



MICHIGAN

OFFICE OF THE AUDITOR GENERAL

AUDIT REPORT



THOMAS H. MCTAVISH, C.P.A.
AUDITOR GENERAL

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Michigan
Office of the Auditor General
REPORT SUMMARY

Performance Audit

Court Originated Liability Section (COLS)
Medical Services Administration
Department of Community Health (DCH)

Report Number:
391-0702-05

Released:
March 2007

DCH is responsible for administering the State Medicaid Plan, which includes ensuring that Medicaid is the payer of last resort. COLS's Paternity Unit identifies Medicaid costs for mothers with children not born to a marriage for recovery from the children's fathers. COLS's Casualty Unit identifies and pursues recovery of Medicaid costs from other liable parties, such as automobile, workers' compensation, general liability, and medical malpractice insurers. In fiscal year 2004-05, COLS's Medicaid cost recoveries totaled approximately \$22.4 million.

Audit Objective:

To assess the effectiveness of the Paternity Unit's efforts to identify pregnancy and birthing-related Medicaid costs for recovery by other governmental agencies.

Audit Conclusion:

We concluded that the Paternity Unit's efforts to identify pregnancy and birthing-related Medicaid costs for recovery by other governmental agencies were not effective. We noted five material conditions (Findings 1 through 5).

Material Conditions:

The material conditions for this objective disclosed that the Paternity Unit either missed or may miss an opportunity for potential Medicaid cost recoveries totaling up to an estimated \$191.8 million (\$83.0 million State General Fund/general purpose funding). Our audit was intended to identify opportunities for improvement. It was not intended to develop statistical projections related to Medicaid cost recovery opportunities. Consequently, the \$191.8 million includes some estimates derived from nonstatistical testing. Because there are various factors outside the direct control of the Paternity Unit that adversely impact the recovery of pregnancy and birthing-related Medicaid costs, some amounts may never be collectible. We could not

estimate how much of the \$191.8 million could likely be recovered. Generally, collection of the pregnancy and birthing-related costs that are recoverable occurs over many years.

The Paternity Unit did not coordinate with applicable State and local offices to ensure that the Wayne County Friend of the Court requested and sought reimbursement for the pregnancy and birthing-related Medicaid costs for Wayne County recipients involved in child support actions. The Unit missed an opportunity for potential Medicaid cost recoveries totaling up to an estimated \$114.8 million. (Finding 1)

The Paternity Unit did not include some pregnancy and birthing-related Medicaid costs for mothers with nonmarital births on the reports provided to the governmental agencies involved in recovering the costs for Medicaid from the children's fathers. The Unit either missed or may miss an opportunity for potential Medicaid cost recoveries totaling up to an estimated \$28.5 million and \$16.6 million, respectively. (Finding 2)

The Paternity Unit did not have controls to ensure that it answered the requests of local prosecuting attorney (PA) and Friend of the Court (FOC) offices for selected Medicaid recipients' pregnancy and birthing-related

Medicaid costs. The Unit missed an opportunity for potential Medicaid cost recoveries totaling up to an estimated \$29.3 million. (Finding 3)

The Paternity Unit did not coordinate with the applicable State and local offices to end the practice of establishing countywide limits on the amount of court-ordered reimbursement sought for pregnancy and birthing-related Medicaid costs. The Unit missed potential Medicaid cost recoveries totaling an estimated \$2.6 million. (Finding 4)

COLS staff did not coordinate with other Revenue and Reimbursement Division staff to effectively complete the biennial internal control assessment. Also, COLS did not complete two control activities that it had committed to complete on the assessment. (Finding 5)

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Audit Objective:

To assess the effectiveness of the Casualty Unit's efforts to maximize the recovery of accident-related Medicaid costs from other responsible parties.

Audit Conclusion:

We concluded that the Casualty Unit's efforts to maximize the recovery of accident-related Medicaid costs from other responsible parties were not effective. We noted two material conditions (Findings 6 and 7) and four reportable conditions (Findings 8 through 11).

Material Conditions:

The material conditions for this objective disclosed that the Casualty Unit missed Medicaid cost recoveries or potential Medicaid cost recoveries totaling an estimated \$15.6 million (\$6.8 million of State General

Fund/general purpose funding). Our audit was intended to identify opportunities for improvement. It was not intended to develop statistical projections related to Medicaid cost recovery opportunities. Consequently, the \$15.6 million includes some estimates derived from nonstatistical testing. Various factors will negatively impact how much of the \$15.6 million is still recoverable.

The Casualty Unit did not use State motor vehicle and workers' compensation files to identify recipients with Medicaid costs related to injuries sustained in motor vehicle accidents or at work. The Unit missed potential Medicaid cost recoveries totaling an estimated \$10.6 million. (Finding 6)

The Casualty Unit did not have a sufficient basis for accepting partial payments from some third parties as full payment of their Medicaid liabilities. Also, the Unit did not identify some accident-related Medicaid costs for recipients when pursuing recovery from other liable third parties. The Unit missed Medicaid cost recoveries totaling an estimated \$5.0 million. (Finding 7)

Reportable Conditions:

Our audit also disclosed reportable conditions related to the processing of cost recovery leads, the trauma code edit system, cost recovery thresholds, and mail opening and cash controls (Findings 8 through 11).

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Agency Response:

Our audit report contains 11 findings and 15 corresponding recommendations. DCH's preliminary response indicated that it agrees with 13 recommendations and disagrees with 2 recommendations.

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A copy of the full report can be obtained by calling 517.334.8050 or by visiting our Web site at: <http://audgen.michigan.gov>



Michigan Office of the Auditor General
201 N. Washington Square
Lansing, Michigan 48913

Thomas H. McTavish, C.P.A.
Auditor General

Scott M. Strong, C.P.A., C.I.A.
Deputy Auditor General



STATE OF MICHIGAN
OFFICE OF THE AUDITOR GENERAL
201 N. WASHINGTON SQUARE
LANSING, MICHIGAN 48913
(517) 334-8050
FAX (517) 334-8079

THOMAS H. MCTAVISH, C.P.A.
AUDITOR GENERAL

March 27, 2007

Ms. Janet Olszewski, Director
Department of Community Health
Capitol View Building
Lansing, Michigan

Dear Ms. Olszewski:

This is our report on the performance audit of the Court Originated Liability Section, Medical Services Administration, Department of Community Health.

This report contains our report summary; description of agency; audit objectives, scope, and methodology and agency responses; comments, findings, recommendations, and agency preliminary responses; two exhibits, presented as supplemental information; and a glossary of acronyms and terms.

Our comments, findings, and recommendations are organized by audit objective. The agency preliminary responses were taken from the agency's responses subsequent to our audit fieldwork. The *Michigan Compiled Laws* and administrative procedures require that the audited agency develop a formal response within 60 days after release of the audit report.

We appreciate the courtesy and cooperation extended to us during this audit.

AUDITOR GENERAL

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Description of Agency

The Department of Community Health (DCH) is responsible for administering the State Medicaid Plan* in accordance with the federal Social Security Act and various federal regulations. These require state Medicaid* programs to ensure that Medicaid is the payer of last resort by identifying and pursuing recovery from other liable parties. As a condition of Medicaid eligibility, individuals are required to assign to Medicaid their rights to recover medical costs paid by Medicaid. DCH's Revenue and Reimbursement Division, Bureau of Medicaid Financial Management and Administrative Services, Medical Services Administration, is charged with carrying out this administrative responsibility. The Court Originated Liability Section (COLS) is one of two sections within the Revenue and Reimbursement Division. COLS is made up of the Paternity Unit and the Casualty Unit.

The Paternity Unit is responsible for identifying and reporting the pregnancy and birthing-related Medicaid costs for mothers with children not born to a marriage to the local governmental agencies responsible for recovering the costs from the children's fathers. In fiscal year 2004-05, the Paternity Unit sent approximately 13,000 reports to the local governmental agencies with pregnancy and birthing-related Medicaid costs totaling approximately \$47.6 million. During this same fiscal year, Medicaid recovered approximately \$18.1 million in pregnancy and birthing-related costs. As of September 30, 2005, the Paternity Unit had three full-time employees.

The Casualty Unit is responsible for identifying and pursuing recovery of Medicaid costs for recipients* who have been involved in accidents that are the liability of automobile, workers' compensation, general liability, and medical malpractice insurers and others. In fiscal year 2004-05, the Casualty Unit recovered Medicaid costs totaling approximately \$4.3 million. As of September 30, 2005, the Casualty Unit had five full-time employees.

* See glossary at end of report for definition.

Audit Objectives, Scope, and Methodology and Agency Responses

Audit Objectives

Our performance audit* of the Court Originated Liability Section (COLS), Medical Services Administration, Department of Community Health (DCH), had the following objectives:

1. To assess the effectiveness* of the Paternity Unit's efforts to identify pregnancy and birthing-related Medicaid costs for recovery by other governmental agencies.
2. To assess the effectiveness of the Casualty Unit's efforts to maximize the recovery of accident-related Medicaid costs from other responsible parties.

Audit Scope

Our audit scope was to examine the program and other records of the Court Originated Liability Section. Our audit was conducted in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States and, accordingly, included such tests of the records and such other auditing procedures as we considered necessary in the circumstances. Our audit procedures, conducted from June 2005 through June 2006, included examination of COLS records and activities primarily for the period October 1, 2002 through September 30, 2005.

As part of our audit, we prepared supplemental information that relates to our second audit objective. Our audit was not directed toward expressing an opinion on this information and, accordingly, we express no opinion on it.

Audit Methodology

We conducted a preliminary review of COLS operations to formulate a basis for developing our audit objectives and defining our audit scope. Our preliminary review included interviewing COLS personnel; reviewing applicable laws, rules, regulations, policies, procedures, and other information; analyzing available records, data, and statistics; and obtaining an understanding of COLS management control* and operational activities.

* See glossary at end of report for definition.

To accomplish our first objective, we interviewed Paternity Unit management and staff and others to obtain an understanding of the Paternity Unit's processes for identifying recipients' pregnancy and birthing-related Medicaid costs, reporting the costs to requesting agencies, and overseeing the recovery of these costs. Also, we tested the completeness and accuracy of the Paternity Unit's responses to agency requests for Medicaid costs. In addition, we evaluated the Paternity Unit's controls over the receipt and processing of agency requests for selected Medicaid costs. Further, we evaluated the effectiveness of the Paternity Unit's efforts at ensuring that necessary agencies submitted requests for, and pursued recovery of, Medicaid costs. Also, we evaluated the completeness and accuracy of COLS's biennial internal control assessment.

To accomplish our second objective, we interviewed Casualty Unit management and staff to obtain an understanding of the Casualty Unit's processes for identifying and pursuing recovery of accident-related Medicaid costs from other responsible parties. Also, we assessed the Casualty Unit's controls over the receipt and processing of cost recovery leads*. In addition, we examined the Casualty Unit's establishment and use of cost recovery thresholds*. Further, we assessed the Casualty Unit's compliance with federal regulations that required the use of State motor vehicle and workers' compensation accident data and analysis of medical claims with specified diagnosis codes for identifying potential Medicaid cost recovery cases. Also, we tested open and closed cost recovery cases and assessed the propriety of the Casualty Unit's processing efforts. In addition, we evaluated the Casualty Unit's controls over mail opening and cash handling.

We use a risk and opportunity based approach when selecting activities or programs to be audited. Accordingly, our audit efforts are focused on activities or programs having the greatest probability for needing improvement as identified through a preliminary review. By design, our limited audit resources are used to identify where and how improvements can be made. Consequently, our performance audit reports are prepared on an exception basis.

Agency Responses

Our audit report contains 11 findings and 15 corresponding recommendations. DCH's preliminary response indicated that it agrees with 13 recommendations and disagrees with 2 recommendations.

* See glossary at end of report for definition.

The agency preliminary response that follows each recommendation in our report was taken from the agency's written comments and oral discussion subsequent to our audit fieldwork. Section 18.1462 of the *Michigan Compiled Laws* and Department of Management and Budget Administrative Guide procedure 1280.02 require DCH to develop a formal response to our audit findings and recommendations within 60 days after release of the audit report.

COMMENTS, FINDINGS, RECOMMENDATIONS,
AND AGENCY PRELIMINARY RESPONSES

EFFECTIVENESS OF THE PATERNITY UNIT'S EFFORTS TO IDENTIFY PREGNANCY AND BIRTHING-RELATED MEDICAID COSTS

COMMENT

Background: Section 722.712 of the *Michigan Compiled Laws* (a section of the Paternity Act, i.e., Act 205, P.A. 1956, as amended) allows for the father of a child not born to a marriage to be charged for up to 100% of the mother's pregnancy and birthing-related Medicaid costs. To carry out this provision, the Paternity Unit receives requests for a mother's pregnancy and birthing-related Medicaid costs from, or on behalf of, the local prosecuting attorney (PA) or Friend of the Court (FOC) office responsible for establishing paternity and for seeking court-ordered child support. When the child is at least one year old, the Paternity Unit summarizes the applicable costs and reports them to the PA or FOC office, which then seeks reimbursement from the father through the local circuit court. Orders requiring reimbursement of the pregnancy and birthing-related Medicaid costs are included in the child support order*. The Paternity Act allows the circuit court to consider the father's ability to pay and any other relevant factors when ordering reimbursement. The Paternity Act also provides for the abatement of unreimbursed Medicaid costs if the father subsequently marries and remains married to the child's mother. Generally, reimbursement takes place over many years.

Audit Objective: To assess the effectiveness of the Paternity Unit's efforts to identify pregnancy and birthing-related Medicaid costs for recovery by other governmental agencies.

Conclusion: We concluded that the Paternity Unit's efforts to identify pregnancy and birthing-related Medicaid costs for recovery by other governmental agencies were not effective. Our audit disclosed five material conditions*:

- The Paternity Unit did not coordinate with the Office of Child Support (OCS) within the Department of Human Services, the State Court Administrative Office (SCAO), and the Wayne County Friend of the Court (WCFOC) to ensure that WCFOC requested and sought reimbursement from the fathers of children not born to a marriage for the pregnancy and birthing-related Medicaid costs of Wayne County recipients involved in child support actions

* See glossary at end of report for definition.

brought under the Paternity Act during the period November 2001 through March 2004 or under the Family Support Act (FSA) (Finding 1).

- The Paternity Unit did not include some pregnancy and birthing-related Medicaid costs for mothers with nonmarital births on the reports provided to the governmental agencies involved in recovering the costs for Medicaid from the children's fathers (Finding 2).
- The Paternity Unit did not have controls to ensure that it answered the requests of local PA or FOC offices for selected Medicaid recipients' pregnancy and birthing-related Medicaid costs (Finding 3).
- The Paternity Unit did not coordinate with OCS, the SCAO, and the PA and/or FOC offices in 51 counties to end the practice of establishing countywide limits on the amount of court-ordered reimbursement sought from the fathers of children not born to a marriage for the mothers' pregnancy and birthing-related Medicaid costs (Finding 4).
- Court Originated Liability Section (COLS) staff did not coordinate with other Revenue and Reimbursement Division staff to effectively complete the biennial internal control assessment. Also, COLS did not complete two control activities that it had committed to complete on the assessment. (Finding 5)

FINDING

1. Medicaid Cost Reports for Wayne County Recipients

The Paternity Unit did not coordinate with OCS within the Department of Human Services, the SCAO, and WCFOC to ensure that WCFOC requested and sought reimbursement from the fathers of children not born to a marriage for the pregnancy and birthing-related Medicaid costs of Wayne County recipients involved in child support actions brought under the Paternity Act during the period November 2001 through March 2004 or under the FSA.

As a result of this condition, we estimate that the Paternity Unit missed an opportunity for the potential recovery of pregnancy and birthing-related Medicaid costs from the fathers of children not born to a marriage totaling up to \$48.3 million (\$20.9 million of State General Fund/general purpose funding) for Paternity Act cases during the period November 2001 through October 2003 and \$66.5 million

(\$28.8 million of State General Fund/general purpose funding) for FSA cases from calendar years 2003 through 2005. Also, the Paternity Unit would have missed an opportunity for the potential recovery of a significant dollar amount of pregnancy and birthing-related Medicaid costs for FSA cases originated in Wayne County during calendar years 1995 through 2002. Because recovery of the Medicaid costs is subject to various factors that are outside the direct control of the Paternity Unit and Medicaid, we could not estimate how much of the \$114.8 million could likely be recovered. For example, these factors would include the ability to establish paternity, when appropriate, and child support orders with Medicaid repayment provisions, repayment by the father, and marriage of the parents after the establishment of the child support order.

Most actions to establish child support orders for children not born to a marriage are filed under the Paternity Act or the FSA (i.e., Act 138 of 1966, as amended). If the father has not acknowledged paternity, the Paternity Act applies; if the father has acknowledged paternity, the FSA applies. Although the FSA does not contain a Medicaid reimbursement provision, the 1995 Michigan Court of Appeal's ruling in *Witt v Seabrook* provided that the reimbursement provisions of the Paternity Act also applied to FSA child support cases because the two statutes shared a common purpose.

In Wayne County, WCFOC is responsible for seeking court-ordered reimbursement of Medicaid pregnancy and birthing-related costs. WCFOC obtains Medicaid costs from a report provided by the Paternity Unit at its request or the request of OCS. Our review disclosed:

a. Paternity Act Cases

Paternity Unit records indicated that from November 2001 through January 2003 the Paternity Unit did not receive requests for the pregnancy and birthing-related Medicaid costs of Wayne County recipients involved in child support cases filed under the Paternity Act from WCFOC or OCS. In a letter to OCS dated September 26, 2002, the Paternity Unit requested assistance in restarting the flow of requests. Although the Paternity Unit began receiving requests for the pregnancy and birthing-related Medicaid costs for a limited number of Wayne County recipients in February 2003, it was not until approximately April 2004 that the flow of requests reached pre-November 2001 levels. In total, we estimate that during the 29-month period, WCFOC and OCS did not send to the Paternity Unit over 13,700 requests for Wayne

County recipients involved in child support cases filed under the Paternity Act. The Paternity Unit did not seek assistance from OCS, WCFOC, or others to obtain the unsubmitted requests.

WCFOC informed us that prior to approximately November 2003, the circuit court in Wayne County did not order the reimbursement of a recipient's pregnancy and birthing-related Medicaid costs in Paternity Act cases until it received a report of Medicaid costs from the Paternity Unit. We estimate that 12,063 (88.0%) of the 13,700 requests were from this period. Subsequent to this period, pending the receipt of a report from the Paternity Unit, the circuit court began to estimate Medicaid costs and order reimbursement to begin immediately.

b. FSA Cases

WCFOC informed us that it did not submit requests for, or seek court-ordered reimbursement of, the pregnancy and birthing-related Medicaid costs for child support cases brought under the FSA. We spoke with 3 of the other 82 counties and they informed us that they did seek reimbursement in these cases. As identified in the annual reports of the SCAO, WCFOC originated 17,385 new FSA child support cases in calendar years 2003 through 2005.

The Paternity Unit informed us that it did not coordinate with the necessary agencies to obtain the unsubmitted requests or to ensure that WCFOC sought reimbursement of applicable Medicaid costs because the Paternity Unit's responsibility was limited to compiling and reporting Medicaid costs and it did not have the authority to mandate the changes necessary to rectify the cited conditions. However, as the State agency responsible for administering Medicaid, the Department of Community Health (DCH) must ensure that Medicaid is the payer of last resort. This would include making reasonable efforts to obtain and answer the previously unsubmitted requests and coordinating with the necessary parties to ensure that WCFOC seeks reimbursement for pregnancy and birthing-related Medicaid costs.

RECOMMENDATION

We recommend that the Paternity Unit coordinate with OCS within the Department of Human Services, the SCAO, and WCFOC to ensure that WCFOC requests and seeks reimbursement from the fathers of children not born to a marriage for the

pregnancy and birthing-related Medicaid costs of Wayne County recipients involved in child support actions brought under the Paternity Act during the period November 2001 through March 2004 and under the FSA.

AGENCY PRELIMINARY RESPONSE

DCH generally agrees with the recommendation that the Paternity Unit needed to improve its efforts during the audit period to coordinate with OCS, the SCAO, and WCFOC to encourage WCFOC to file requests for pregnancy and birthing-related Medicaid costs and to seek reimbursement from fathers in child support actions brought under the Paternity Act and FSA. However, DCH stated that, while Medicaid is generally required by federal regulation to be the payer of last resort, it needs to be clearly understood that all of the expenditures referenced in the finding represent legitimate expenditures made on behalf of Wayne County Medicaid eligible recipients. DCH also stated that, by the very nature of this type of expenditure, potential recoveries can only be determined and pursued after the initial expenditures have been incurred. In addition, DCH stated that, as noted by the auditors, it is impossible to accurately project a realistic amount of the Medicaid costs that can be recovered. Further, DCH stated that it also needs to be clearly understood that DCH is only responsible for providing the pregnancy and birthing-related costs in response to the specific requests it receives and any amounts identified for potential recovery are limited to the amount ordered by the court. Also, DCH stated that it lacks the authority to directly pursue collections and does not have the resources or technical capability to measure actual collections at the recipient level or to even determine the potential for actual recovery. In addition, DCH stated that, while a substantial number of requests were not received during the audit period, recoveries were being pursued based on actions brought under the Paternity Act between November 2003 and April 2004. Further, DCH stated that, during this period, recoveries were being pursued and collected based on estimates ordered by the circuit court.

DCH stated that, as mentioned in the finding, it has been receiving and processing requests received pursuant to the Paternity Act on a regular basis since approximately April 2004. DCH also stated that, during the audit period, it had no other means available to identify cases involving Medicaid recipients who may have been involved in actions brought under the Paternity Act and FSA. In addition, DCH stated that, to address this limitation, it is attempting to develop a system that will enable it to identify and provide the information without having to

wait for specific requests for information. Further, DCH stated that it has now employed the services of a contractor to respond to these requests. Also, DCH stated that it will respond to additional follow-up requests it receives from Wayne County pertaining to the time period referenced in the audit. However, DCH stated that because of the cost involved in answering these requests, DCH agrees to respond to Wayne County requests for cases for which there is a reasonable chance of collection.

OFFICE OF THE AUDITOR GENERAL EPILOGUE

In its response, DCH stated:

DCH is only responsible for providing the pregnancy and birthing-related costs in response to the specific requests it receives and any amounts identified for potential recovery are limited to the amount ordered by the court. DCH lacks the authority to directly pursue collections . . .

The Office of the Auditor General (OAG) agrees that DCH lacks the authority to directly pursue collection of the pregnancy and birthing-related Medicaid costs. Accordingly, and because DCH is the State agency responsible for administering Medicaid, we recommend that DCH coordinate with OCS, the SCAO, and WCFOC to ensure that WCFOC requests and seeks reimbursement from the fathers of children not born to a marriage for the pregnancy and birthing-related Medicaid costs of Wayne County recipients involved in child support actions brought under the Paternity Act during the period November 2001 through March 2004.

In its response, DCH stated:

As noted by the auditors, it is impossible to accurately project a realistic amount of the Medicaid costs that can be recovered.

The OAG believes that by DCH complying with the recommendation and proactively coordinating with the other parties involved in the recovery process, DCH should be able to reasonably estimate potential Medicaid cost recoveries. The OAG also believes that by taking a proactive role in the Medicaid cost recovery process, DCH will substantially increase the chance of Medicaid cost recovery.

In its response, DCH stated:

While a substantial number of requests were not received during the audit period, recoveries were being pursued based on actions brought under the Paternity Act between November 2003 and April 2004. During this period, recoveries were being pursued and collected based on estimates ordered by the circuit court.

The OAG concurs with this DCH statement and, accordingly, the \$48.3 million estimate did not include missed recoveries for the period November 2003 through April 2004.

In its response, DCH stated:

DCH will respond to additional follow-up requests it receives from Wayne County pertaining to the time period referenced in the audit.

It is the OAG's position that as the State agency responsible for administering Medicaid, DCH should help ensure that recovery of Medicaid costs is pursued. This would include DCH proactively coordinating with the necessary parties to help ensure that DCH obtains the previously unsubmitted requests from Wayne County and that recovery of the Medicaid costs is pursued.

In its response, DCH stated:

Because of the cost involved in answering these requests, DCH agrees to respond to Wayne County requests for cases for which there is a reasonable chance of collection.

According to the terms of its vendor contract that DCH references in its response, the OAG estimates that it would cost DCH approximately \$162,000 to have its vendor complete the 29,448 reports, which contain potentially recoverable Medicaid costs estimated at \$114.8 million. The \$162,000 estimate is based on the vendor's per record charge to complete the reports using Medicaid's electronic payment records as stated in the original contractual agreement. There would be additional costs associated with seeking recovery.

It is unclear how DCH will determine which cases will have a reasonable chance of recovery. Consequently, and because of the significant Medicaid cost recovery potential, DCH should clearly define its methodology for making these determinations in its formal response to this report, which is required by Section 18.1462 of the *Michigan Compiled Laws* and Department of Management and Budget Administrative Guide procedure 1280.02.

FINDING

2. Accuracy of Medicaid Cost Reports

The Paternity Unit did not include some pregnancy and birthing-related Medicaid costs for mothers with nonmarital births on the reports provided to the governmental agencies involved in recovering the costs for Medicaid from the children's fathers.

As a result, we estimate that the Paternity Unit missed an opportunity for the potential recovery of pregnancy and birthing-related Medicaid costs totaling up to \$28.5 million (\$12.3 million of State General Fund/general purpose funding) for reports completed during the 34-month period ended July 31, 2005. In addition, if the Paternity Unit does not correct the cited deficiencies, we estimate that the Paternity Unit will miss an opportunity for the potential recovery of pregnancy and birthing-related Medicaid costs totaling up to \$16.6 million (\$7.2 million of State General Fund/general purpose funding) for reports that the local PA or FOC offices requested but that the Paternity Unit had not completed as of July 31, 2005. Because recovery of the Medicaid costs is subject to various factors that are outside the direct control of the Paternity Unit and Medicaid, we could not estimate how much of the \$45.1 million could likely be recovered. For example, these factors would include the ability to establish paternity and child support orders with Medicaid repayment provisions, repayment by the father, and marriage of the parents after the establishment of the child support order.

We reviewed the Paternity Unit's reporting of pregnancy and birthing-related Medicaid costs during the 34-month period ended July 31, 2005 and noted:

- a. The Paternity Unit did not include the cost of the maternity case rate payments* made to recipients' health maintenance organizations (HMOs) in its

* See glossary at end of report for definition.

reported costs. Instead, the Paternity Unit mistakenly reported the costs of the monthly enrollment premiums paid to the HMOs for the recipients during their pregnancies and one month thereafter (up to 10 months). The maternity case rate payment supplemented the monthly enrollment premiums paid by Medicaid for the recipients' general health care as the monthly enrollment premiums did not cover pregnancy and birthing-related costs.

The maternity case rate payment was substantially higher than the total monthly enrollment premiums paid for a recipient. As a result, we estimate that the Paternity Unit underreported Medicaid costs by \$23.0 million for the 8,559 reports completed during the 34-month period. In addition, we estimate that the Paternity Unit will underreport Medicaid costs by \$13.4 million for the 4,998 reports that had been requested by other governmental agencies but not completed as of July 31, 2005. The Paternity Unit underreported Medicaid costs related to maternity case rate payments for births dating back to October 2000, as this is when Medicaid began making these payments.

The Paternity Unit could not provide us with any rationale supporting its decision to exclude maternity case rate payments from reported costs.

- b. The Paternity Unit did not include Medicaid costs for maternal support services and pregnancy-related pharmaceutical products in its reported costs. Maternal support services include social work, nutrition, nursing, counseling, and beneficiary advocacy services provided to Medicaid recipients with risk factors that could result in increased infant mortality and morbidity.

We reviewed the reported costs and Medicaid payment records for 25 randomly selected recipients and noted that Medicaid had incurred maternal support services and/or pregnancy-related pharmaceutical product costs for 13 (52.0%) recipients, averaging \$352 each. Our audit was intended to identify opportunities for improvement. Our audit was not intended to develop statistical projections related to Medicaid cost recovery opportunities. However, if our identified occurrence rate (52.0%) and average cost per occurrence (\$352) is representative of those in the population of reports completed during the 34-month period, we estimate that the Paternity Unit would have underreported Medicaid costs by \$5.2 million. In addition, we estimate that the Paternity Unit will underreport Medicaid costs by \$3.0 million

for the 16,618 reports that had been requested by other governmental agencies but not completed as of July 31, 2005.

The COLS manager informed us that the computer system used by the Paternity Unit to quantify pregnancy and birthing-related Medicaid costs had not been programmed to pick up costs for maternal support services and pregnancy-related pharmaceutical products. The manager also informed us that the Paternity Unit had not reviewed the system's programming in several years to ensure that it was appropriately quantifying all pregnancy and birthing-related costs.

- c. The Paternity Unit did not include the costs for postpartum care delivered more than one month after the child's birth in its reported costs. Our review of the 25 randomly selected cases identified in item b. disclosed that Medicaid had incurred costs for postpartum care delivered more than one month but less than two months after a child's birth for 4 (16.0%) recipients, averaging \$69 each. If similar conditions exist in the remaining reports completed during the 34-month period, we estimate that the Paternity Unit would have underreported Medicaid costs by \$317,000. In addition, we estimate that the Paternity Unit will underreport Medicaid costs by an additional \$184,000 when it completes the reports that had been requested by other governmental agencies but not completed as of July 31, 2005.

The Paternity Unit informed us that it did not report costs for postpartum care received more than one month after the child's birth because the recipient was supposed to receive this care within two weeks of the child's date of birth. None of the Medicaid costs that we identified were for postpartum care services received less than one month after the child's birth.

RECOMMENDATIONS

We recommend that the Paternity Unit implement measures to ensure that it includes all pregnancy and birthing-related Medicaid costs for mothers with nonmarital births on the reports provided to the governmental agencies involved in recovering the costs for Medicaid from the children's fathers.

We also recommend that the Paternity Unit amend previously submitted inaccurate reports to include all omitted pregnancy and birthing-related costs.

AGENCY PRELIMINARY RESPONSE

DCH agrees with the first recommendation and, while agreeing in principle with the second recommendation, stated that it does not intend to devote scarce resources to a project for which it lacks the information, such as the court's willingness to amend orders, and technical capability to determine whether it would be cost-effective to amend previously submitted reports that contained incomplete information. DCH stated that this is particularly true in light of the many factors that influence the recovery potential for pregnancy and birthing-related Medicaid expenditures and the difficulty in estimating a recoverable amount, as noted by the auditors. DCH also stated that DCH has hired a contractor to generate reports in response to requests for pregnancy and birthing-related expenses. DCH stated that, because of the cost involved in generating these reports and based on the uncertainty surrounding the collectivity of any additional amounts, DCH does not intend to amend previously submitted incomplete reports without being able to determine if such an endeavor would be cost-effective.

DCH stated that it has implemented corrective measures that include all pregnancy and birthing-related Medicaid costs for mothers with nonmarital births on the reports provided to the governmental agencies involved in recovering Medicaid costs from the children's fathers. Also, DCH stated that, in December 2005, it established new formulas for gathering pregnancy and birthing-related Medicaid expenditures that incorporate the maternity case rate and pharmaceutical product costs, when applicable. In addition, DCH stated that payments made to maternal support services providers are now included, when appropriate. Further, DCH stated that it has also changed its practice and has begun using a 90-day postdelivery end date for gathering postpartum care costs.

OFFICE OF THE AUDITOR GENERAL EPILOGUE

In its response, DCH stated:

DCH . . . does not intend to devote scarce resources to a project for which it lacks the information, such as the court's willingness to amend orders, and technical capability to determine whether it would be cost-effective to amend previously submitted reports that contained incomplete information. . . . DCH has hired a contractor to generate reports in response to requests for pregnancy and birthing-related expenses. Because of the cost involved in generating these reports and based on the

uncertainty surrounding the collectivity of any additional amounts, DCH does not intend to amend previously submitted incomplete reports without being able to determine if such an endeavor would be cost-effective.

The OAG believes that DCH should attempt to obtain the necessary information that will allow DCH to assess the cost-effectiveness of amending the inaccurate reports. As part of the assessment, DCH should consider its cost to amend the necessary reports. According to the terms of its vendor contract that DCH references in its response, the OAG estimates that it would cost DCH approximately \$47,000 to have its vendor amend the 8,559 reports to include additional potentially recoverable Medicaid costs totaling approximately \$23.0 million. The \$47,000 estimate is based on the vendor's per record charge to complete the reports using Medicaid's electronic payment records as stated in the original contractual agreement. There would be additional costs associated with seeking recovery.

FINDING

3. Processing of Requests for Medicaid Costs

The Paternity Unit did not have controls to ensure that it answered the requests of local PA or FOC offices for selected Medicaid recipients' pregnancy and birthing-related Medicaid costs.

As a result, we estimate that the Paternity Unit missed an opportunity for the potential recovery of Medicaid costs totaling up to \$29.3 million (\$12.7 million of State General Fund/general purpose funding). Because recovery of the Medicaid costs is subject to various factors that are outside the direct control of the Paternity Unit and Medicaid, we could not estimate how much of the \$29.3 million could likely be recovered. For example, these factors would include the ability to establish paternity and child support orders with Medicaid repayment provisions, repayment by the father, and marriage of the parents after the establishment of the child support order.

Section 722.717 of the *Michigan Compiled Laws* requires the local PA or FOC office to file a request for repayment with the local circuit court before the child reaches 18 years of age. If the child meets certain educational requirements,

Section 552.605b of the *Michigan Compiled Laws* allows the request for repayment to be filed until the child reaches 19.5 years of age.

We analyzed the paternity database and identified 8,827 unanswered requests that the Paternity Unit received from December 15, 1988 through September 30, 2003. The paternity database was the Paternity Unit's only record of requests. COLS management informed us that it was unaware that there were unanswered requests from this period as it had not reviewed the paternity database for them and did not have any of the original requests from this period. COLS management suggested that the missing original requests must have been lost or destroyed.

RECOMMENDATIONS

We recommend that the Paternity Unit implement controls to ensure that it answers the requests of local PA or FOC offices for selected Medicaid recipients' pregnancy and birthing-related Medicaid costs.

We also recommend that the Paternity Unit answer the previously unanswered requests.

AGENCY PRELIMINARY RESPONSE

DCH agrees with the first recommendation and stated that, while in agreement with the finding that the paternity database indicated that there were unanswered requests, DCH does not have the resources or ability to identify cost information dating back nearly 18 years as outlined in the second recommendation. Also, DCH stated that most of the pregnancy and birthing-related cost information could only be retrieved manually, if at all, which makes undertaking such a task administratively impossible. In addition, DCH stated that, because potential recovery is limited to an amount determined through the courts and potential recovery, as noted by the auditors, cannot be reasonably estimated, DCH is not willing to incur the additional cost that would be required in an attempt to honor these requests when there is no expectation that such an exercise would be cost-effective.

DCH stated that it has taken steps to ensure that all current requests are processed. Also, DCH stated that, in December 2005, DCH implemented the Paternity and Casualty Recovery System (PCRS) that provides the Paternity Unit with the ability to track and report on all pregnancy and birthing-related expenditure

requests. In addition, DCH stated that, in an effort to improve a process that clearly has limitations, it is attempting to develop a system that will enable it to identify and provide FOC offices with pregnancy and birthing-related cost information involving Medicaid recipients, without having to wait for specific requests for information. However, DCH stated that, even if it is successful in developing such a system, it will still have no reliable means to estimate how much of these expenditures can ultimately be recovered.

OFFICE OF THE AUDITOR GENERAL EPILOGUE

In its response, DCH stated:

DCH does not have the resources or ability to identify cost information dating back nearly 18 years as outlined in the second recommendation. Most of the pregnancy and birthing-related cost information could only be retrieved manually, if at all, which makes undertaking such a task administratively impossible.

The OAG noted that DCH has electronic records of Medicaid cost information for the most recently completed six-year period and microfiche records for prior periods dating back to at least January 1985. The availability of this information should allow for the completion of most of the unanswered requests.

In its response, DCH stated:

Because potential recovery is limited to an amount determined through the courts and potential recovery, as noted by the auditors, cannot be reasonably estimated, DCH is not willing to incur the additional cost that would be required in an attempt to honor these requests when there is no expectation that such an exercise would be cost-effective.

Although the finding states that, because of various factors, the OAG could not estimate how much of the \$29.3 million could likely be recovered, the OAG believes that by proactively working with the other parties involved in the recovery process, DCH should be able to assess the cost-effectiveness of completing the requested reports. The OAG also believes that, by taking a proactive role in the Medicaid cost recovery process, DCH will substantially increase its chance of Medicaid cost recovery.

According to the terms of its vendor contract that DCH cited in responses to Findings 1 and 2, the OAG estimates that it would cost DCH up to approximately \$159,000 to have its vendor complete the 8,827 requested reports, which would contain potentially recoverable Medicaid costs estimated at \$29.3 million. The \$159,000 estimate is based on the vendor's per record charge to complete the reports using Medicaid's microfiche payment records as stated in the original contractual agreement. There would be additional costs associated with seeking recovery.

FINDING

4. County Reimbursement Limits

The Paternity Unit did not coordinate with OCS, the SCAO, and the PA and/or FOC offices in 51 counties to end the practice of establishing countywide limits on the amount of court-ordered reimbursement sought from the fathers of children not born to a marriage for the mothers' pregnancy and birthing-related Medicaid costs. During the period October 1, 2002 through July 31, 2005, we estimate that these limits reduced potential Medicaid reimbursements by \$2.6 million (\$1.1 million State General Fund/general purpose funding).

Section 722.712 of the *Michigan Compiled Laws* allows for the father of a child not born to a marriage to be charged for up to 100% of the mother's pregnancy and birthing-related Medicaid costs. Also, it requires the local circuit court handling the father's child support case to determine the actual amount of reimbursement owed by the father, taking into consideration his ability to pay and any other relevant circumstances. Therefore, while the law allows for judicial discretion in determining the amount owed by each father on a case-by-case basis, it does not provide for countywide limits.

Paternity Unit records identified 51 counties that have established limits ranging from \$500 to \$10,000. The Paternity Unit informed us that it did not consider these limits to be in compliance with the Paternity Act, but it did not attempt to coordinate with other applicable parties to discontinue the use of the limits because the extent of its responsibility is to compile and report Medicaid costs to the PA or FOC offices. The PA or FOC offices are responsible for seeking court-ordered reimbursement of Medicaid costs in applicable child support cases. However, as the State agency responsible for administering Medicaid and as a condition of receiving federal Medicaid funds, DCH must ensure that Medicaid is the payer of

last resort. This would include ensuring that reimbursement is sought for Medicaid costs that, according to State law, are the responsibility of other parties.

RECOMMENDATION

We recommend that the Paternity Unit coordinate with OCS, the SCAO, and the PA and/or FOC offices in 51 counties to end the practice of establishing countywide limits on the amount of court-ordered reimbursement sought from the fathers of children not born to a marriage for the mothers' pregnancy and birthing-related Medicaid costs.

AGENCY PRELIMINARY RESPONSE

DCH agrees with the finding that it did not make a concerted effort to have these county-imposed limits eliminated and agrees with the recommendation to the extent that it is willing to work with local governmental agencies to end this practice. However, DCH does not agree with the inference that it may not be in compliance with the general federal regulatory requirements that Medicaid must be the payer of last resort. By the very nature of this type of expenditure, potential recoveries can only be determined and pursued after the initial and appropriate expenditure has been incurred. Without direct statutory authority, it is just not possible for DCH to satisfy the regulatory criteria referenced in the finding. Nevertheless, DCH will work with appropriate State and local agencies to attempt to develop a solution to the use of countywide limits. It should be noted that, even if the practice of using countywide limits is discontinued, this will not necessarily result in increased court-ordered reimbursement or potential recoveries, because of the allowance of judicial discretion.

FINDING

5. Biennial Internal Control Assessment

COLS staff did not coordinate with other Revenue and Reimbursement Division staff to effectively complete the biennial internal control assessment. Also, COLS did not complete two control activities that it had committed to complete on the assessment. As a result, DCH could not reasonably ensure that COLS identified its most critical functions and their related risks and implemented sufficient control and monitoring activities to alleviate or minimize those risks.

Section 18.1485 of the *Michigan Compiled Laws* requires the head of each principal department to provide a biennial report on the evaluation of the principal department's internal accounting and administrative control system. The report shall include a description of any material inadequacy or weakness discovered for the period reviewed and the plans and a time schedule for correcting the internal accounting and administrative control system. The State Budget Director developed guidance, entitled *Evaluation of Internal Controls - A General Framework and System of Reporting*, for use by principal departments in performing and reporting on evaluations of their internal control systems. To complete the departmental evaluation, DCH required individual assessable units (such as the Revenue and Reimbursement Division) to assess their operations and identify their top 10 functions/responsibilities. DCH provided instructions to the assessable units on how to complete these assessments.

The Revenue and Reimbursement Division completed an assessment for fiscal years 2002-03 and 2003-04. Within the assessment, the Division stated that its operations encompassed only three significant operating functions, one of which related to COLS. Specifically, this operating function related to the Casualty Unit's pursuit of reimbursement of Medicaid costs for automobile insurance, workers' compensation, general liability, and medical malpractice claims. An assessment of an operating function would be the review and evaluation of the control and monitoring activities relating to the specific function. Our review disclosed:

- a. COLS did not identify any critical functions for the Paternity Unit even though the Paternity Unit's operations contributed \$18.4 million (82.6%) of COLS's total Medicaid recoveries for fiscal year 2003-04.
- b. The Casualty Unit did not complete the control activities that it identified for addressing its risk of losing third party reimbursements of Medicaid costs. Obtaining these reimbursements is the Casualty Unit's primary function. The assessment stated that the Casualty Unit electronically matched its paid claims files with automobile accident and workers' compensation reports to identify and pursue reimbursement of Medicaid claims from liable insurance companies, employers, or others. Also, the assessment stated that the Casualty Unit identified Medicaid claims with trauma-related diagnosis codes and sent questionnaires to applicable recipients to aid it in determining if another party was liable for the costs. However, as noted in Findings 6 and 9,

the Casualty Unit had not completed these control activities during part or all of the two-year period.

- c. Neither COLS staff nor other Revenue and Reimbursement Division staff determined if specific control activities adequately reduced the risks associated with COLS's cited operating function. DCH instructions require the assessable units to state if the control activities are adequate to reduce risk.
- d. Neither COLS staff nor other Revenue and Reimbursement Division staff identified material weaknesses in COLS operations that were identified during the course of our audit. For example, the assessment did not report on the Casualty Unit's failure to use automobile accident and workers' compensation reports in its cost recovery efforts.

RECOMMENDATIONS

We recommend that COLS staff coordinate with other Revenue and Reimbursement Division staff to effectively complete the biennial internal control assessment.

We also recommend that COLS complete all control activities that it has committed to complete on the biennial internal control assessment.

AGENCY PRELIMINARY RESPONSE

DCH agrees with both recommendations and stated that it will have COLS staff coordinate with other Revenue and Reimbursement Division staff to effectively complete the biennial internal control assessment and to complete all control activities that it has committed to complete.

For the 2006 assessment, DCH stated that it changed its assessment format, added new features to the assessment work sheet, performed more thorough departmentwide training for managers, and will conduct a much more thorough review of the completed assessment work sheets to ensure that risks have been adequately identified and evaluated.

EFFECTIVENESS OF THE CASUALTY UNIT'S EFFORTS TO MAXIMIZE RECOVERY OF ACCIDENT-RELATED MEDICAID COSTS

COMMENT

Background: The Casualty Unit receives requests from attorneys, insurance companies, courts, Medicaid recipients, and others for Medicaid payment information. Frequently, these requests serve as leads for the Casualty Unit to investigate for potential Medicaid cost recovery. In addition to these sources of information, Title 42, Part 433, section 138 of the *Code of Federal Regulations (CFR)* requires the Casualty Unit to identify and pursue recovery of Medicaid costs related to cost recovery leads by matching Medicaid paid claims data with State automobile accident and workers' compensation data files. Also, the federal regulation requires the Casualty Unit to periodically identify paid Medicaid claims with diagnosis codes closely correlated with trauma-related accidents and pursue recovery from other liable parties, as appropriate. As noted in the exhibits presented as supplemental information in this report, in fiscal year 2003-04, Michigan ranked 41st of the 50 states in casualty recoveries as a percentage of total state Medicaid expenditures. Michigan managed care entities are responsible for pursuing their own recoveries, and those recoveries are not reflected in the exhibits.

Audit Objective: To assess the effectiveness of the Casualty Unit's efforts to maximize the recovery of accident-related Medicaid costs from other responsible parties.

Conclusion: **We concluded that the Casualty Unit's efforts to maximize the recovery of accident-related Medicaid costs from other responsible parties were not effective.** Our audit disclosed two material conditions:

- The Casualty Unit did not use State motor vehicle and workers' compensation files to identify recipients with Medicaid costs related to injuries sustained in motor vehicle accidents or at work (Finding 6).
- The Casualty Unit did not have a sufficient basis for accepting partial payments from some third parties as full payment of their Medicaid liabilities. Also, the Casualty Unit did not identify some accident-related Medicaid costs for recipients when pursuing recovery from other liable third parties. (Finding 7)

Our audit also disclosed reportable conditions* related to the processing of cost recovery leads, the trauma code edit system, cost recovery thresholds*, and mail opening and cash controls (Findings 8 through 11).

FINDING

6. Use of State Motor Vehicle and Workers' Compensation Files

The Casualty Unit did not use State motor vehicle and workers' compensation files to identify recipients with Medicaid costs related to injuries sustained in motor vehicle accidents or at work. As a result, we estimate that the Casualty Unit missed potential Medicaid cost recoveries totaling \$10.6 million (\$4.6 million of State General Fund/general purpose funding) during the three-year period ended September 30, 2005.

For various reasons, some of these costs may no longer be recoverable. For example, Medicaid costs for recipients injured in automobile accidents are only recoverable for one year after the date of the Medicaid claim. Also, Medicaid costs not included in final settlement agreements of disputed workers' compensation cases are not recoverable unless the settlement agreements are appealed within 15 days.

Federal regulations 42 *CFR* 433.138 and 42 *CFR* 433.139 require the Casualty Unit to take reasonable measures to identify and seek recovery of Medicaid costs from other liable parties when the dollar amount it expects to recover is greater than its cost of recovery (see Finding 10). These measures must include an attempt to obtain recipient accident information from State motor vehicle and workers' compensation records. In Michigan, motor vehicle insurance carriers are liable for the reasonable and necessary costs of treating most individuals injured in a motor vehicle accident. Also, employers and/or their workers' compensation insurance carriers are liable for the cost of treating individuals injured in work-related accidents.

We obtained State motor vehicle accident information for the three-year period ended September 30, 2005 and disputed workers' compensation claim information

* See glossary at end of report for definition.

for 12 months from the same period. We electronically matched this information with Medicaid's paid claims data:

- a. We identified 1,743 Medicaid recipients who were involved in a motor vehicle accident, suffered an injury, and received Medicaid-funded treatment on the date of the accident. We reviewed detailed accident, payment, and cost recovery records for 50 of these recipients and identified 17 (34.0%) recipients with accident-related Medicaid costs exceeding the Casualty Unit's pre-established cost recovery threshold. Medicaid accident-related costs for the 17 recipients totaled \$166,962. The Casualty Unit had not attempted to recover these costs. By applying the results of our testing to all 1,743 Medicaid recipient accidents and projecting the results to the three-year period ended September 30, 2005, we estimate that the Casualty Unit missed potential Medicaid cost recoveries totaling \$5.8 million.
- b. We identified 51 Medicaid recipients who were fatally injured in a motor vehicle accident and had accident-related Medicaid costs exceeding the Casualty Unit's cost recovery threshold. The Casualty Unit had not identified 40 (78.4%) of these accidents and, therefore, had not attempted to recover Medicaid's accident-related costs totaling approximately \$490,700.
- c. We identified 1,251 Medicaid recipients with disputed workers' compensation claims. In 898 (71.8%) instances, the recipients had total Medicaid costs on and/or after the date of the work-related accident that exceeded the Casualty Unit's cost recovery threshold. We reviewed detailed accident, payment, and cost recovery records for 50 of the 898 recipients and identified 8 (16.0%) recipients with accident-related Medicaid costs that, in total, exceeded the cost recovery threshold. The 8 recipients had accident-related Medicaid costs averaging \$1,985 each. The Casualty Unit had not attempted to recover these costs. By applying the results of our testing to all 898 recipients and projecting the results to the three-year period ended September 30, 2005, we estimate that the Casualty Unit missed potential Medicaid cost recoveries totaling \$855,600.

In addition to the disputed workers' compensation cases, the Workers' Compensation Agency, Department of Labor and Economic Growth, reported that there were approximately 52,400 nondisputed (voluntary employer pay) workers' compensation cases during the 27-month period ended

December 31, 2004. However, we could not review a sample of these cases because a detailed listing of the cases was not available during our audit fieldwork. Nevertheless, based on the premise that the significant difference between the two types of cases was whether the employer or insurance carrier had accepted responsibility for the claimant's accident-related medical costs and lost wages, we applied the results of our testing of disputed workers' compensation cases to the undisputed cases. We estimate that for the three-year period ended September 30, 2005, the Casualty Unit missed additional Medicaid cost recoveries totaling \$3.5 million.

The Casualty Unit informed us that it received State motor vehicle and disputed workers' compensation records on a monthly basis during much of the three-year period ended September 30, 2005; however, it did not use the information for Medicaid cost recovery because it lacked the technical ability and expertise to do so electronically and the staffing resources to do so manually.

RECOMMENDATION

We recommend that the Casualty Unit use State motor vehicle and workers' compensation files to identify recipients with Medicaid costs related to injuries sustained in motor vehicle accidents or at work.

AGENCY PRELIMINARY RESPONSE

DCH agrees with the finding and recommendation. DCH stated that it is using PCRS to perform matches against the State motor vehicle (CRASH) and workers' compensation (WORCS) files and is developing protocols for its contractor to use in processing matches identified by PCRS.

FINDING

7. Processing of Cost Recovery Cases

The Casualty Unit did not have a sufficient basis for accepting partial payments from some third parties as full payment of their Medicaid liabilities. Also, the Casualty Unit did not identify some accident-related Medicaid costs for recipients when pursuing recovery from other liable third parties.

As a result of these conditions, we estimate that the Casualty Unit missed recovering accident-related Medicaid costs totaling \$5.0 million (\$2.2 million of

State General Fund/general purpose funding) during the 35-month period ended August 31, 2005. For various reasons, little, if any, of the \$5.0 million is still recoverable. For example, additional costs identified for disputed workers' compensation cases would not be recoverable because the settlement agreements are final if not appealed within 15 days. Similarly, any additional amounts preceding the 35-month period would also likely have little or no recoverability.

During the 35-month period ended August 31, 2005, the Casualty Unit identified and attempted to recover approximately \$26.4 million in Medicaid costs from other liable third parties for the care of 1,824 recipients involved in injury accidents. The Casualty Unit recovered approximately \$9.5 million (36.2%) of these costs. We reviewed 20 cases that the Casualty Unit had processed within the 35-month period with accident-related Medicaid costs of \$123,594 and recoveries totaling \$64,896. In our case review, we noted:

- a. The Casualty Unit did not have a sufficient basis for accepting partial payments as payments in full for 10 (50.0%) of the 20 cases we reviewed. As a result, the Casualty Unit should have increased its recoveries for these cases by \$21,700 (33.4%). Our audit was intended to identify opportunities for improvement. Our audit was not intended to develop statistical projections related to Medicaid cost recovery opportunities. However, if our identified case error rate (33.4%) is representative of the error rate for all \$9.5 million in recoveries, we estimate that the Casualty Unit could have increased its overall recoveries by \$3.2 million. These additional recoveries would have increased the Casualty Unit's overall recovery rate for the period to 48.0%, equaling its overall recovery rate for the preceding seven-year period.

Casualty Unit procedures require Casualty Unit staff to make full recovery of accident-related Medicaid costs except when it is in Medicaid's best interest to accept less (e.g., when there is a small financial settlement relative to the Medicaid liability).

The Casualty Unit's practice of accepting partial payments as payment in full without reasonable justification appears to have been due, at least in part, to poor oversight.

- b. The Casualty Unit did not identify and pursue recovery of \$8,644 in accident-related Medicaid costs. Identification and pursuit of these costs would have

increased its potential recoveries for the 20 cases by 7.0%. As stated in item a., our audit was not intended to develop statistical projections related to Medicaid cost recovery opportunities. However, if our identified error rate (7.0%) is representative of the error rate for all \$26.4 million in attempted recoveries, we estimate that the Casualty Unit could have identified and pursued recovery of additional accident-related Medicaid costs totaling \$1.8 million.

The Casualty Unit's failure to identify and pursue recovery of some accident-related Medicaid costs may have been due, in part, to inconsistent staff training and/or a lack of procedural guidance. For example, \$5,490 (63.5%) of the \$8,644 in unidentified costs was for the purchase of pharmaceutical products; however, only one of two Casualty Unit employees that we spoke with stated that she had been trained to identify and pursue recovery of these costs. The Casualty Unit's procedures did not address the topic.

RECOMMENDATIONS

We recommend that the Casualty Unit implement measures to ensure that there is a sufficient basis for accepting partial payments from third parties as full payment of their Medicaid liabilities.

We also recommend that the Casualty Unit implement measures to ensure that it identifies all accident-related Medicaid costs for recipients when pursuing recovery from other liable third parties.

AGENCY PRELIMINARY RESPONSE

DCH agrees with both recommendations. DCH will strive to improve its efforts to properly identify and recover accident-related costs, but recognizes that it will never realize an absolute 100% success rate.

FINDING

8. Processing of Cost Recovery Leads

The Casualty Unit had not established effective controls for ensuring the security over and appropriate processing of Medicaid cost recovery leads. As a result, we estimate that the Casualty Unit missed potential Medicaid cost recoveries totaling at least \$732,000 (\$317,000 of State General Fund/general purpose funding)

during the 36-month period ended September 30, 2005. For various reasons, many of these costs may no longer be recoverable.

Federal regulations 42 *CFR* 433.138 and 42 *CFR* 433.139 require each state's Medicaid agency to pursue recovery of all Medicaid costs from other liable third parties when the dollar amount it expects to recover is greater than its cost of recovery.

To comply with this requirement, the Casualty Unit obtained Medicaid cost recovery leads for individuals involved in injury accidents from various sources, such as attorneys, insurance companies, and health care providers. Generally, the Casualty Unit accounted for the receipt and initial processing of these leads in its lead database. The initial processing included a determination as to whether the injured person was a Medicaid recipient and, if so, quantification of the accident-related Medicaid costs. Generally, if these costs exceeded a predetermined cost recovery threshold within six months of receiving the lead, the Casualty Unit removed the lead from the lead database and opened a cost recovery case in its cost recovery database; otherwise, the Casualty Unit discontinued its processing of the lead.

Our review and evaluation of the Casualty Unit's cost recovery lead processing controls disclosed:

- a. Casualty Unit management did not review (on a test basis) cost recovery leads that did not result in open Medicaid cost recovery cases to ensure that Casualty Unit staff had processed them appropriately.

During the 36-month period ended September 30, 2005, the Casualty Unit processed at least 8,340 cost recovery leads for Medicaid recipients that did not result in open Medicaid cost recovery cases. We reviewed Medicaid paid claims data and other accident-related information for 50 of these leads and identified 5 (10.0%) leads with accident-related Medicaid costs exceeding the Casualty Unit's applicable cost recovery threshold that, therefore, should have resulted in open cost recovery cases. The accident-related Medicaid costs for the 5 cases ranged from \$321 to \$1,734 and averaged \$878. If similar conditions exist for all 8,340 closed leads, we estimate that the Casualty Unit missed potential Medicaid cost recoveries totaling \$732,000.

- b. Casualty Unit management did not periodically review the lead database to ensure that Casualty Unit staff processed all recorded cost recovery leads. From October 1, 1997 through September 30, 2004, the Casualty Unit entered at least 18,281 new leads into the lead database. However, based on our analysis and review, we estimate that the Casualty Unit did not process, did not fully process, or did not document its processing of over 2,000 (10.9%) of these leads.

- c. The Casualty Unit inappropriately permitted the Casualty Unit supervisor to process cost recovery leads and cost recovery cases without entering them into the lead and cost recovery databases, respectively. Also, the Casualty Unit did not secure its lead database to prevent the unauthorized deletion of leads or implement control measures to identify unauthorized deletions. As a result of these conditions, Casualty Unit management could not ensure that the Casualty Unit appropriately processed all incoming leads. Also, along with cited weaknesses in the Casualty Unit's mail opening procedures (see Finding 11), these conditions could have permitted the undetected misappropriation of Medicaid cost recoveries.

Because the Medicaid cost recoveries resulting from individual cost recovery leads often total thousands of dollars, it is crucial that Casualty Unit management implement controls to ensure that Casualty Unit staff fully and appropriately process all leads.

RECOMMENDATION

We recommend that the Casualty Unit establish effective controls for ensuring the security over and appropriate processing of Medicaid cost recovery leads.

AGENCY PRELIMINARY RESPONSE

DCH agrees with the finding and recommendation. DCH stated that the new PCRS now includes the ability to track and report on all leads and/or cases. Also, DCH stated that it is in the process of developing procedures to effectively manage cost recovery leads, which will include the ability to assign a priority to leads exceeding the cost threshold. In addition, DCH stated that controls will be evaluated and implemented as necessary to ensure the integrity of the information entered into the system.

FINDING

9. Trauma Code Edit System

The Casualty Unit did not properly control, update, and use its trauma code edit system. As a result, the Casualty Unit missed an opportunity to recover a significant dollar amount of Medicaid costs.

Federal regulation 42 *CFR* 433.138(e) requires the Casualty Unit to routinely and timely identify paid Medicaid claims containing specified diagnosis codes that are frequently associated with trauma-related accidents and attempt to identify and pursue recovery from other liable parties, as appropriate. Also, federal regulation 42 *CFR* 433.138(g) requires the Casualty Unit to periodically identify the trauma-related diagnosis codes that yield most Medicaid cost recoveries and give priority to pursuing recovery of Medicaid claims containing these trauma-related diagnosis codes.

In accordance with these requirements, the Casualty Unit established its electronic trauma code edit system to identify and track each recipient's paid Medicaid claims with trauma-related diagnosis codes. When the identified claims for a recipient exceeded a pre-established dollar amount within an 18-month period and the recipient had not been party to any earlier Casualty Unit recovery efforts, the system was designed to generate a written questionnaire for mailing to the recipient. The questionnaire asked the recipient if the identified claims resulted from an accident and, if so, requested additional information to help the Casualty Unit identify and pursue recovery from other liable parties. The system was also designed to send a follow-up questionnaire to recipients who did not respond to the initial questionnaire within 30 days. In the State Medicaid Plan, DCH stated that it used the trauma code edit system on a monthly basis.

Our review disclosed:

- a. The Casualty Unit had not established controls to ensure that it periodically identified the trauma-related diagnosis codes that yielded the most Medicaid cost recoveries. Also, it had not periodically identified and sought the Centers for Medicare and Medicaid Services' approval to discontinue tracking those federally required diagnosis codes yielding little or no cost recoveries. In addition, it had not updated its trauma code edit system to include and exclude diagnosis codes, as appropriate. Our review of the trauma code edit system

disclosed that it was tracking costs for 377 non-federally required diagnosis codes and not tracking costs for 283 federally required diagnosis codes. The Casualty Unit did not have documentation demonstrating the need for tracking the 377 non-federally required diagnosis codes. Also, it did not have documentation and the Centers for Medicare and Medicaid Services' approval for not tracking the 283 federally required diagnosis codes.

Casualty Unit management informed us that it did not know that the diagnosis codes being tracked by the trauma code edit system differed from the federally required diagnosis codes. Also, Casualty Unit management informed us that it did not know when the Casualty Unit last analyzed, or if it had ever analyzed, the cost recoveries associated with the various diagnosis codes.

Generating and processing responses to questionnaires that are not likely to result in meaningful cost recoveries is an inefficient use of the Casualty Unit's limited staffing resources. In addition, not generating questionnaires for required codes may result in missing significant cost recoveries.

- b. The Casualty Unit did not send questionnaires to Medicaid recipients for the months of April 2004 through March 2005 until April 2005. In addition, as of the end of our audit fieldwork (June 30, 2006), the Casualty Unit had not sent questionnaires to Medicaid recipients for the months of October 2005 through June 2006. Further, as of June 30, 2006, the Casualty Unit had not processed approximately 2,200 recipient responses to questionnaires that the Casualty Unit sent during the months of April 2005 through September 2005. We could not determine if the Casualty Unit had appropriately processed another 4,800 recipient responses from the same period because it did not keep any record of them.

Casualty Unit management informed us that insufficient staffing adversely impacted its ability to process recipient responses in a timely manner, which, in turn, caused it to stop sending questionnaires on a monthly basis. Failure to send questionnaires and process recipient responses to questionnaires in a timely manner will adversely impact the Casualty Unit's Medicaid cost recoveries.

- c. The Casualty Unit did not attempt to contact, through other means, selected recipients who did not respond to its follow-up questionnaires. At a minimum,

the Casualty Unit should make additional efforts to contact, perhaps by telephone, those recipients with a large dollar amount of potentially recoverable Medicaid claims. We could not readily identify the number or percentage of recipients who did not respond to the Casualty Unit's follow-up questionnaire. However, based on our review of recipient responses to the original questionnaires only, we conclude that the number and percentage is significant. For example, we noted that only 7,605 (51.6%) of the 14,731 recipients who were sent original questionnaires during the months of April 2005 through August 2005 responded within the 30-day allotted time frame.

- d. The Casualty Unit did not attempt to determine if it should have opened new cost recovery cases for those recipients who were not sent questionnaires because they had been party to earlier cost recovery efforts. The Casualty Unit should open a new cost recovery case when the newly identified claims for a recipient do not appear to be related to the Casualty Unit's earlier cost recovery case. Casualty Unit reports identified 301 recipients with paid Medicaid claims exceeding the pre-established dollar amounts for recovery who were not sent questionnaires in the months of May 2005 through July 2005 because an earlier cost recovery case existed for them. The newly identified claims for these recipients totaled approximately \$715,000. For example, one recipient with newly identified Medicaid claims totaling \$8,040 had an earlier cost recovery case that the Casualty Unit closed approximately 13 years earlier. Although the Casualty Unit could not provide us with similar reports for other periods, it is clear that there is the potential for the loss of a significant dollar amount of Medicaid cost recoveries.

RECOMMENDATION

We recommend that the Casualty Unit properly control, update, and use its trauma code edit system.

AGENCY PRELIMINARY RESPONSE

DCH agrees with the recommendation that it needs to improve the effectiveness of the utilization of its trauma code edit system.

PCRS was developed, in part, to automate, control, and improve the trauma edit questionnaire process. DCH has hired a contractor to perform the subrogation activities associated with this process. DCH will develop necessary procedures to

enable the contractor to perform these activities. Standard subrogation correspondence and the questionnaire are being reviewed and modified as part of this procedure development.

A review of trauma edit codes has been completed and a systems request has been submitted to change PCRS tables to include all federally required diagnosis codes and to remove all unnecessary codes. The tables will be monitored regularly to ensure that the codes being used are appropriate.

FINDING

10. Cost Recovery Thresholds

The Casualty Unit did not document or periodically reassess the appropriateness of its Medicaid cost recovery thresholds. As a result, the Casualty Unit could not ensure that it used its limited staffing resources in the most cost-effective manner by focusing its efforts on identifying and pursuing recovery of those cases that, in total, were likely to yield the highest recoveries.

Federal regulations 42 *CFR* 433.138 and 42 *CFR* 433.139 require that the Casualty Unit take reasonable measures to determine the legal liability of other parties to pay for services provided under the State's Medicaid program and pursue recovery when the dollar amount it expects to recover is greater than its cost of recovery.

In 1990, the Casualty Unit established a minimum cost recovery threshold of \$300 for automobile liability and workers' compensation cases and \$1,000 for general liability and medical malpractice cases. These thresholds remained unchanged until April 2004 when the Casualty Unit increased them to \$500 and \$1,500, respectively. In September 2004, the Casualty Unit closed all of its open recovery cases with Medicaid costs below \$1,500. The Casualty Unit informed us that it took these actions because it did not have sufficient staffing to pursue recovery of all cases with Medicaid costs exceeding the lower thresholds. The Casualty Unit made these changes without conducting an analysis of its recoveries and their related costs.

As noted in Findings 6 and 9, the Casualty Unit did not conduct several activities that, annually, would have identified thousands of additional cost recovery cases.

Again, the Casualty Unit informed us that it did not conduct these activities because it did not have sufficient staffing to identify and pursue recovery of the additional cases. Despite these continued shortcomings and without conducting an analysis of its recoveries and their related costs, the Casualty Unit returned its cost recovery thresholds to their original amounts in July 2005.

During the 35-month period ended August 31, 2005, the Casualty Unit recovered approximately \$9.5 million in Medicaid costs from other liable parties for accident related cases involving 1,800 recipients. Our analysis of these recoveries disclosed that the 674 (37.4%) cases with accident-related Medicaid costs exceeding \$5,000 accounted for approximately \$8.2 million (86.7%) of the Casualty Unit's total recoveries. Although the analysis does not consider the collection costs associated with each case, it does suggest that the Casualty Unit may be able to increase its overall recoveries by focusing its efforts on those cases with Medicaid costs exceeding \$5,000. Also, the analysis clearly demonstrates that the Casualty Unit needs to comprehensively evaluate the appropriateness of its cost recovery thresholds, especially given its reported staffing constraints.

RECOMMENDATION

We recommend that the Casualty Unit document and periodically reassess the appropriateness of its Medicaid cost recovery thresholds.

AGENCY PRELIMINARY RESPONSE

DCH agrees with the finding and recommendation. DCH stated that it will document and periodically reassess its cost recovery thresholds and make changes when appropriate.

FINDING

11. Mail Opening and Cash Controls

The Casualty Unit had not established required controls over its cash receipts. As a result, it lacked assurance that staff appropriately deposited all cash receipts into State accounts.

Part II, Chapter 9, Section 100 of the State of Michigan Financial Management Guide requires that at least two employees be present when mail is opened and

that mail openers log checks on a cash log and restrictively endorse checks immediately upon receipt.

The Casualty Unit received mail deliveries three times each day. Included within its mail were checks from attorneys, insurance companies, medical providers, and others for the reimbursement of Medicaid costs. We noted the following weaknesses:

- a. The Casualty Unit left unopened mail unattended in unsecured areas for extended periods of time.
- b. The Casualty Unit did not use at least two employees for mail opening.
- c. The Casualty Unit mail opener did not log incoming checks on a cash log.
- d. The Casualty Unit did not restrictively endorse checks immediately upon receipt.

These weaknesses unnecessarily increased the risk that checks could be lost or stolen without being detected by Casualty Unit management.

RECOMMENDATION

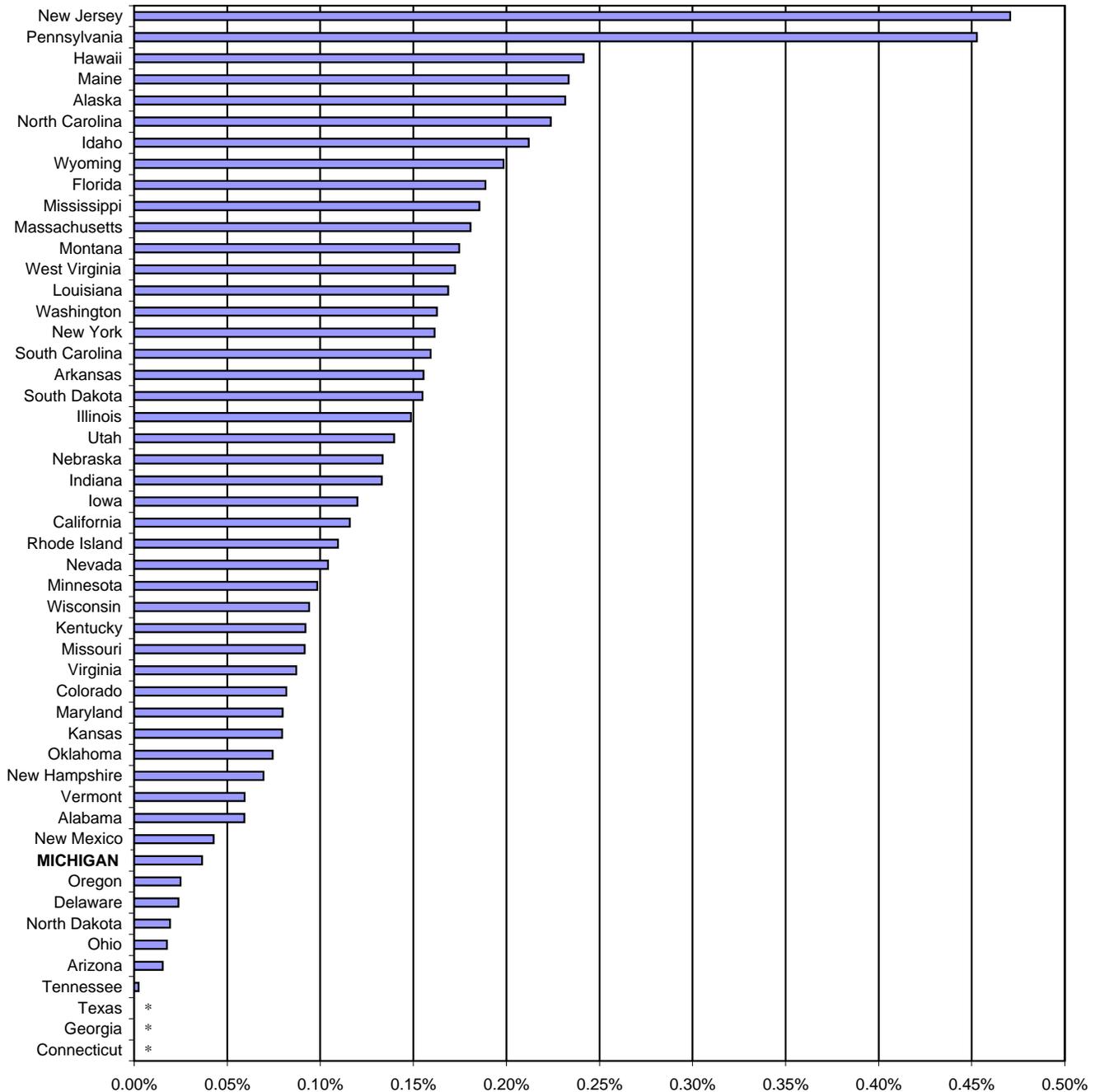
We recommend that the Casualty Unit establish required controls over its cash receipts.

AGENCY PRELIMINARY RESPONSE

DCH agrees with the finding and recommendation. DCH stated that mail opening for the entire Revenue and Reimbursement Division was centralized beginning in January 2006, with the Casualty Unit's mail being included in this process. Also, DCH stated that mail opening procedures were implemented consistent with the State of Michigan Financial Management Guide.

SUPPLEMENTAL INFORMATION

COURT ORIGINATED LIABILITY SECTION
Rankings of State Casualty Recoveries as a
Percentage of Medicaid Expenditures
Fiscal Year 2003-04



Source of Data: Third Party Liability Savings Trend Analysis and Net Reported Medicaid Expenditure Reports from the Centers for Medicare and Medicaid Services.

* Information not available for these states.

COURT ORIGINATED LIABILITY SECTION
Rankings of State Casualty Recoveries as a Percentage of Medicaid Expenditures
Fiscal Year 2003-04

State	Casualty Recoveries	Total Medicaid Payments	Percent of Recoveries to Payments	Rank
New Jersey	\$ 37,315,378	\$ 7,928,423,533	0.47%	1
Pennsylvania	63,783,956	14,088,449,923	0.45%	2
Hawaii	2,192,535	907,974,098	0.24%	3
Maine	4,717,600	2,021,194,249	0.23%	4
Alaska	2,047,284	884,037,863	0.23%	5
North Carolina	17,786,245	7,945,585,983	0.22%	6
Idaho	1,989,636	938,680,696	0.21%	7
Wyoming	726,329	365,832,661	0.20%	8
Florida	24,149,253	12,789,934,905	0.19%	9
Mississippi	6,093,885	3,284,724,191	0.19%	10
Massachusetts	15,768,513	8,725,068,052	0.18%	11
Montana	1,164,076	666,602,722	0.17%	12
West Virginia	3,340,952	1,937,298,997	0.17%	13
Louisiana	8,326,327	4,933,031,400	0.17%	14
Washington	8,530,311	5,243,560,705	0.16%	15
New York	66,129,972	40,978,466,799	0.16%	16
South Carolina	6,129,859	3,848,423,641	0.16%	17
Arkansas	4,017,763	2,585,068,063	0.16%	18
South Dakota	870,037	561,562,642	0.15%	19
Illinois	14,857,898	9,991,310,983	0.15%	20
Utah	1,725,714	1,235,552,901	0.14%	21
Nebraska	1,909,881	1,430,800,678	0.13%	22
Indiana	6,508,993	4,889,329,727	0.13%	23
Iowa	2,687,602	2,239,281,593	0.12%	24
California	35,533,404	30,677,337,285	0.12%	25
Rhode Island	1,802,975	1,646,343,632	0.11%	26
Nevada	1,080,902	1,037,927,527	0.10%	27
Minnesota	5,462,691	5,550,210,439	0.10%	28
Wisconsin	4,147,538	4,410,918,293	0.09%	29
Kentucky	3,760,431	4,086,404,587	0.09%	30
Missouri	5,577,198	6,082,476,995	0.09%	31
Virginia	3,332,353	3,825,216,022	0.09%	32
Colorado	2,166,046	2,648,577,338	0.08%	33
Maryland	3,661,777	4,586,430,658	0.08%	34
Kansas	1,417,189	1,782,435,217	0.08%	35
Oklahoma	1,861,173	2,500,517,344	0.07%	36
New Hampshire	798,951	1,148,626,371	0.07%	37
Vermont	473,777	798,758,992	0.06%	38
Alabama	2,155,687	3,636,777,895	0.06%	39
New Mexico	945,514	2,212,810,008	0.04%	40
MICHIGAN	3,003,651	8,224,940,371	0.04%	41
Oregon	648,138	2,596,299,977	0.02%	42
Delaware	188,501	792,028,808	0.02%	43
North Dakota	92,920	479,677,381	0.02%	44
Ohio	2,030,406	11,550,492,206	0.02%	45
Arizona	755,658	4,933,111,255	0.02%	46
Tennessee	173,343	7,029,807,190	0.00%	47
Texas	*	16,077,695,030	0.00%	48
Georgia	*	7,044,051,167	0.00%	49
Connecticut	*	3,875,748,955	0.00%	50
Total	<u>\$ 383,840,222</u>	<u>\$ 279,655,817,948</u>		

Source of Data: Third Party Liability Savings Trend Analysis and Net Reported Medicaid Expenditure Reports from the Centers for Medicare and Medicaid Services.

* Information not available for these states.

GLOSSARY

Glossary of Acronyms and Terms

<i>CFR</i>	<i>Code of Federal Regulations.</i>
child support order	A written court order that provides for the periodic payment of money for the support of a child. Orders may also include other provisions, such as health insurance, childcare, pregnancy and birthing-related expenses, custody, and parenting time.
COLS	Court Originated Liability Section.
cost recovery lead	A communication that notifies the Casualty Unit of a Medicaid recipient's potential recovery from an insurance claim and/or a lawsuit.
cost recovery threshold	The amount below which the cost to pursue the recovery is more than the potential recovery amount.
DCH	Department of Community Health.
effectiveness	Program success in achieving mission and goals.
FOC	Friend of the Court.
FSA	Family Support Act.
HMO	health maintenance organization.
management control	The plan of organization, methods, and procedures adopted by management to provide reasonable assurance that goals are met; resources are used in compliance with laws and regulations; valid and reliable data is obtained and reported; and resources are safeguarded against waste, loss, and misuse.

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.
maternity case rate payment	A supplemental payment made to an HMO for a recipient who delivers a child while simultaneously enrolled in the HMO and the Temporary Assistance to Needy Families (TANF) program. The payment is for the recipient's pregnancy and birthing-related expenses and supplements the monthly enrollment premium paid to the HMO on behalf of the recipient.
Medicaid	Created under Title XIX of the Social Security Act, this program provides medical services to indigent persons in the general categories of families with dependent children; the aged, blind, and disabled; and other targeted groups that meet income eligibility standards.
OAG	Office of the Auditor General.
OCS	Office of Child Support.
PA	prosecuting attorney.
PCRS	Paternity and Casualty Recovery System.
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.
recipients	Persons who are enrolled in Medicaid and who can receive medical services that are paid for with Medicaid funds.

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.
SCAO	State Court Administrative Office.
State Medicaid Plan	A document that defines how Michigan will operate its Medicaid program. The State Medicaid Plan addresses the areas of state program administration, Medicaid eligibility criteria, service coverage, and provider reimbursement and is approved by the federal Centers for Medicare and Medicaid Services.
WCFOC	Wayne County Friend of the Court.

