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AUDITOR GENERAL

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– Article IV, Section 53 of the Michigan Constitution

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December 28, 2005

Mrs. Marianne Udow, Director
Department of Human Services
Grand Tower
Lansing, Michigan

Dear Mrs. Udow:

This is our report on our follow-up of the 3 material findings (Findings 3, 5, and 7) and 3 corresponding recommendations reported in the performance audit of Adult Protective Services, Family Independence Agency. That audit report was issued and distributed in April 2003; however, additional copies are available on request or at <<http://www.audgen.michigan.gov>>. Subsequent to our original audit, Executive Order No. 2004-38 renamed the Family Independence Agency as the Department of Human Services (DHS).

Our follow-up disclosed that DHS has not complied with the 3 recommendations.

If you have any questions, please call me or Scott M. Strong, C.P.A., C.I.A., Deputy Auditor General.

AUDITOR GENERAL

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ADULT PROTECTIVE SERVICES FAMILY INDEPENDENCE AGENCY FOLLOW-UP REPORT

INTRODUCTION

This report contains the results of our follow-up of the material findings and corresponding recommendations and the agency's preliminary response as reported in the performance audit* of Adult Protective Services (APS), Family Independence Agency (FIA) (#4326002), which was issued and distributed in April 2003. That audit report included 3 material conditions* (Findings 3, 5, and 7) and 8 other reportable conditions*.

Subsequent to our original audit, Executive Order No. 2004-38 renamed the Family Independence Agency as the Department of Human Services (DHS).

PURPOSE OF FOLLOW-UP

The purpose of this follow-up was to determine whether DHS had taken appropriate corrective measures in response to the 3 material findings and 3 corresponding recommendations.

BACKGROUND

APS is responsible for the overall administration of services to protect vulnerable adults*, including the development of policies and procedures. DHS's Field Operations Administration oversees APS workers located in DHS local offices throughout the State and is responsible for implementing the provisions of the Social Welfare Act (Act 280, P.A. 1939, as amended, being Sections 400.1 - 400.119b of the *Michigan Compiled Laws*) and APS policies and procedures.

* See glossary at end of report for definition.

APS provides protection to vulnerable adults who are at risk of harm because of the presence or threat of abuse*, neglect*, and/or exploitation*. APS's goal is that its services will:

1. Provide immediate (within 24 hours) investigation and assessment of situations referred to DHS when a vulnerable adult is suspected of being or believed to be abused, neglected, or exploited.
2. Assure that adults in need of protection are living in a safe and stable living situation*, including legal intervention, where required, in the least intrusive or restrictive manner.

In accordance with the Social Welfare Act, DHS is responsible for investigating most referrals* of suspected abuse, neglect, or exploitation against adults. For substantiated cases*, DHS is also responsible for making available to the adult the most appropriate and the least restrictive protective services*, either directly or through the purchase of such services from other agencies and/or contractors.

DHS local offices receive referrals of suspected abuse, neglect, and/or exploitation of an adult from numerous sources. Each referral is initially screened to determine if it involves an adult at risk of harm from abuse, neglect, and/or exploitation and if there is reasonable belief that the person is vulnerable and in need of protective services. Accepted referrals are assigned to an APS worker for investigation. In the investigation process, the APS worker determines if evidence exists to substantiate that a vulnerable adult is or was abused, neglected, and/or exploited. DHS policy requires that the APS worker commence the investigation immediately if the referral indicates the possibility of physical danger to the adult.

APS workers take necessary action to safeguard and enhance the welfare of the adult, if possible. Specifically, APS workers take whatever action is necessary to:

1. Respond directly to the adult's needs in cases in which other sources of assistance are inadequate or cannot be obtained promptly.
2. Develop and enhance the adult's coping abilities.

* See glossary at end of report for definition.

3. Make maximum use of resources within the adult's natural helping environment (e.g., friends and relatives) and the community.

Also, APS workers evaluate the need for voluntary or nonvoluntary legal intervention (e.g., guardianship* or conservatorship*) only when other measures fail to provide adequate protection.

SCOPE

Our fieldwork was conducted between May and August 2005.

We reviewed DHS policies and procedures to determine whether there were any changes since our audit. We interviewed DHS personnel and performed various tests of DHS case files to determine whether corrective action was taken to comply with the recommendations related to our material findings and if the corrective action was working as DHS had intended.

* See glossary at end of report for definition.

FOLLOW-UP RESULTS

INVESTIGATION AND SUBSTANTIATION OF REFERRED CASES

RECOMMENDATION AND RESPONSE AS REPORTED IN APRIL 2003:

3. Investigations

RECOMMENDATION

We recommend that APS workers conduct thorough investigations to determine whether adults suspected of being abused, neglected, and/or exploited are in need of protective services.

AGENCY PRELIMINARY RESPONSE

FIA agrees. FIA acknowledges that a percentage of investigations are deficient and will systematically monitor for compliance with statutory and policy requirements. APS will establish a work group composed of supervisors and staff to review current policies and investigative procedures and establish guidelines for supervisory case reviews. Policy will also be rewritten to clarify that all alleged harm or risk of harm must be addressed in the investigation and service plan. Minimum standards for follow-up visits will be developed for open cases. New policies will be ready for release by October 2003.

FOLLOW-UP CONCLUSION

We concluded that DHS has not complied with this recommendation. DHS has updated and clarified its policies; however, the policies have not been effective.

DHS local offices receive referrals of suspected abuse, neglect, and/or exploitation of an adult from numerous sources. Each referral is initially screened to determine if it involves an adult at risk of harm from abuse, neglect, and/or exploitation and if there is reasonable belief that the person is vulnerable and in need of protective services. We sampled 60 referrals and reviewed the resulting 12 denials, 47 investigations, and 1 referral in which DHS was unable to locate the individual and properly closed the case. We concluded that 2 (17%) of the 12 denials should have been investigated. Our review of the 47 investigations disclosed that APS workers did not always conduct a thorough review of all investigation criteria or did

not always include a review of all required criteria in the investigation. Specifically, we noted that DHS did not document or was deficient in its:

- a. Determination of the nature, extent, and cause of the abuse, neglect, or exploitation in 5 (11%) of 47 investigations.
- b. Examination of evidence in 3 (7%) of 46 denials and investigations.
- c. Review of the environment of the residence in 3 (8%) of 36 investigations.
- d. Interviewing of customers* in 2 (6%) of 36 investigations.
- e. Determination of the customer's capacity for self-care and management of personal/financial affairs in 3 (7%) of 43 investigations.

As a result, vulnerable adults may have remained at risk of suspected abuse, neglect, and/or exploitation in 5 (11%) of the 47 investigations we reviewed.

The following are examples of investigations that were not thorough or did not include all of the required criteria:

- (a) The referral source stated that the customer was in a home without a working furnace in March. The investigator contacted the home provider and confirmed that the home was without heat and learned that the customer would be moved to another facility. The investigation did not verify that the customer was moved, and if moved, the investigation did not verify that the furnace was repaired before the customer was returned.
- (b) The referral source stated that the customer was in her own home and had a medical condition that included the abnormal secretion of blood. The referral source stated that the customer could not walk or talk. The investigator attempted to contact the customer (via telephone and face-to-face) 7 times over the span of two months without success. In this instance, the supervisor and investigator made a judgment call in which they decided not to contact law enforcement and closed the case. Section 400.11b of the *Michigan Compiled*

* See glossary at end of report for definition.

Laws states that upon a request by a DHS local office, local law enforcement officers shall cooperate with the DHS local office in an investigation of suspected abuse, neglect, or exploitation and in attempting to conduct a personal visit with the adult in the adult's dwelling. If the investigator is unsuccessful in contacting the customer, the DHS local office may seek to obtain a search warrant. Also, if exigent circumstances* exist, a law enforcement officer may enter a dwelling without a search warrant.

COORDINATION AND PROVIDING OF SERVICES FOR SUBSTANTIATED CASES

RECOMMENDATION AND RESPONSE AS REPORTED IN APRIL 2003:

5. Coordination and Providing of Services

RECOMMENDATION

We recommend that FIA ensure that APS workers coordinate and provide appropriate and/or sufficient services to vulnerable adults at risk of harm from abuse, neglect, and/or exploitation.

AGENCY PRELIMINARY RESPONSE

FIA agrees and acknowledges that APS workers sometimes did not coordinate and provide appropriate and/or sufficient services. By October 2003, FIA will revise policy to establish standards for follow-up visits, including verification that services identified in the service plan are provided. Supervisors will be instructed to include verification of services delivered in their case readings.

FOLLOW-UP CONCLUSION

We concluded that DHS has not complied with this recommendation. DHS has updated and clarified its policies; however, the policies have not been effective.

Our review of 17 cases in which APS determined a need for services disclosed 3 (18%) cases for which APS had not completed an appropriate service plan. Also, our review of 24 cases in which APS provided needed services or determined that services were necessary disclosed 4 (17%) cases for which APS did not have

* See glossary at end of report for definition.

documentation to support that it had coordinated and provided appropriate and/or sufficient services.

The following are examples of two such cases:

- (a) APS provided one customer ongoing services over the span of 1½ months without documenting required goals and strategies. APS policy requires that workers complete a service plan for all unsubstantiated cases for which DHS will provide ongoing services. APS had not established a service plan for this case.
- (b) The investigator identified a goal of removing the established conservator and attended several court proceedings; however, the investigator did not document his testimony at the proceedings or any other pertinent information related to the court proceedings, if any. APS closed the case even though the aged customer was possibly at risk of homelessness. The investigator did not address the homelessness issue (including services that might be needed) or indicate why it was not a problem. Because of the lack of documentation, we could not determine whether APS provided appropriate services.

OTHER PERTINENT ISSUES

RECOMMENDATION AND RESPONSE AS REPORTED IN APRIL 2003:

7. Evaluation of APS Effectiveness

RECOMMENDATION

We recommend that FIA develop and implement a comprehensive process to evaluate and improve the effectiveness of APS in protecting vulnerable adults.

AGENCY PRELIMINARY RESPONSE

FIA agrees. FIA stated that in January 2003, it implemented an APS risk assessment to measure the level of risk and the impact of APS intervention. APS caseworkers are required to complete an assessment at case openings, at case closings, and whenever there is a perceived change in harm, risk of harm, and vulnerability. This instrument, along with additional data reporting tools in the new

Adult Services Comprehensive Assessment Program (ASCAP), provides the information needed for ongoing evaluation of the effectiveness of intervention.

FOLLOW-UP CONCLUSION

We concluded that DHS has initiated corrective action but has not yet substantially complied with the recommendation. DHS indicated that it installed enhanced programming to its ASCAP system, including risk assessments. The risk assessments are to be compared to program outcomes to help identify and evaluate APS effectiveness. However, the connection with the State's Teradata data warehouse* has not been completed; thus, DHS is not yet able to obtain reports and evaluate the effectiveness of APS.

* See glossary at end of report for definition.

GLOSSARY

Glossary of Acronyms and Terms

abuse	Harm or threatened harm to an adult's health or welfare caused by another person. Abuse includes, but is not limited to, nonaccidental physical or mental injury, sexual abuse, or maltreatment (Section 400.11(a) of the <i>Michigan Compiled Laws</i>).
APS	Adult Protective Services.
ASCAP	Adult Services Comprehensive Assessment Program.
conservatorship	A legal arrangement created by a probate court appointing a person or other entity to exercise power over the property and affairs of a person in cases in which the court has determined that the person is unable to manage his/her property or affairs effectively because of mental illness, mental deficiency, physical illness or disability, chronic use of drugs, or chronic intoxication. The court may grant the conservator broad or limited power.
customer	An adult in need of protection.
data warehouse	A very large database designed for fast processing of queries, projections, and data summaries, normally used by a large organization.
DHS	Department of Human Services.
exigent circumstances	Emergency situation in which warrantless searches are permissible in order to protect lives.
exploitation	An action that involves the misuse of an adult's funds, property, or personal dignity by another person (Section 400.11(c) of the <i>Michigan Compiled Laws</i>).

FIA	Family Independence Agency.
guardianship	A legal arrangement created by a probate court appointing a person or other entity to provide necessary supervision and care of a legally incapacitated person (one who lacks understanding or capacity to make or communicate informed decisions because of a mental or physical impairment or because of use of drugs or chronic intoxication).
material condition	A reportable condition that could impair the ability of management to operate a program in an effective and efficient manner and/or could adversely affect the judgment of an interested person concerning the effectiveness and efficiency of the program.
neglect	Harm to an adult's health or welfare caused by the inability of the adult to respond to a harmful or potentially harmful situation or by the conduct of a person who assumes responsibility for a significant aspect of the adult's health or welfare. Neglect includes the failure to provide adequate food, clothing, shelter, or medical care (Section 400.11(d) of the <i>Michigan Compiled Laws</i>).
performance audit	An economy and efficiency audit or a program audit that is designed to provide an independent assessment of the performance of a governmental entity, program, activity, or function to improve public accountability and to facilitate decision making by parties responsible for overseeing or initiating corrective action.
protective services	Services that include, but are not limited to, remedial, social, legal, health, mental health, and referral services provided in response to a report of alleged harm or threatened harm because of abuse, neglect, or exploitation (Section 400.11(e) of the <i>Michigan Compiled Laws</i>).

referral	An allegation, report, or other communication that contains information about known or suspected abuse, neglect, or exploitation of vulnerable adults.
reportable condition	A matter that, in the auditor's judgment, represents either an opportunity for improvement or a significant deficiency in management's ability to operate a program in an effective and efficient manner.
safe and stable living situation	An environment in which there is no immediate threat to the life, health, or welfare of an adult from self or others and there is reason to believe that this status will continue for the foreseeable future.
substantiated case	A case in which an APS worker determines that the subject of the complaint is an adult who is vulnerable and is threatened by actual harm because of abuse, neglect, or exploitation.
vulnerable adult	<p>A condition in which an adult is unable to protect himself or herself from abuse, neglect, or exploitation because of a mental or physical impairment or because of advanced age (Section 400.11(f) of the <i>Michigan Compiled Laws</i>).</p> <p>Also, an individual age 18 or over who, because of age, developmental disability, mental illness, or disability, whether or not determined by a court to be an incapacitated individual in need of protection, lacks the cognitive skills required to manage his or her property (Section 750.174a(11)(d) of the <i>Michigan Compiled Laws</i>).</p>

