

Office of the Auditor General
Performance Audit Report

**Selected Activities Related to Investigation
Timeliness and Complaint Intake**
Michigan Department of Civil Rights

August 2023

The auditor general shall conduct post audits of financial transactions and accounts of the state and of all branches, departments, offices, boards, commissions, agencies, authorities and institutions of the state established by this constitution or by law, and performance post audits thereof.

The auditor general may make investigations pertinent to the conduct of audits.

Article IV, Section 53 of the Michigan Constitution



OAG

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Report Summary

*Performance Audit
Selected Activities Related to Investigation
Timeliness and Complaint Intake
Michigan Department of Civil Rights
(MDCR)*

Report Number:
151-0200-22

Released:
August 2023

MDCR's primary purpose is to receive, initiate, and investigate allegations of discrimination in employment, education, housing, public accommodation, and public service based on an individual's religion, race, color, national origin, genetic information, sex, age, height, weight, familial or marital status, or disability. MDCR receives complaints via its website, telephone, e-mail, mail, and other sources and gathers information necessary to determine whether to assign the complaint for a civil rights investigation, as required by law. For the 18-month period ended June 30, 2022, MDCR received 9,003 complaints and assigned 1,867 complaints for investigation.

Audit Objective			Conclusion
Objective 1: To assess the effectiveness of MDCR's efforts to timely complete civil rights complaint investigations.			Not effective
Findings Related to This Audit Objective	Material Condition	Reportable Condition	Agency Preliminary Response
MDCR completed investigations of alleged civil rights complaints, on average, 19 months after receipt of the complaint, which significantly exceeded its established six-month goal. MDCR's lack of certain actions and periods of investigation inactivity resulted in significant delays in 62% of the investigations we reviewed (Finding 1).	X		Agrees

Audit Objective			Conclusion
Objective 2: To assess the sufficiency of MDCR's efforts to assign civil rights complaints for investigation, when required.			Sufficient, with exceptions
Findings Related to This Audit Objective	Material Condition	Reportable Condition	Agency Preliminary Response
MDCR's management did not approve 31% of sampled complaint assignment decisions and did not require secondary approval for appealed complaint assignment decisions (Finding 2).		X	Agrees

Findings Related to This Audit Objective (Continued)	Material Condition	Reportable Condition	Agency Preliminary Response
MDCR did not have a process to reconcile all e-mailed civil rights complaints and did not have a process to track and monitor all incoming telephone contacts (<u>Finding 3</u>).		X	Agrees
MDCR did not document its verbal intake interview with the claimant for 15% of applicable complaints reviewed; interview documentation serves as MDCR's account and record of the claimant's allegations and the basis of MDCR's intake decision (<u>Finding 4</u>).		X	Agrees
Although MDCR had a key goal of outstanding customer service, it did not establish formalized processes for receiving, documenting, addressing, and analyzing customer service complaints (<u>Finding 5</u>).		X	Agrees
MDCR did not request the Department of Technology, Management, and Budget to remove or disable Civil Rights Information System (CRIS) access in a timely manner for 37% of the CRIS users who permanently or temporarily departed employment (<u>Finding 6</u>).		X	Agrees

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August 24, 2023

Portia L. Roberson, Chair
Michigan Civil Rights Commission
and
John E. Johnson, Jr., Director
Michigan Department of Civil Rights
Cadillac Place
Detroit, Michigan

Chair Roberson and Director Johnson:

This is our performance audit report on Selected Activities Related to Investigation Timeliness and Complaint Intake, Michigan Department of Civil Rights.

We organize our findings and observations by audit objective. Your agency provided preliminary responses to the recommendations at the end of our fieldwork. The *Michigan Compiled Laws* and administrative procedures require an audited agency to develop a plan to comply with the recommendations and to submit it to the State Budget Office upon completion of an audit. Within 30 days of receipt, the Office of Internal Audit Services, State Budget Office, is required to review the plan and either accept the plan as final or contact the agency to take additional steps to finalize the plan.

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

Sincerely,

A handwritten signature in dark ink that reads "Doug Ringler". The signature is written in a cursive, slightly slanted style.

Doug Ringler
Auditor General

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AUDIT OBJECTIVES, CONCLUSIONS, FINDINGS, AND OBSERVATIONS

TIMELY COMPLETION OF CIVIL RIGHTS COMPLAINT INVESTIGATIONS

BACKGROUND

The Michigan Department of Civil Rights (MDCR) is responsible for receiving, initiating, and investigating allegations of discrimination in employment, education, housing, public accommodation, and public service. MDCR's Enforcement Division carries out these responsibilities in accordance with State and federal law, the *Michigan Administrative Code*, and MDCR policy to secure the equal protection of civil rights guaranteed in the Michigan Constitution.

Any person who believes they have been discriminated against based on their religion, race, color, national origin, genetic information, sex, age, height, weight, familial or marital status, or disability can file a complaint* with MDCR (see Exhibit 1A). Subsequent to our audit period, the Elliott-Larsen Civil Rights Act was amended to expand legal protections to include sexual orientation, gender identity and expression, and hair texture and protective hairstyles.

MDCR's Enforcement Division is responsible for investigating allegations of discrimination in employment, education, housing, public accommodation, and public service. State and federal law, the *Michigan Administrative Code*, and MDCR policy provide the framework and requirements for civil rights investigations. MDCR utilizes the Civil Rights Information System (CRIS) to record the receipt of complaints and any intake or investigation activities, case notes, and relevant documentation.

During a typical investigation, the claimant* and respondent* are given the opportunity to present evidence. MDCR may also interview witnesses, perform document reviews, and conduct site visits, if applicable. If the investigation shows discrimination occurred, MDCR will enforce State civil rights laws. MDCR's strategic plan states that its goal* is to provide timely resolution of allegations of discrimination and intends to complete investigations, on average, within 6 months.

Investigators are responsible for entering documentary evidence into CRIS, including annotating all investigation activity in case notes. MDCR managers are responsible for effective workload management in accordance with established procedures and must review and approve all case closures (see Exhibit 1B).

MDCR completed 2,096 civil rights complaint investigations during the 18-month audit period ended June 30, 2022 and had 2,405 ongoing investigations at the time of our review.

* See glossary at end of report for definition.

AUDIT OBJECTIVE	To assess the effectiveness* of MDCR's efforts to timely complete civil rights complaint investigations.
CONCLUSION	Not effective.
FACTORS IMPACTING CONCLUSION	<ul style="list-style-type: none">• The material condition* related to significant improvements in timely completion of civil rights complaint investigations (Finding 1).

* See glossary at end of report for definition.

FINDING 1

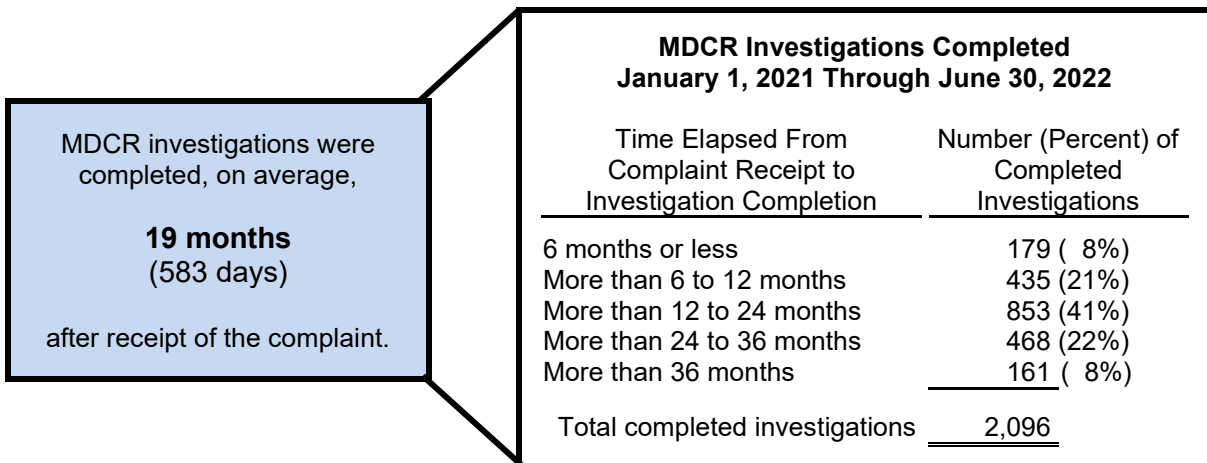
Significant improvement needed to timely complete civil rights complaint investigations.

MDCR needs to significantly improve its timeliness in completing civil rights complaint investigations to bolster the public's confidence regarding expeditious enforcement of the State's civil rights laws.

State law requires MDCR to receive, initiate, and investigate complaints alleging civil rights violations. During an MDCR investigation, the claimant and respondent both have the opportunity to present evidence and MDCR may perform site visits, interview witnesses, and conduct document analysis. If the investigation shows discrimination occurred, MDCR will enforce State civil rights laws. MDCR's strategic plan states that its goal is to provide timely resolution of allegations of discrimination and intends to complete investigations, on average, within six months.

Our analysis of MDCR's completed and ongoing investigations noted:

- a. MDCR completed investigations of alleged civil rights violations, on average, 19 months (583 days) after receipt of the complaint, significantly exceeding its established six-month goal.



We reviewed MDCR's records for a sample of 39 completed investigations and identified one or more significant MDCR investigation delays in 24 (62%), as follows:

- For 4 investigations, MDCR did not assign an investigator for 101, 107, 143, and 165 days after receipt of the claimant's notarized complaint. For the remaining 35 sampled investigations, MDCR assigned an investigator, on average, in 22 days. MDCR policy does not establish a time frame goal for assignment to an investigator.

For nearly half of the completed investigations we reviewed, significant time periods existed with no evidence of MDCR investigation activity. Individual periods of inactivity averaged 4 months.

- For 5 investigations, MDCR investigators did not attempt to contact the claimant for an initial interview for 141, 160, 279, 288, and 529 days after being assigned the complaint. For the remaining 34 sampled investigations, MDCR investigators attempted initial contact with the claimant, on average, in 19 days. MDCR policy establishes a 5-day goal for this contact.
- For 17 investigations, significant time periods existed with no evidence of MDCR actively investigating the complaint. Individual periods of inactivity ranged from 2 months to 17 months and averaged 4 months. Nearly all of these investigations had multiple periods of MDCR investigation inactivity.

b. Nearly 85% of ongoing investigations of alleged civil rights violations had been open for more than 6 months. On average, the investigations had been open for approximately 18 months (559 days) since receipt of the complaint, making achievement of its 6-month investigation completion goal not possible for the vast majority of ongoing civil rights investigations.

MDCR Open Investigations	
Time Elapsed From Complaint Receipt to OAG Review Date	Number (Percent) of Open Investigations
6 months or less	411 (17%)
More than 6 to 12 months	571 (24%)
More than 12 to 24 months	714 (30%)
More than 24 to 36 months	433 (18%)
More than 36 months	276 (11%)
Total open investigations	<u>2,405</u>

MDCR's ongoing investigations had been open, on average,

18 months
(559 days)

since receipt of the complaint.

MDCR stated it lacked an adequate number of investigators to complete investigations in a timely manner and informed us MDCR investigators had an average of 80 to 100 cases each. Also, our limited review of management controls noted MDCR may need to evaluate its policies and procedures related to monitoring of timely completion of key investigation milestones, including its utilization of CRIS dashboard information and monthly monitoring reports. Subsequent to our audit period, MDCR was appropriated \$5.7 million in fiscal year 2024 for additional enforcement staff to assist in reducing the backlog of investigations.

We consider this finding to be a material condition because of the:

- Risk that claimants' alleged discriminatory situations or conditions could linger or worsen during prolonged investigations.

- Possible loss or degradation of crucial investigative evidence with the passage of time and the resulting risk that MDCR may be unable to secure the equal protection of civil rights as guaranteed under Michigan law.
- Likely burdens, such as administrative, financial, or emotional tolls, that prolonged investigations impose on claimants, respondents, and the department.

RECOMMENDATION

We recommend that MDCR significantly improve its timeliness for completing civil rights complaint investigations.

AGENCY PRELIMINARY RESPONSE

MDCR provided us with the following response:

MDCR agrees with the finding and responds as follows:

- *The FY 2024 budget was passed for an ongoing \$5.7 million for complaint investigation and enforcement to reduce the backlog of discrimination cases and complete investigations in a timely manner. This supplements and increases the one-time \$3.1 million used to hire limited term staff to address complaints. Therefore, the limited term staff hired with the \$3.1 million are able to become permanent employees. The FY 2024 increases this budget by \$2.6 million to hire additional permanent staff.*
- *The FY 2024 budget passed to include an ongoing \$1.6 million to address disparate impact complaints that occur when policies, practices, rules, or other systems result in a disproportionate impact against jurisdictional protected bases.*
- *Receiving the above-mentioned funding increase allows for the expansion of enforcement staff and managers, including:*
 - *Hiring additional permanent Civil Rights Investigators (CRIs) and enforcement staff to adequately support the timely assignment of complaint investigations.*
 - *Hiring additional permanent management and oversight staff to monitor the case processes and timelines.*
 - *Hiring a special investigation unit to handle more complicated cases that tend to increase the average time it takes to complete complaint investigations.*
- *Revising policies and procedures, including:*
 - *Establishing a timeframe goal for complaint assignment to an investigator.*

- *Establishing a timeframe goal for investigators to attempt to contact the claimant regarding an initial interview.*
- *Requiring investigators to place a note in CRIS on any attempt to contact the claimant regarding an initial interview.*
- *Enhancing requirements for Civil Rights Managers regarding the monitoring of case activity.*

ASSIGNMENT OF CIVIL RIGHTS COMPLAINTS FOR INVESTIGATION

BACKGROUND

MDCR's complaint intake process serves as an important decision-making point in carrying out its responsibilities (see Exhibit 2). After a claimant contacts MDCR to file a complaint, MDCR intake staff must gather the necessary information from the claimant to determine whether the complaint meets the requirements for a civil rights investigation and/or referral to another agency. A complaint of alleged discrimination is assigned for an MDCR investigation if it meets all the following criteria:

- Took place within 180 days of filing the complaint.
- Occurred within MDCR's areas of jurisdiction (i.e., discrimination in employment, education, housing, public accommodation, or public service in Michigan).
- Includes an alleged harm (i.e., discrimination based on religion, race, color, national origin, genetic information, sex, age, height, weight, familial or marital status, or disability).

MDCR intake staff evaluate the complaint information gathered and if the complaint:

- *Meets* all three criteria, intake staff draft the certified complaint* and send it to the claimant. The claimant is required to have the certified complaint notarized and return it to MDCR. MDCR's investigation then begins.
- *Does not meet* all criteria, the complaint is denied* for investigation. Intake staff send the claimant a summary of complaint* (SOC) letter which explains MDCR's denial reason and informs the claimant of their right to appeal the denial decision through MDCR's reconsideration process. If appealed, an MDCR staff attorney reviews the appeal and the details of the complaint and either upholds or reverses the MDCR intake worker's denial decision.

All intake assignment decisions are required to be reviewed and approved by a civil rights manager, allowing for the identification and correction of intake deficiencies and signifying the manager's agreement with the intake worker's actions and/or decisions.

Roughly half of complaints are submitted by claimants via MDCR's online submission form while the remaining are submitted by telephone, e-mail, mail, and other sources (see Exhibit 3B). For the 18-month period ended June 30, 2022, MDCR received 9,003 complaints of alleged unlawful discrimination and assigned 1,867 for investigation (see Exhibit 3A).

* See glossary at end of report for definition.

AUDIT OBJECTIVE

To assess the sufficiency of MDCR's efforts to assign civil rights complaints for investigation, when required.

CONCLUSION

Sufficient, with exceptions.

**FACTORS
IMPACTING
CONCLUSION**

- MDCR's intake assignment decision to either deny or assign complaints for investigation was supported by MDCR's complaint information and aligned with State law, *Michigan Administrative Code*, and MDCR policy for 98% of the selected civil rights complaints we reviewed.
- For the civil rights complaints we reviewed, MDCR maintained evidence of a SOC letter for denied complaints or a notarized certified complaint for those assigned for investigation.
- For the applicable civil rights complaints we reviewed, MDCR intake staff forwarded complaints assigned for investigation to MDCR investigation staff.
- MDCR completed its intake process, on average, in 37 days for civil rights complaint investigations we reviewed.
- MDCR's online complaint submission process ensured 100% of complaints reviewed were uploaded to CRIS.
- MDCR processed appealed denial decisions timely and maintained documentation of its decision for the appeals reviewed.
- MDCR assigned a CRIS user role(s) appropriate for the individual's job responsibilities for 100% of individuals reviewed.
- Five reportable conditions* related to needed improvements in:
 - Management review of complaint assignment decisions (Finding 2).
 - Controls over incoming contacts (Finding 3).
 - Documentation of verbal intake interviews with claimants (Finding 4).
 - Customer service complaint process (Finding 5).
 - Timely removal of CRIS user access (Finding 6).

* See glossary at end of report for definition.

FINDING 2

Management review process for complaint assignment decisions needs strengthening.

MDCR managers did not review and approve intake assignment decisions for 31% of complaints reviewed.

MDCR management needs to strengthen its review of complaint assignment decisions. Doing so would help MDCR ensure assignment decisions are consistent with applicable laws and policy and that all individuals alleging unlawful discrimination are provided an impartial investigation, as guaranteed under law.

MDCR policy establishes requirements for civil rights managers' secondary review and approval of certain intake-related steps carried out by intake staff. This allows for the identification and correction of intake deficiencies and signifies the manager's agreement with the intake worker's actions and/or decisions. Our review of MDCR's managerial approval process noted:

- a. MDCR managers did not review and approve the assignment decisions for 17 (31%) of 54 sampled complaints, as required by policy.

MDCR denied 15 (88%) of the 17 complaints without management approval, meaning a single MDCR intake worker collected relevant complaint information from the claimant, evaluated the information, and concluded the complaint did not meet requirements for an investigation without any further secondary review of the intake worker's actions or denial decision. Although claimants are offered the opportunity to appeal MDCR's denial decision (see part b.), less than 2% of denied complaints were appealed by claimants during the audit period and over one-third of the denials were reversed based on the appeals process.

MDCR informed us that managers did not document their reviews and approvals in the cited instances.

- b. MDCR did not require secondary review and approval of assignment decisions for appealed complaints.

When MDCR denies a civil rights complaint for investigation through the intake process, the claimant may appeal MDCR's denial decision. When an appeal is submitted by a claimant, an MDCR staff attorney organizationally located outside of the MDCR intake unit reviews the appeal and the details of the complaint and either upholds or reverses the MDCR intake worker's denial decision. When reversed, the complaint is assigned for a civil rights investigation. MDCR records show claimants appealed 92 denied complaints during the audit period and MDCR's appeal process resulted in 33 (36%) being reversed and the remaining 64% being upheld without any secondary review and approval. Requiring secondary review and approval of its appeal decisions would help serve claimant interests, as the MDCR appeals process represents claimants' final opportunity for possible resolution of their alleged civil rights violation outside of independently pursuing the matter in court.

MDCR stated it did not require management review of denied reconsideration requests because reconsiderations were handled by staff independent of the intake unit.

RECOMMENDATION

We recommend that MDCR management strengthen its review of complaint assignment decisions.

AGENCY PRELIMINARY RESPONSE

MDCR provided us with the following response:

For part a., MDCR agrees that improvements are needed in the management review process for complaints assignment decisions. The cause of these actions is that managers did not document their reviews and approvals of complaints. Each complaint drafted, whether SOC or certified complaint is required to be reviewed and documented before the final document is sent to claimants.

MDCR has taken or will take the following actions:

- (1) Emphasizing that Intake managers are required to review all complaints that are received from the Intake Unit. Intake managers are also required to document the review of those complaints.*
- (2) Periodic system checks will be conducted by a manager or other assigned staff to ensure procedures are being followed, including the proper documentation of review of complaints.*
- (3) Administrative processes have been reviewed and revised to ensure proper policy and procedures are being followed.*
- (4) Refresher training will include the importance of documenting the review of complaints and documenting the review.*
- (5) The staff attorneys assigned to the Intake Unit will review summary of complaints, cases of first impression and certain other designated areas of discrimination. This will result in a secondary review.*

For part b., under the current policy, MDCR does not require management review of reconsideration requests/appeals when denied. When information from a claimant is provided, the reconsideration attorney makes a recommendation to grant the reconsideration request and reopen the case or deny the reconsideration request and keep the case closed. MDCR agrees that this process currently does not have a review of reconsideration requests for SOC that are denied.

MDCR has taken or will take the following actions:

- (1) Assign a staff member to do internal audits of various Enforcement processes. This staff person will act as an internal auditor.*
- (2) The internal auditor will take a sampling of the reconsideration requests for SOCs that are denied and review them each quarter to ensure they are in compliance with MDCR's policies, processes, and standards.*

FINDING 3

Improved controls needed over incoming contacts.

MDCR needs to improve controls over incoming contacts to help ensure all alleged civil rights violation complaints received are evaluated and assigned for investigation, when required.

State law requires MDCR to receive, initiate, and investigate complaints alleging civil rights violations. MDCR receives complaint and non-complaint related contacts through several established communication methods, including an online complaint submission form on MDCR's website, telephone, e-mail, mail, and other sources. MDCR policy requires a complaint issue case be created in CRIS for every customer who contacts MDCR to file a complaint or who has questions regarding the filing of a complaint. MDCR staff will then conduct an intake interview with the customer to obtain pertinent information, evaluate the concern(s), and determine whether to assign the complaint for investigation.

According to MDCR records, approximately 50% of complaints are received via MDCR's website and the remaining 50% are received via telephone, e-mail, mail, and other sources (see Exhibit 3B). Complaint contacts received via MDCR's website are automatically uploaded to CRIS through an electronic interface, while MDCR staff manually process contacts received from the other incoming communication sources.

Our review of MDCR's intake procedures noted opportunities existed for improved tracking and reconciliation over incoming contacts. For example, we noted:

- MDCR did not maintain records of all incoming telephone contacts. Consequently, MDCR lacked the ability to track and monitor calls to help ensure a CRIS complaint issue case was established for all complaints. MDCR's records indicated approximately 30% of all complaints during the audit period were received via telephone.
- MDCR had not established a reconciliation process to ensure all incoming e-mails were evaluated and a CRIS complaint issue case was established for all complaints. MDCR's records indicated approximately 20% of all complaints during the audit period were received via e-mail.

6% of MDCR junk e-mails we reviewed were complaint related and did not have a complaint issue case established in CRIS.

Our review of MDCR's junk e-mail folder noted 675 (97%) of the 693 total junk e-mails were unread. We judgmentally selected 98 unread junk e-mails from private senders and determined 6 (6%) were complaint related and did not have a complaint issue case established in CRIS. Therefore, MDCR did not initiate an intake interview with the claimant and determine how the complaint should be addressed.

Tracking and monitoring of incoming contacts is key because of the commingled nature of complaint and non-complaint contacts, the importance of ensuring an intake interview is conducted with claimants to obtain pertinent information and evaluate complaint related concerns, and the substantial portion of all alleged civil rights violation contacts that are manually processed by MDCR.

MDCR informed us it stopped requiring staff to log telephone contacts during the COVID-19 pandemic and current MDCR leadership was not aware of the lack of policies or procedures surrounding monitoring e-mails for incoming complaint contacts.

RECOMMENDATION

We recommend that MDCR improve controls over incoming contacts to help ensure that all alleged civil rights violation complaints are evaluated and assigned for investigation, when required.

AGENCY PRELIMINARY RESPONSE

MDCR provided us with the following response:

MDCR agrees that improved controls are needed for the way in which MDCR receives incoming contacts to help ensure that all alleged civil rights violation complaints received are evaluated and assigned for investigation, when required.

For the first bullet, MDCR has taken or will take the following actions:

- (1) Revised policies and procedures, including the requirement to keep a log of all incoming telephone contacts.*
- (2) Imparted the importance and requirement of keeping a log of all telephone contacts to staff.*
- (3) The telephone contact logs are being regularly monitored.*

For the second bullet, MDCR has taken or will take the following actions:

- (1) MDCR's policies and procedures are being updated to include the instant finding to be addressed and corrected.*
- (2) The junk mailbox folder shall be reviewed daily to ensure we review and evaluate all email messages coming into the department.*

FINDING 4

Improvement needed in documenting verbal intake interviews with claimants.

MDCR needs to improve its documentation of verbal intake interviews with claimants. Doing so would help MDCR ensure it is consistently gathering the necessary information from claimants to determine whether complaints require an MDCR investigation of unlawful discrimination. Also, it would enable MDCR to better support its complaint intake decisions if subsequently questioned or challenged.

After a claimant contacts MDCR and requests to file a complaint, MDCR must gather the necessary information to determine whether the complaint meets the requirements for a civil rights investigation. MDCR may conduct a verbal intake interview or obtain information in writing from the claimant. MDCR's documentation of verbal intake interviews is critical because it serves as MDCR's account and record of the claimant's civil rights violation allegations and the foundation for MDCR's determination of whether the claimant's complaint meets the requirements for an investigation of unlawful discrimination.

For verbal intake interviews, MDCR policy requires MDCR intake staff to utilize an intake interview questionnaire to help ensure MDCR consistently gathers pertinent and detailed information, such as the date(s) of the alleged discrimination incident(s), a description of the harm, and the basis for the alleged discrimination.

MDCR did not document its intake interview with claimants for 15% of complaints reviewed.

We selected a sample of 59 civil rights complaints and determined MDCR conducted a verbal intake interview for 20. Our review of these 20 complaints noted MDCR did not document its intake interview with the claimant for 3 (15%). We noted MDCR denied one of these complaints because of a lack of basis to warrant a civil rights investigation. However, without documentation of the verbal intake interview, MDCR's records for this complaint lacked evidence to support that the intake staff had sought and/or documented sufficient information from the claimant for MDCR to appropriately assess the discrimination basis and/or to support MDCR's denial of a civil rights investigation. We further noted the intake decision for the denied complaint was reviewed and approved by an MDCR manager; however, it was unclear the documentation the manager reviewed to substantiate the denial decisions.

MDCR stated it believes human error led to the noted deficiencies, and intake staff likely failed to upload the completed intake interview questionnaire to CRIS and/or make a relevant note in CRIS regarding the verbal intake interview.

RECOMMENDATION

We recommend that MDCR document its verbal intake interviews with claimants.

**AGENCY
PRELIMINARY
RESPONSE**

MDCR provided us with the following response:

MDCR agrees that improvements are needed to be more consistent on its documentation of verbal intake interviews with claimants. MDCR has taken or will take the following actions:

- (1) Training of enforcement staff includes that interview intake questionnaires should be filled out and uploaded into the CRIS system. However, if a basis cannot be identified, a CRIS note must be entered, and the allegations must be contained in the SOC.*
- (2) Periodic system checks will be conducted by a manager or other assigned staff to ensure procedures are being followed, including the proper documentation of verbal complaints.*
- (3) Administrative processes have been reviewed and revised to assist to ensure proper policy and procedures are being followed.*
- (4) Refresher training will include the importance of utilizing and uploading intake interview questionnaires for verbal intake calls.*

FINDING 5

A strengthened customer service complaint process is needed.

MDCR lacked formalized processes for receiving, documenting, addressing, and analyzing customer service complaints.

MDCR needs to strengthen its customer service complaint process. Doing so would increase MDCR's assurance that it is consistently providing outstanding customer service to those seeking its services. In addition, strengthening relevant policies and procedures would enhance MDCR's ability to determine the volume and nature of customer service complaints, identify trends in reported customer service issues, and develop targeted training opportunities to address those issues.

MDCR's strategic plan highlights providing outstanding customer service to all people seeking its services as a key departmental goal. In support of this goal, MDCR has identified key strategies that include offering more comprehensive employee training and identifying additional training opportunities for employees dealing with customers. An effective customer service complaint process includes recording and tracking complaints and resolutions and analyzing complaint data to identify reoccurring topics, which could indicate systematic issues and policies that management needs to address.

Our review noted MDCR had not established formalized operational processes for receiving, documenting, addressing, and analyzing customer service complaints. A more robust customer service complaint process would enhance MDCR's ability to:

- Ensure all incoming customer service complaints received are recorded, tracked, and resolved (see Finding 3). Under its informal process, MDCR did not document its receipt and resolution for each complaint and was unable to determine the number and frequency of customer service complaints received and/or readily compile the nature of reported issues.
- Detect and address pervasive, systemic, and/or persistent customer service issues and emerging issues. For example, establishing policies for recording and analyzing customer complaint data could strengthen MDCR's ability to identify and remediate potential shortcomings such as factors contributing to lengthy investigation completion time frames and management's review of complaint assignment decisions (see Findings 1 and 2).
- Improve and support training efforts for newly hired and existing staff through the inclusion of topics targeted toward identified customer service issues and/or related staff deficiencies.

MDCR stated it did not have an identified staff person or position dedicated to receiving, documenting, and addressing customer service complaints and that it relied on an informal practice of forwarding customer communicated dissatisfaction to a manager for follow-up and resolution.

RECOMMENDATION

We recommend that MDCR strengthen its customer service complaint process.

**AGENCY
PRELIMINARY
RESPONSE**

MDCR provided us with the following response:

MDCR agrees it needs to strengthen its customer service complaints process.

MDCR plans to take the following actions:

- (1) Assign a member of staff the responsibility to receive, document and address customer service complaints, including resolution.*
- (2) Draft policies and procedures to appropriately address and respond to customer service complaints.*
- (3) Incorporate training sessions for newly hired and existing staff regarding customer service issues, which may include but are not limited to, the process for directing customer service complaints, how to handle customer complaints, best practices in customer service.*

FINDING 6

More robust controls needed for removal of CRIS user access.

MDCR did not timely request DTMB to remove or disable CRIS access for 37% of CRIS users who left State employment.

MDCR needs to establish more robust controls over CRIS to help ensure user access is timely removed or disabled for departed employees.

State of Michigan (SOM) Technical Standard 1340.00.020.01 requires MDCR to remove user access within 3 business days when accounts are no longer required and when users are terminated or transferred. In addition, SOM Technical Standard 1340.00.140.01 requires access be disabled within 24 hours when employees temporarily separate from the organization for a leave of absence.

CRIS had 104 active users as of July 5, 2022. Our review of 19 CRIS users who permanently or temporarily departed State employment from January 1, 2021 through June 30, 2022 noted MDCR did not timely request the Department of Technology, Management, and Budget (DTMB) remove or disable access for 7 (37%). Consequently, access for the 7 users remained active for periods ranging from 11 to 70 days after departure from MDCR. These individuals had a variety of access permissions related to their former job duties that included, but were not limited to, civil rights claims examiners, a civil rights manager, and a staff attorney.

MDCR informed us the delayed requests to DTMB for CRIS user access removals were caused by several issues, such as the retirement of MDCR's former security officer and MDCR staff transitioning from departmental employee to contractor status.

RECOMMENDATION

We recommend that MDCR strengthen controls over CRIS to help ensure that user access is timely removed or disabled for departed employees.

AGENCY PRELIMINARY RESPONSE

MDCR provided us with the following response:

MDCR agrees that improvements are needed in CRIS User Access Removals. MDCR agrees that individuals that are no longer CRIS users should have their access removed on a timely basis.

MDCR has taken or will take the following actions:

- (1) Remediation action has been taken and any of the identified users have had their access removed.*
- (2) Back up/cross training of staff to assist primary party in monitoring and removal of user access has been completed and will continue as needed.*
- (3) Technical and administrative processes have been reviewed and revised to assist manager, executive, and support staff in monitoring of access and removal of access upon departure.*

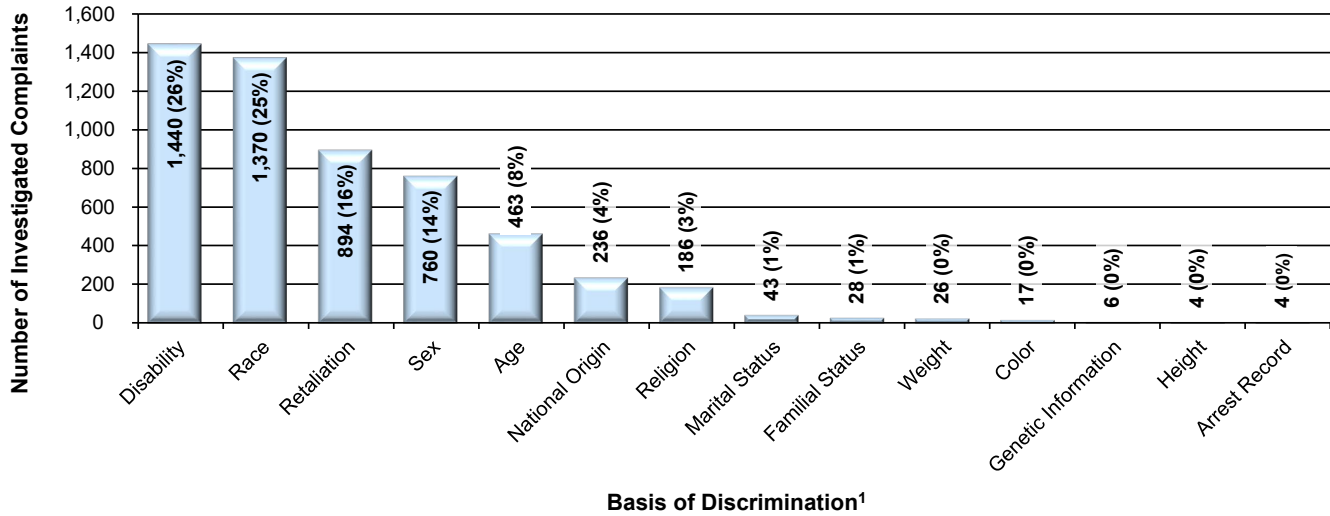
(4) *Biannual review of CRIS users, per NIST standard, is conducted.*

SUPPLEMENTAL INFORMATION

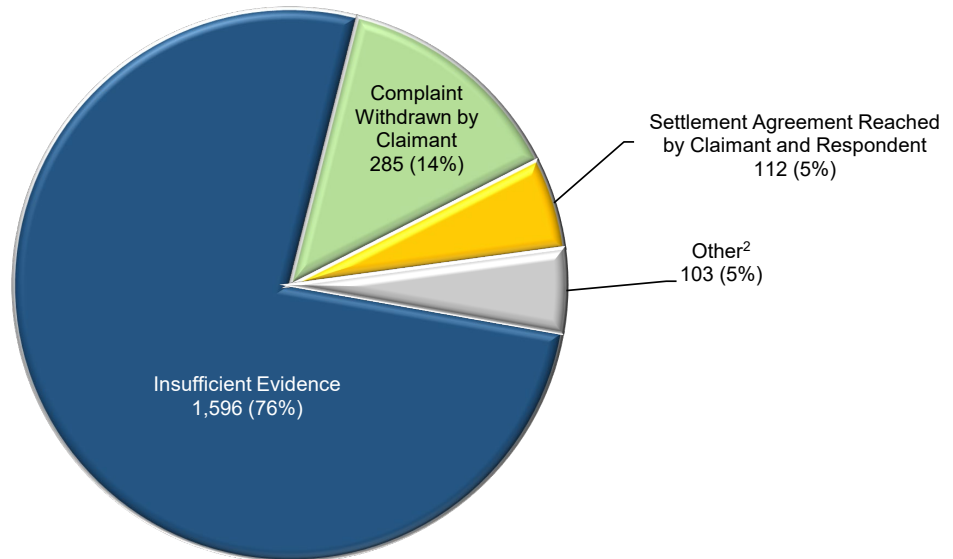
UNAUDITED
Exhibit 1

SELECTED ACTIVITIES RELATED TO INVESTIGATION TIMELINESS AND COMPLAINT INTAKE Michigan Department of Civil Rights

A. Basis of Discrimination for Investigations Completed From January 1, 2021 Through June 30, 2022



B. Closure Reason for Investigations Completed From January 1, 2021 Through June 30, 2022



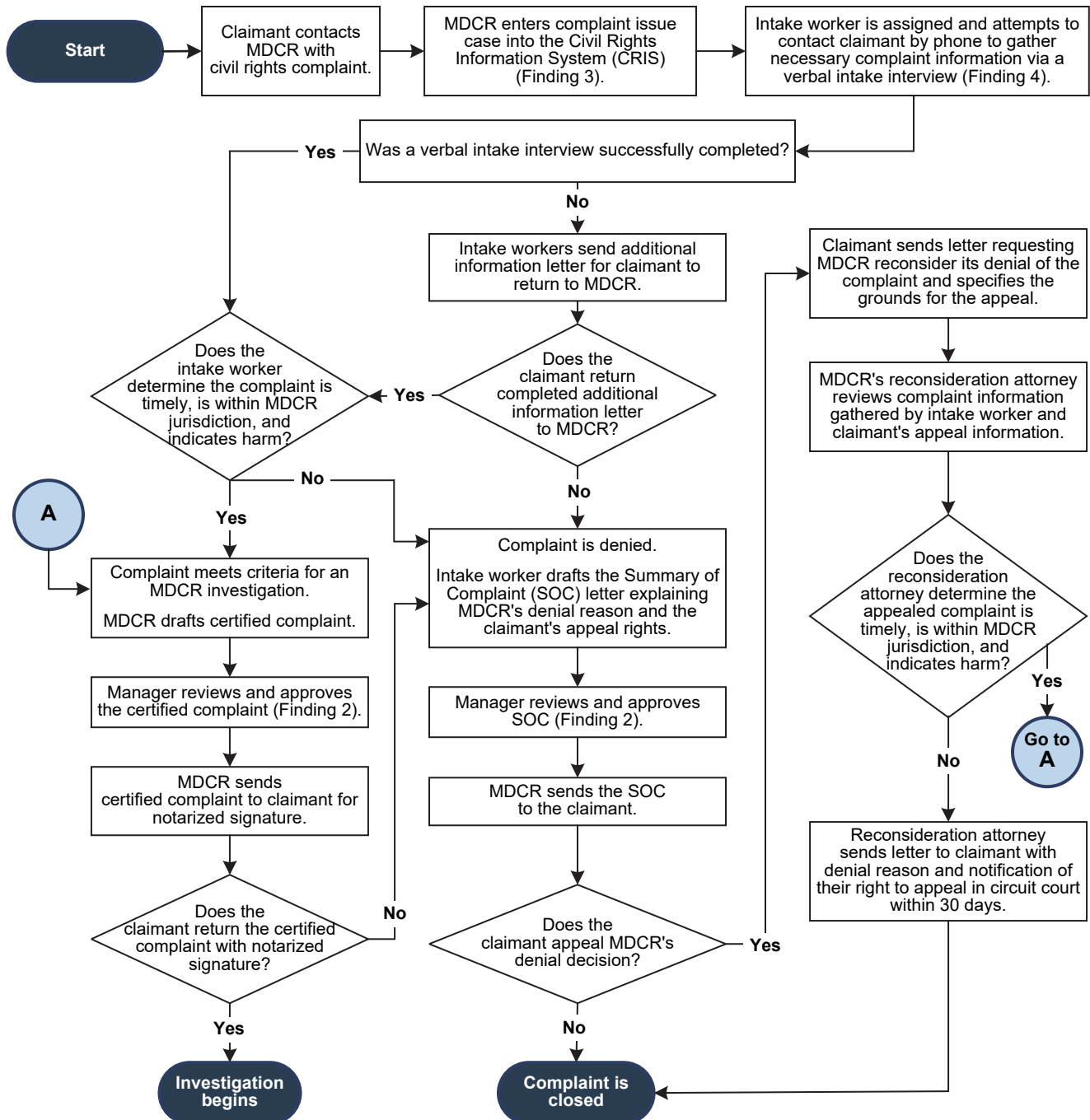
¹ An investigated complaint may have multiple issues and more than one basis of discrimination; accordingly, this data does not reflect the total number of unique investigated complaints for the period.

² This category includes, but is not limited to, closure reasons such as respondent out of business, claimant failure to cooperate, claimant in court, and wrong respondent.

Source: The OAG prepared Exhibit 1A using an MDCR-generated CRIS report and Exhibit 1B using data obtained from CRIS.

SELECTED ACTIVITIES RELATED TO INVESTIGATION TIMELINESS AND COMPLAINT INTAKE
Michigan Department of Civil Rights (MDCR)

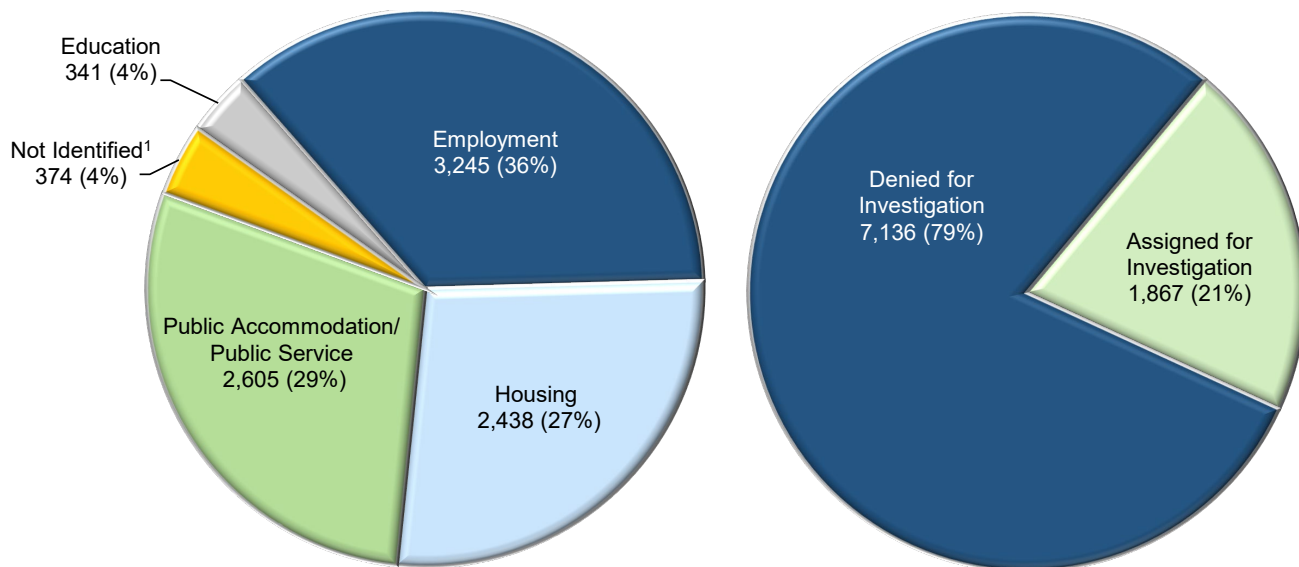
MDCR Complaint Intake Process Flowchart



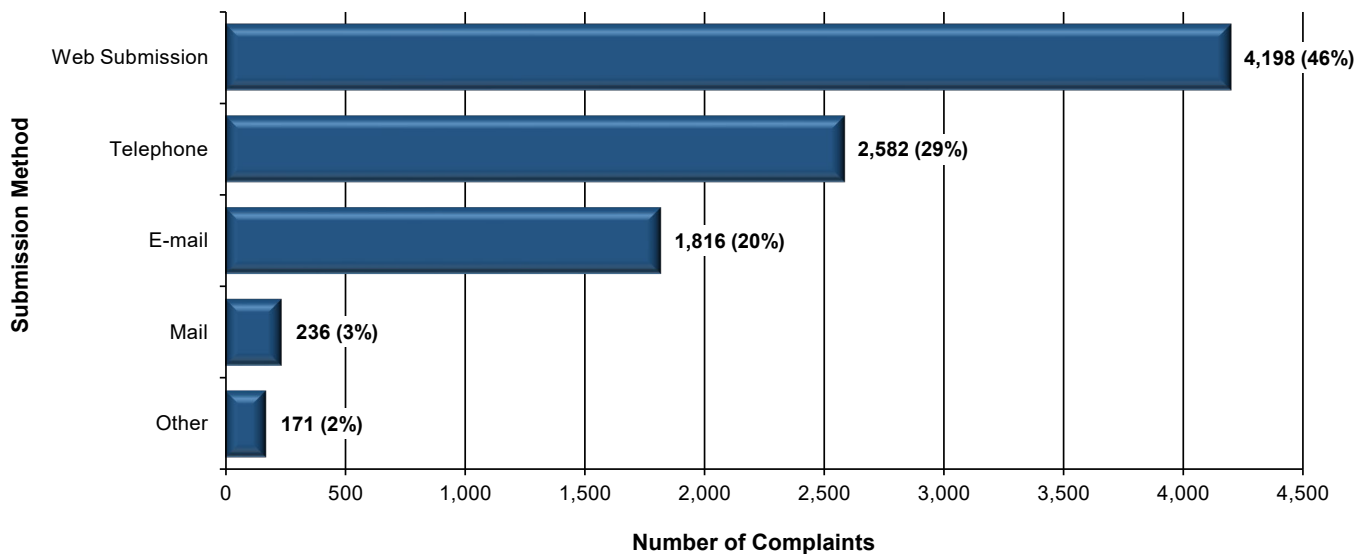
Source: The OAG created this exhibit using process information obtained from MDCR.

SELECTED ACTIVITIES RELATED TO INVESTIGATION TIMELINESS AND COMPLAINT INTAKE
Michigan Department of Civil Rights

A. Area of Discrimination and Intake Assignment Decision for Complaints Received
From January 1, 2021 Through June 30, 2022



B. Submission Method for Complaints Received From January 1, 2021 Through June 30, 2022



¹ MDCR's CRIS did not identify an area of discrimination for these complaints.

Source: The OAG prepared this exhibit using data obtained from CRIS.

AGENCY DESCRIPTION

MDCR was created in 1965 to carry out the work of the Michigan Civil Rights Commission. MDCR's vision is to secure the full enjoyment of civil rights guaranteed by law and the Michigan Constitution by the elimination of unlawful discrimination through education, investigation, and engagement.

MDCR's primary purpose is to investigate complaints of unlawful discrimination in employment, education, housing, public accommodation, and public service under Michigan's Elliott-Larsen Civil Rights Act and the Persons with Disabilities Civil Rights Act. MDCR also has agreements with the U.S. Equal Employment Opportunity Commission and U.S. Department of Housing and Urban Development to accept complaints under those jurisdictions. MDCR's Enforcement Division is responsible for receiving complaints and conducting impartial investigations. In addition to its investigation duties, MDCR also works to prevent discrimination through community engagement activities and educational programs that promote voluntary compliance with civil rights laws.

MDCR has offices in Detroit, Lansing, and Grand Rapids. MDCR was appropriated \$17.8 million in fiscal year 2022 and had 88 full-time employees as of September 30, 2022, including 52 employees in the Enforcement Division.

AUDIT SCOPE, METHODOLOGY, AND OTHER INFORMATION

AUDIT SCOPE

To examine the records and processes for selected activities related to MDCR investigation timeliness and complaint intake. We conducted this performance audit* in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

As part of the audit, we considered the five components of internal control (control environment, risk assessment, control activities, information and communication, and monitoring activities) relative to the audit objectives and determined all components were significant.

PERIOD

Our audit procedures, which included a preliminary survey, audit fieldwork, report preparation, analysis of agency responses, and quality assurance, generally covered January 1, 2021 through June 30, 2022.

METHODOLOGY

We conducted a preliminary survey to gain an understanding of MDCR's operations to establish our audit objectives, scope, and methodology. During our preliminary survey, we:

- Reviewed applicable *Michigan Compiled Laws*, *Michigan Administrative Code* requirements, MDCR policies and procedures, and MDCR's 2022-2026 strategic plan.
- Interviewed MDCR management and staff to obtain an understanding of the civil rights complaint intake, investigation, and reconsideration processes and MDCR's efforts to provide training to staff.
- Conducted walk-throughs with MDCR staff of intake and investigation processes and obtained an understanding of MDCR's documentation of intake and investigation activities in CRIS.
- Performed preliminary data analysis of MDCR expenditure, complaint, and investigation information.
- Performed preliminary testing of selected complaints and investigations to identify potential risk areas for review.

* See glossary at end of report for definition.

OBJECTIVE 1

To assess the effectiveness of MDCR's efforts to timely complete civil rights complaint investigations.

To accomplish this objective, we:

- Reviewed MDCR's strategic plan to understand its established investigation completion goal.
- Determined MDCR completed 2,096 civil rights complaint investigations from January 1, 2021 through June 30, 2022 and we:
 - Calculated the average number of days for MDCR to complete the investigations based on the difference between the complaint receipt date and the MDCR case closure date for each investigation.
 - Randomly and judgmentally selected 40 of the completed investigations and reviewed MDCR's investigation records to identify periods of significant delays, if applicable.

Our random sample was selected to eliminate any bias and enable us to project the results to the population. We selected another sample judgmentally to ensure representativeness and could not project those results to the respective population.

- Determined that as of July 19, 2022, MDCR had 2,405 ongoing investigations for complaints received through June 30, 2022 and calculated the average number of days the ongoing investigations had been open since complaint receipt.
- Obtained a general understanding of MDCR's management controls for monitoring timely completion of investigation milestones.

OBJECTIVE 2

To assess the sufficiency of MDCR's efforts to assign civil rights complaints for investigation, when required.

To accomplish this objective, we:

- Randomly selected 59 complaints from the population of 10,036 alleged civil rights violation complaints received from January 1, 2021 through June 30, 2022 and those received prior to January 1, 2021 that remained open as of July 8, 2022. We reviewed MDCR's intake documentation for the selected complaints and

performed the following audit procedures to assess MDCR's compliance with applicable requirements:

- Verified MDCR intake staff documented verbal intake interviews with claimants on the intake interview questionnaire. If MDCR's attempts to contact claimants for a verbal intake interview were unsuccessful, we verified MDCR retained evidence that it sent the claimant an additional information letter, requesting the claimant to submit required information necessary for intake staff to evaluate the allegations.
- Confirmed MDCR's intake assignment decision to either deny or assign the complaints for investigation was supported by complaint information and aligned with State law, *Michigan Administrative Code*, and MDCR policy.
- Confirmed for denied complaints that MDCR retained evidence that it sent the claimant a SOC letter explaining the reason for the denial and informing the claimant of their right to appeal MDCR's denial decision.
- Verified for complaints assigned for an investigation that MDCR retained the notarized certified complaint from the claimant.
- Compared the complaint receipt date with relevant complaint intake dates recorded in CRIS to assess the timeliness of MDCR's intake process and complaint assignment decisions.
- Confirmed MDCR managers approved intake staff complaint assignment decisions.
- Reviewed the intake interview questionnaire and the additional information letter to evaluate whether the MDCR forms were designed to gather sufficient information to allow MDCR intake staff to draw complaint assignment decisions.
- Obtained all 10,442 e-mails MDCR received from January 1, 2021 through June 30, 2022 in its MDCR Service Center mailbox, where claimants are directed to submit civil rights complaints via e-mail. We verified MDCR timely created a complaint issue case in CRIS for:
 - 123 randomly and judgmentally selected e-mails from the subpopulation of 693 e-mails filed in the MDCR Service Center junk e-mail folder.

- 73 randomly and judgmentally selected e-mails from the subpopulation of 2,733 e-mails that we judgmentally identified as likely claimant complaint submissions.
- 25 randomly selected e-mails from the subpopulation of 4,571 e-mails that were system-generated when an individual completed MDCR's online complaint submission form.
- Randomly and judgmentally selected 23 claimant appeals from the population of 92 denial decision appeals that MDCR received from January 1, 2021 through June 30, 2022 and reviewed MDCR's reconsideration documentation to:
 - Verify that the claimant's basis for disagreement with MDCR's complaint denial decision was documented on the claimant's appeal letter and, if not, that MDCR obtained this information through contact with the claimant.
 - Determine whether MDCR's reconsideration decision was supported and aligned with State law, *Michigan Administrative Code*, and MDCR policy.
 - Compare the date of the claimants' reconsideration request with MDCR's reconsideration decision date to assess the timeliness of MDCR's reconsideration process.
 - Determine whether MDCR's reconsideration decisions were reviewed and approved by MDCR management.
- Performed a limited review of CRIS user access. Specifically, we:
 - Randomly selected 11 CRIS users from the population of 104 active MDCR CRIS users as of July 5, 2022 and verified that the selected users were current MDCR employees, were assigned CRIS user role(s) appropriate for the individuals' job responsibilities and had a signed acceptable use agreement maintained by MDCR.
 - Identified 19 CRIS users who permanently or temporarily departed MDCR employment from January 1, 2021 through June 30, 2022 and determined whether MDCR timely requested that the individuals' CRIS access be removed or disabled upon departure in accordance with SOM technical standards.

- Identified 41 complaint related records that MDCR deleted from CRIS from January 1, 2021 through June 30, 2022. We randomly and judgmentally sampled 8 of the complaint deletions and reviewed available documentation to verify the deletion was appropriate and was properly approved.
- Interviewed MDCR management to obtain an understanding of the process utilized to track and resolve customer service complaints.

Our random samples were selected to eliminate any bias and enable us to project the results to the population. We selected other samples judgmentally to ensure representativeness or based on risk and could not project the results to the respective populations.

CONCLUSIONS

We base our conclusions on our audit efforts and any resulting material conditions or reportable conditions.

When selecting activities or programs for audit, we direct our efforts based on risk and opportunities to improve State government operations. Consequently, we prepare our performance audit reports on an exception basis.

AGENCY RESPONSES

Our audit report contains 6 findings and 6 corresponding recommendations. MDCR's preliminary response indicates it agrees with the recommendations.

The agency preliminary response following each recommendation in our report was taken from the agency's written comments and oral discussion at the end of our fieldwork. Section 18.1462 of the *Michigan Compiled Laws* and the State of Michigan Financial Management Guide (Part VII, Chapter 4, Section 100) require an audited agency to develop a plan to comply with the recommendations and to submit it to the State Budget Office upon completion of an audit. Within 30 days of receipt, the Office of Internal Audit Services, State Budget Office, is required to review the plan and either accept the plan as final or contact the agency to take additional steps to finalize the plan.

SUPPLEMENTAL INFORMATION

Our audit report includes supplemental information presented as Exhibits 1 through 3. Our audit was not directed toward expressing a conclusion on this information.

GLOSSARY OF ABBREVIATIONS AND TERMS

certified complaint	When MDCR staff determine there is a sufficient legal basis for the complaint to be certified. A certified complaint is drafted by MDCR and presented to the claimant. The certified complaint is considered complete upon the receipt of the claimant's notarized copy of the certified complaint.
claimant	Any person who files a complaint or applies to the department for the issuance of a charge.
complaint	What a claimant alleges. A complaint is accepted when it is received by MDCR.
CRIS	Civil Rights Information System.
denied/denial	Decision made by MDCR staff after their review and evaluation of relevant complaint information from the claimant and concluded that the complaint did not meet requirements for an investigation.
DTMB	Department of Technology, Management, and Budget.
effectiveness	Success in achieving mission and goals.
goal	An intended outcome of a program or an entity to accomplish its mission.
material condition	A matter that, in the auditor's judgment, is more severe than a reportable condition and 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. Our assessment of materiality is in relation to the respective audit objective.
MDCR	Michigan Department of Civil Rights.
performance audit	An audit that provides findings or conclusions based on an evaluation of sufficient, appropriate evidence against criteria. Performance audits provide objective analysis to assist management and those charged with governance and oversight in using the information to improve program performance and operations, reduce costs, facilitate decision-making by parties with responsibility to oversee or initiate corrective action, and contribute to public accountability.

reportable condition	A matter that, in the auditor's judgment, is less severe than a material condition and falls within any of the following categories: a deficiency in internal control; noncompliance with provisions of laws, regulations, contracts, or grant agreements; opportunities to improve programs and operations; or fraud.
respondent	Any person against whom the claimant has complained.
SOM	State of Michigan.
summary of complaint (SOC)	Prepared when certification of a complaint is denied by intake staff. A SOC letter informs the claimant their complaint is noncertifiable and provides the reason the complaint is not legally actionable.



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