waiting list is the longest); thus, the aggregate loss of service resources would be most felt in rural counties.

12. On page 29, the reference to the manner in which funding is paid out does not take note that most rates paid to the community for HCBS services are already currently bundled into two services (day services and residential services). Further, the suggestion that the CDDO contract does not allow for payment restructuring is not accurate. Reimbursement rates are not, and have never been, subject to contract negotiations unless the State has expressed a desire to do so. In any event, CDDOs are not paid in this manner; CSPs are the parties that receive the reimbursement for services performed.

13. Regarding the discussion about tiers and BASIS assessments, the network (CSPs and CDDOs) have for years been engaged with the State on both topics, neither of which is governed as a contract item. The contracts chiefly establish the "how-to" protocols of State policies.

14. On page 30, the report calls out lobbying and asserts such actions have been undertaken with CDDO funds, making mention only of the amounts paid to InterHab, the state association representing 24 of the 27 CDDOs, and identifying contract negotiations as "lobbying", asserting that such expenditures violate the terms of the CDDO agreements with the State. After reviewing this, both with legal counsel and the State Ethics Commission, we are confident that this aspect of the report is in error. The report mentions the dollars spent and appears to have counted all dollars paid to InterHab (this amount includes training, association meetings, the

30-74

organization of technical support and professional resource networks, and the pooling of resources for legal advice and representation, and so on). We are unaware of prohibitions for CDDOs to pay dues to an association, to incur costs for attending association meetings, to receive training and technical assistance, to engage in statutorily required contract negotiations with the State, as well as the numerous non-lobbying activities that constitute the majority of the association's activities.

Summary:

The Kansas system of services and supports for persons with intellectual/developmental disabilities in the past 18 years of its current configuration has:

- widely expanded consumer choice;
- reduced state administrative overhead by assuming numerous administrative roles in the community;
- enabled thousands of families to stay together;
- helped the State close most of its institutional beds (saving taxpayers many tens of millions of dollars) and all its large privately-run institutions (saving many millions more for taxpayers);
- enabled policy makers to make I/DD services (and their economic impact) available in every county of the State (when previously the overwhelmingly biggest per capita share of taxpayer assistance for I/DD services was spent in only the 4 counties where the institutions were located); and,
- accomplished these works in an efficient manner, i.e. Kansas spends less per person today on long term services and supports for persons with I/DD than it did 20 years ago.

The Kansas I/DD system works well, because State and Community stakeholders have endeavored together to make things work well.

Kansas has a strong I/DD foundation in Kansas that should be nurtured and supported.

Years of financial neglect by State officials are the greatest barriers to the future viability of I/DD services, and that fact should receive at least as much concern and consideration as has this discussion about the administrative structure of the system.



Tom Laing, Executive Director
InterHab

30-75

Itemized Response to LPA Recommendation

LPA 13-006 – CDDOs: Reviewing Issues Related to Community Services Provided for Individuals with Disabilities

Audit Title:

Below are the responses from the four sample CDDOs that we identified in the report as having inappropriately spent funds on lobbying-related activities. Of the four CDDOs, three disagree with the audit's findings and indicate so in their action plan listed below.

| Question 2: LPA Recommendation | |
|---|---|
| <p>3. To address the issue of CDDOs inappropriately spending funds on lobbying-related activities:</p> <p>b. The four sampled CDDOs that had non-allowable expenditures identified should take the steps necessary to ensure the funding is not state or federal funding (for example, eliminate co-mingling by separating and tracking different funding sources).</p> | |
| CDDO | Agency Action Plan |
| Developmental Services of Northwest Kansas | <p>We disagree with the finding that CDDO state and federal funds were spent on non-allowable expenditures. State and Federal funds received for CDDO administration were deposited in the same bank account as other DSNWK operations for the years reviewed in this report. However, a detailed chart of accounts is maintained and cost centers are used to separate functions within the general ledger. Expenses for CDDO functions have always been tracked in separate cost centers. We can demonstrate that CDDO administration funds received from KDADS were spent in their entirety for CDDO functions and that none of those funds were used for association dues or for lobbying purposes. To demonstrate further accountability, a separate bank account in which to deposit and disburse CDDO administration funds was established as of July 1, 2013.</p> |
| Johnson County Developmental Supports | <p>JCDS will continue to review the purpose of all spending, as is the current practice. After reviewing the report JCDS, does not believe CDDO funds were inappropriately spent on lobbying.</p> <p>JCDS is an agency within Johnson County government and utilizes the county's financial system. All revenue sources and expenses are tracked and accounted for separately by federal, state, local and grant funding. As is the current practice, JCDS will continue to monitor all revenue sources and expenditures to assure they are tracked appropriately within the county's system.</p> |
| Sedgwick County CDDO | <p>SCDDO reviewed all identified non-allowable expenditures to ensure that all staff managing allocated funds understand what is and is not considered to be an allowable expense. We have made adjustments to internal practices associated with processing invoices and budgeting. Staff who work with the SCDDO budget or accounts payable have been trained on the adjustments to our practices to ensure compliance with KDADS/CDDO contract.</p> |
| Tri-Valley Developmental Services, Inc. | <p>The Tri-Valley CDDO disagrees with the audits findings that the CDDO used government funds on lobbying related activities. In order to alleviate this false impression that funds were used towards lobbying, we plan to consult with our independent auditors to determine what changes need to be made to our policies and procedures to ensure that lobbying related activities are not funded by state or federal dollars.</p> |

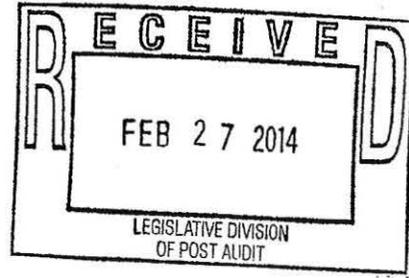
30-7.6



of Southeast Kansas

Community Developmental Disability Organization

PO Box 266 1200 Merle Evans Drive Columbus, KS 66725
620-429-8985 FAX 620-429-8723



February 27, 2014

Mr. Scott Frank
Kansas Legislative Division of Post Audit
800 SW Jackson Street, Suite 1200
Topeka, Kansas 66609

Dear Mr. Frank,

Thank you for the opportunity to review the draft audit report titled "CDDOs: Reviewing Issues Related to Community Services Provided for Individuals with Developmental Disabilities."

We believe that while the audit identified the *potential* for conflicts of interest in the developmental disability waiver system, it is very important to note that no direct evidence of CDDOs taking advantage of the perceived inherent conflict of interest was found. This conclusion bears repeating, and is in fact called out multiple times within the report, including the following findings:

- There was no direct evidence of CDDOs steering individuals toward or away from their own service providers
- No examples of CDDOs inappropriately awarding extraordinary funding were found
- No direct evidence was found of CDDOs favoring their own or other service providers when performing quality assurance reviews

With regards to the maximization of funding for community services, we are cognizant of the funding challenges which are present at a time when thousands of individuals are either unserved or underserved. We agree that further study would be needed prior to considering consolidation of CDDOs and caution that the calculated rough savings estimate could prove unreliable and should not be the basis for any action at this time.

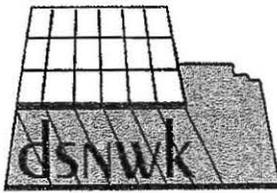
If you have any questions, please contact our office.

Sincerely,

Scott Thompson
President/CEO
CDDO of Southeast Kansas

Cliff Sperry
Vice President
CDDO of Southeast Kansas

30-75



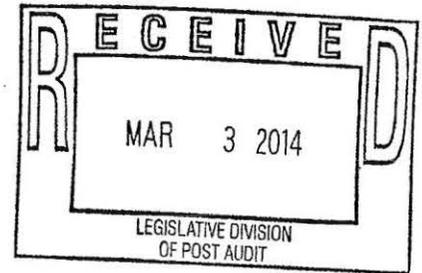
C D D O

DEVELOPMENTAL SERVICES OF NORTHWEST KANSAS, INC.

2703 Hall
(785) 625-5678
fax number (785) 625-8204

P.O. Box 1016
Hays, KS 67601
www.eddo.dsnwk.org

March 3, 2014



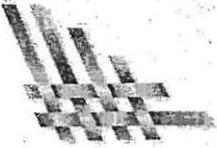
DSNWK / CDDO - Brief Response - Summary response for main LPA

The LPA charged to review CDDOs regarding conflicts of interest is not a new charge. The authors of the DDRA understood the potential, and this led to the establishment of appropriate structure, oversight, safeguards, policies and appropriate involvement of the service network and stakeholders. The leading question in the scope statement, 'Do substantial conflicts of interest remain?' set a tone for LPA reviewers to follow. No evidence was found of conflict of interest, a sharp contrast to the assertion implied. This study should stand as clear and convincing evidence that inherent conflicts of interest have been effectively mitigated within the current CDDO system structure. With no findings to the contrary, implementing changes to the DDRA (the purpose behind SS HB 2155) would be counter-intuitive. The I/DD system has relied upon a strong CDDO system focused on delivering the core functions of the DDRA: Supporting persons with I/DD and engaging them in work and activities that maximize their abilities, independence, integration, inclusion and productivity in the community. The community I/DD system, under KanCare, will need to rely more, not less, on this strength to ensure success.

Gerard L. Michaud
CDDO President

The Designated Community Developmental Disability
Organization for Northwest Kansas

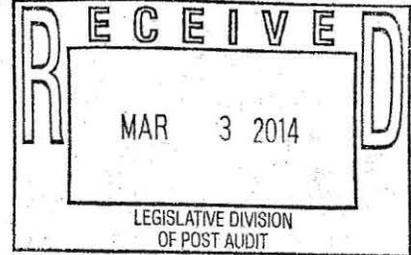
30-78



Disability Planning Organization of Kansas

A Community Developmental Disability Organization Serving Kansans

Scott Frank
Legislative Post Auditor
800 SW Jackson Street, Suite 1200
Topeka, KS 66612-2212



Dear Mr. Frank,

The auditors have been diligent and properly analyzed the scope of work, unfortunately the inquiry misses the conscientiousness with which the DD Service System has been administered since the 1995 DD Reform Law passed. This law was created in partnership with people with I/DD, family members, community service providers, state officials and legislators. It had a solid foundation and was forward thinking in its design.

Together administration personnel and CDDOs have created regulations, policies, contracts, committee practices and communication channels.

QMS field staff relate with CDDOs in all aspects of local operations, Central office consults in funding operations and processes. Affiliating providers have direct access to central office administration and field staff. The I/DD Reform system has respected the rights of people and the fairness of operations throughout its 20 years. KDADS assumed system authority during an extreme state of change in department, personnel, Medicaid system and CMS expectations. It is regrettable that this report criticizes KDADS oversight and persists with complaints that are isolated and calling out system flaws that were perhaps short-sighted when built into its original design.

We are pleased that no evidence of mismanagement of system responsibilities was found. We support strengthening the peer review process and validation of the assessment tools. The LPA Team's collaborative effort to ask questions and allow for corrections is greatly appreciated.

Kansas' definition of people with I/DD is broader than HCBS waiver program. State aid is the only funding left to serve that group of people.

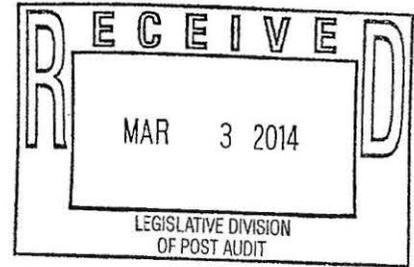
Thank you for your time and consideration.

Sincerely,

Shelia Nelson-Stout
President/CEO

30-79

JOHNSON COUNTY
KANSAS
Developmental Supports



March 3, 2014

Mr. Scott Frank
Legislative Post Auditor
Legislative Division of Post Audit
800 SW Jackson Street, Ste. 1200
Topeka, KS 66612-2212

Dear Mr. Frank,

I would like to thank the members of Legislative Post Audit for the time and effort they put towards the review of the questions included in this audit. Johnson County Developmental Supports (JCDS) is, for the most part, in agreement with the findings.

We are very pleased the audit found no evidence of conflict of interest. The CDDO system has worked effectively since the advent of the Developmental Disabilities Reform Act and CDDOs, regardless of the corporate structure they fall within, take their impartial role seriously.

There are many recommendations in the report we are in agreement with. Any recommendation would need careful consideration on the potential benefits and the potential unintended consequences of implementation.

As one of the agencies reviewed in the audit JCDS does not agree with the audit's definitions of lobbying, the amount cited in the report as lobbying and the assertion of funds being comingled. JCDS does not comingle funds. As a part of county government we utilize our county's financial system where revenue is deposited and then tracked in separate accounts, including the differentiation between the CDDO and CSP as well as federal, state, county and grant funding.

Continual system improvement is critical to providing the highest quality services to individuals with intellectual and developmental disabilities. Thank you for the attention to how supports and services are delivered to our most vulnerable Kansans.

Sincerely,

A handwritten signature in black ink, appearing to read "Chad VonAhnen".

Chad VonAhnen
Executive Director
Johnson County Developmental Supports

CV/st

30-80

Chad VonAhnen
Executive Director

(913) 826-2631 office
(913) 826-2627 fax
jocogov.org

10501 Lackman Road
Lenexa, KS 66219-1223

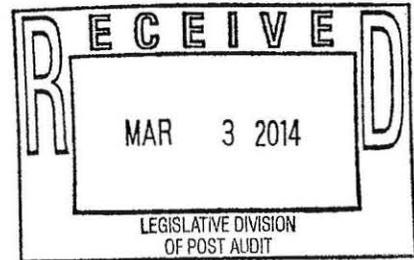


New Beginnings Enterprises, Inc.

Board of Directors

Jim Hogan,
 Chairman
 Elk County
 Rochelle Chronister,
 Secretary/Treasurer
 Wilson County
 Teresa Kirkpatrick
 Elk County
 Larry Moore
 Greenwood County
 Rachel Clasen
 Greenwood County
 Janet Rash
 Elk County
 Delbert Lampson
 Chautauqua County
 Joanie Cain
 Greenwood County

March 3, 2014



Legislative Post Audit
 800 Southwest Jackson
 Topeka, Ks 66612-2212

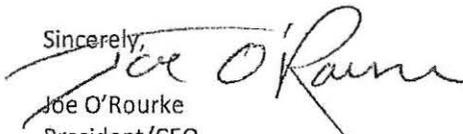
Dear Legislative Post Audit:

President/CEO
 Joe O'Rourke

Re: Response Letter

The following letter is a response to the Legislative Post Audit Draft Report dated February 18, 2014 regarding "CDDO's: Reviewing Issues Related to Community Service Providers for Individuals with Disabilities."

I participated on the March 17th call and asked the question regarding the wording of statements used in the questionnaire to guardians as being inaccurate. Your response was that the question was worded that way on purpose. I was very surprised that LPA would use that technique as a way of testing "validity". The guardian that showed me the questionnaire was confused as to the wording, mentioned that case managers do not discuss choice of services with parents/guardians, felt the survey was biased and didn't fill it out. I'm afraid you may have outsmarted yourselves and confused a great number of people along the way. I think simple, straightforward questions would get you the information needed.

Sincerely,

 Joe O'Rourke
 President/CEO

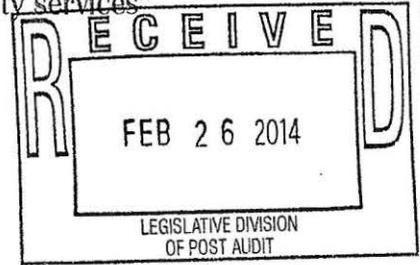
1011 Wilson St. • PO Box 344 • Neodesha, Kansas 66757
 (620) 325-3333 • Fax (620) 325-3899

30-81



Southwest
Developmental
Services, Inc.

"Helping Kansans with developmental disabilities
access quality community services"



To: Legislative Division of Post Audit

Inherent Conflict of Interest

The initial design of the CDDO system, nearly 20 years ago, created an inherent conflict of interest for CDDOs/CSPs which still exists today. The current LPA report identified several areas of conflict however there are other areas of conflict that were not addressed. These areas include the CDDO's ability to control the affiliation process for competing providers and the CDDO's control of county mill funds and State Aid funds. There is also a conflict of interest when CDDOs/CSPs need to work with KDADS in the oversight of services provided in their area. These are important issues that should have been addressed in this LPA.

CDDO Peer Review Process

We believe the current process is not consistently applied and has merely created the appearance of separation of CDDO and service provider. If the process is to be retained, we support the recommendations of the LPA to enhance the CDDO review process.

Maximizing Funding for persons with I/DD

We agree with the LPA report that consolidation of CDDO regions and separation of the CDDO from service provision would result in administrative savings for the I/DD system. However, we do not agree with the comparison of CDDO and ADRC functions. CDDO responsibilities are much broader and more complex than just gatekeeping and assessment.

We agree with the LPA report to redirect state aid to provide additional Medicaid waiver services. This would add approximately \$11.5 million to the system.

Mark G. Hinde
President and CEO
Southwest Developmental Services, Inc.

30-82

1808 Palace Drive, Suite C
Garden City, KS 67846
(620) 275-7521
800-611-4735
FAX (620) 275-1792

Community
Developmental
Disability
Organization
www.sdsicddo.com

1105 Main Street, Suite D
Great Bend, KS 67530
(620) 793-7604
888-793-7604
FAX (620) 793-7906



Administrative Offices
3740 S. Santa Fe
P.O. Box 518
Chanute, KS 66720
Telephone 620.431.7401
Facsimile 620.431.1409

Community Developmental
Disability Organization
521 W. Chanute 35 Parkway
P.O. Box 518
Chanute, KS 66720
Telephone 620.431.7401
Facsimile 620.431.4191

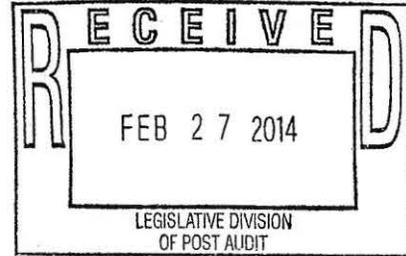
Chanute Service Center
3602 Johnson Rd
P.O. Box 518
Chanute, KS 66720
Telephone 620.431.7401
Facsimile 620.431.1520

Ft. Scott Service Center
4305 Campbell Drive
Fort Scott, KS 66701
Telephone 620.223.3990
Facsimile 620.223.3997

Iola Service Center
10 W. Jackson
Iola, KS 66749
Telephone 620.365.3307
Facsimile 620.365.3328

February 28, 2014

Legislative Post Audit
800 Southwest Jackson, Suite 1200
Topeka, KS 66612-2212



Dear Legislative Post Audit:

RE: Brief Response Letter

The following document is a brief response to the Legislative Post Audit Draft Report dated February 18, 2014 regarding "*CDDO's: Reviewing Issues Related to Community Services Provided for Individuals with Disabilities*" that we would like included in the main report.

"Tri-Valley supports the audits findings that **"For the areas we were able to assess, we did not find direct evidence that CDDO's have taken advantage of the inherent conflict of interest."** The CDDO's have been proactive in ensuring that conflicts of interest do not exist in the I/DD system. I question the audits assumption of savings and would like to point out the report found that **"without a detailed study, it is difficult to know how much actual savings could result from consolidating CDDO's."** As noted in the report, the additional funding generated by the use of state aid to draw down more federal funds would only provide services for 280 people on the waiting list versus the 600 who are currently receiving services. **If this action takes place, 320 fewer people will be receiving services.** The last issue I would like to address is in regards to the finding that CDDO's spent funds on lobbying related activities through its state association and also intermingled funds with the community service provider. **We strongly disagree with both claims.** Every year we have an independent audit conducted by a local accounting firm, utilizing accepted accounting practices to ensure that illegal activities do not occur. We utilized account codes and cost centers to track all income and expenses, again utilizing accepted accounting practices to ensure that there is a separation of funds. This is common fund accounting practices. You are not required to have a separate checking account for each funding source."

If you have any further questions, please do not hesitate to contact me at (620)431-8782.

Sincerely,

Tim Cunningham
Executive Director

30-83