

**ATTESTATION REPORT
OF THE
NEBRASKA DEPARTMENT OF HEALTH
AND HUMAN SERVICES ASSISTANCE TO THE
AGED, BLIND, AND DISABLED PROGRAM AND
THE STATE DISABILITY PROGRAM
JANUARY 1, 2012 THROUGH DECEMBER 31, 2012**

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Issued on November 25, 2013

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NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES
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BACKGROUND

The Nebraska Health and Human Services Act established the Nebraska Department of Health and Human Services (DHHS). The Chief Executive Officer is appointed by the Governor and confirmed by the Legislature. DHHS has six divisions whose directors are also appointed by the Governor and confirmed by the Legislature. The Division of Children and Family Services administers the Assistance to the Aged, Blind, or Disabled (AABD) Program and the State Disability Program (SDP).

AABD

The Nebraska Legislature established AABD in 1965 by Neb. Rev. Stat. § 68-1001. The program was created to provide financial aid and medical assistance to persons in need who are age 65 and older, or who are age 64 and younger and blind or disabled according to the Retirement, Survivors, and Disabled Insurance (RSDI)/Supplemental Security Income (SSI) Program definition of blindness or disability.

To be eligible for a cash payment, an individual or married couple must have monthly income and countable resources less than the program's need and payment standards. (See [Attachment A](#) for 2012 Standard of Need) AABD cash assistance payments are funded entirely by State General Fund appropriations. If determined eligible for a cash payment, the individual is also eligible for medical coverage. Medical assistance payments for AABD recipients are provided by the Medicaid program and are not included in this report.

Supplemental Security Income (SSI) is a Federal income supplement program funded by general tax revenues (not Social Security taxes) designed to help aged, blind, and disabled people, who have little or no income; SSI provides cash to meet basic needs for food, clothing, and shelter. Pursuant to regulations published at 20 CFR 416 and the Social Security Act, Nebraska is required to maintain AABD payment levels in order to be eligible for Federal participation in the Medicaid program under Title XIX. The Federal SSI benefit rate is deducted from an individual's budget to determine State payments. (See example of budget calculation below.)

Standard of Need	\$ 422
Shelter Costs	281
Special Requirements	<u>0</u>
Total Requirements	\$ 703
Total Net Countable Income	<u>0</u>
Budgetary Need	\$ 703
SSI Federal Benefit Rate	<u>698</u>
AABD Need Amount	\$ 5

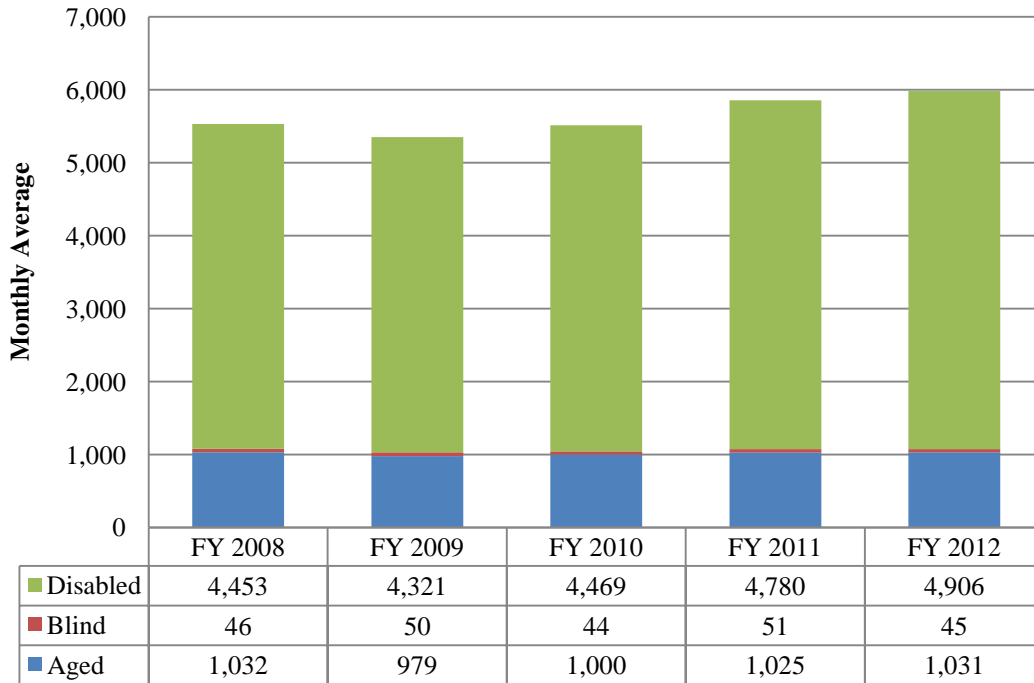
AABD cash assistance payments are accounted for in subprogram 42 AABD and subprogram 22 AABD Special Rates. In fiscal year 2002, DHHS increased rates to persons in assisted living as a strategy to address the housing crisis for persons with mental illness. Periodically, DHHS moves a portion of the payments from subprogram 42 to subprogram 22.

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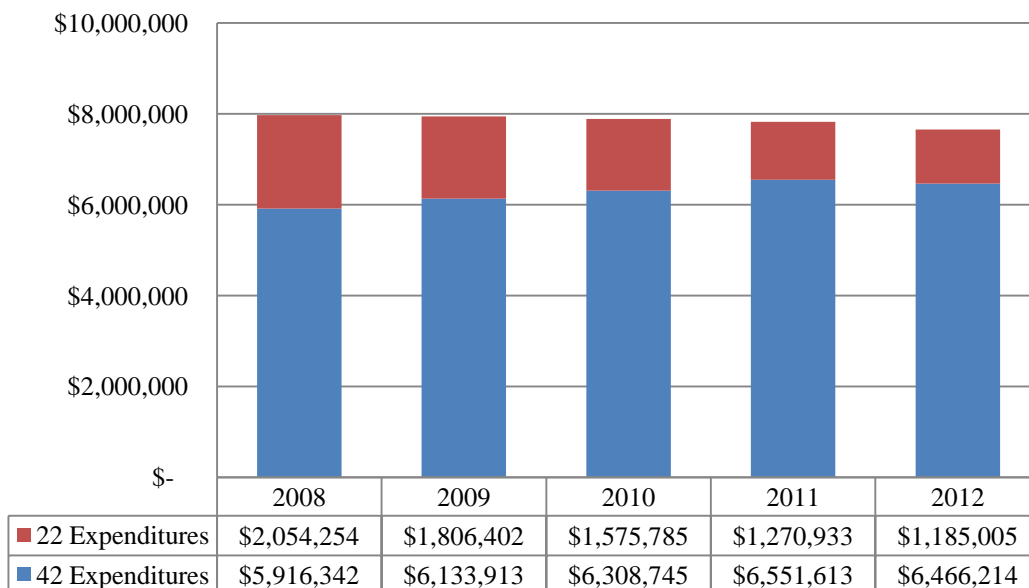
BACKGROUND

(Continued)

of AABD Individuals Receiving Cash Assistance
Fiscal Years 2008 through 2012



AABD Cash Assistance
Calendar Years 2008 through 2012



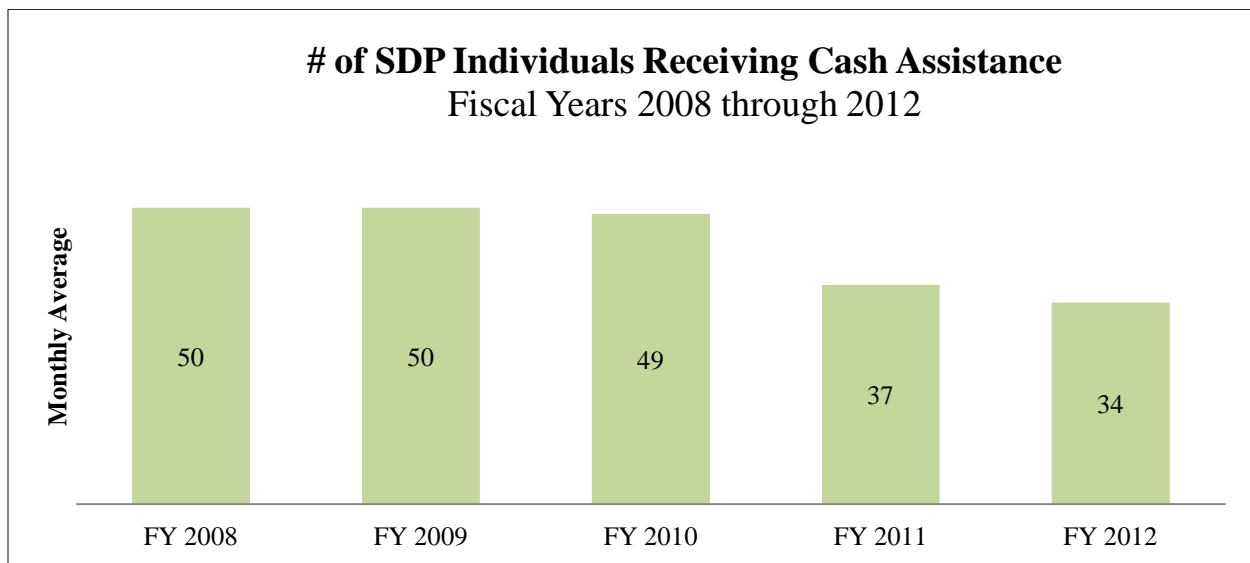
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BACKGROUND

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SDP

The State Disability Program (SDP) provides medical assistance coverage and monthly maintenance payments to persons who meet the Social Security program requirements for disability or blindness, but not the durational requirements. SDP provides assistance to individuals with disabilities lasting between six and twelve months. If the disability lasts beyond twelve months, the person qualifies for Social Security and Medicare. SDP is funded entirely by State General Fund appropriations. SDP individuals whose disabilities continue beyond twelve months may then be determined AABD eligible, which also makes them Medicaid eligible. Periodically DHHS will review medical assistance paid for these individuals and move the costs from the SDP program to Medicaid.

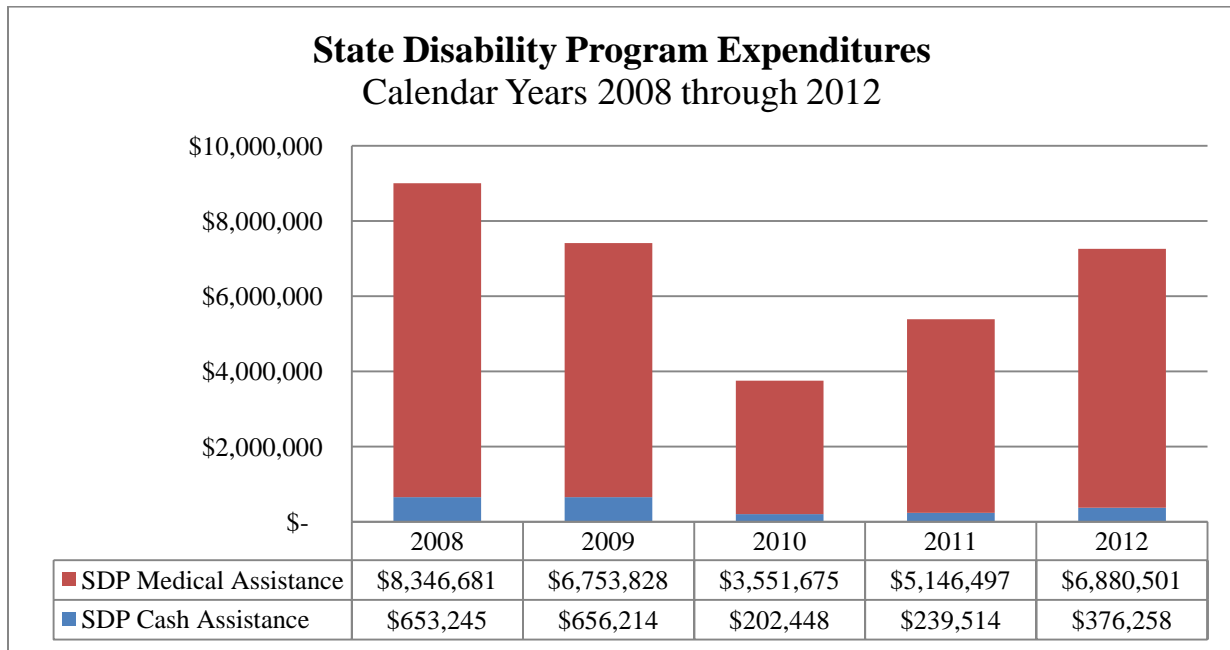


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BACKGROUND

(Continued)



Note: Timing of entries to move costs from SDP to Medicaid accounts for some of the fluctuation between years.

To protect the identity of the individuals tested throughout this report, the APA has referred to the individuals receiving payments as clients.

Information Technology Systems

In addition to the State's accounting system, EnterpriseOne, DHHS utilizes the following information technology applications to assist with the AABD Programs:

Nebraska Family Online Client User System (NFOCUS) – The NFOCUS application is used to automate benefit/service delivery and case management for over 30 DHHS programs.

Medicaid Management Information System (MMIS) – This application supports the operation of the Medicaid program, which is federally regulated, State administered, and provides medical care and services.

DHHS also utilizes ACCESSNebraska which allows individuals a way to apply for benefit programs online. DHHS utilizes Customer Service Centers and local offices to handle the universal caseload process.

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EXIT CONFERENCE

An exit conference was held October 22, 2013, with the Nebraska Department of Health and Human Services (DHHS) to discuss the results of our examination. Those in attendance for DHHS were:

NAME	TITLE
Jill Schreck	Deputy Director – Economic Assistance
Teri Chasten	Policy Chief – Economic Assistance
Thomas Pristow	Director, CFS
Jodie Gibson	Administrator – Economic Assistance
Brad Gianakos	Agency Counsel
Kevin R. Nelson, CPA	Internal Audit Administrator
Karma Stockwell	Program Supervisor – Economic Assistance
Kerry Winterer	Chief Executive Officer

NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES
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SUMMARY OF COMMENTS

During our examination of the Department of Health and Human Services Assistance to the Aged, Blind, and Disabled (AABD) Program and State Disability Program (SDP), we noted certain deficiencies and other operational matters that are presented here.

These comments and recommendations are intended to improve the internal control over financial reporting or result in operational efficiencies in the following areas:

1. ***AABD Payment Errors:*** AABD cash assistance payments were not in accordance with State laws and regulations for 7 of 25 clients tested. Regional center patients received assistance, income was not considered, and payment rates were incorrect or not reasonable. We noted \$11,762 overpayments for calendar year 2012 and \$2,154 overpayments in 2013.
2. ***SDP Payment Errors:*** SDP medical and cash assistance payments were not in accordance with State laws and regulations for 13 of 30 clients tested. We noted \$484,036 medical and \$6,956 cash assistance payment errors for 2012. We also noted \$7,034 overpayments in 2011 and \$2,596 overpayments in 2013.
3. ***Invalid Social Security Numbers:*** An AABD client did not have a valid Social Security Number (SSN) and was not eligible for AABD benefits. The client was paid \$15,106 during calendar year 2012 and \$3,216 during calendar year 2013.
4. ***Deceased AABD Clients:*** The Auditor of Public Accounts (APA) identified ten AABD clients who received benefit payments after their date of death totaling \$2,342.
5. ***Guardianship Issues:*** We identified several issues with payments going to guardians on behalf of certain AABD clients. These issues included \$8,596 in payments to an individual after they were no longer the legal guardian, payments to alternate payees without adequate documentation, and guardian fees paid without a court order.
6. ***Inaccurate Reporting to SSA:*** DHHS under-reported AABD payments to the Social Security Administration (SSA) by \$963,025. Failure to comply with SSA requirements could affect the State's eligibility for Federal Medicaid dollars.
7. ***Payment Rates Not Supported:*** DHHS did not have any documentation to support the basis for the varying standard of need rates paid.

More detailed information on the above items is provided hereafter. It should be noted that this report is critical in nature, containing only our comments and recommendations on the areas noted for improvement and does not include our observations on any accounting strengths of the Department of Health and Human Services Assistance to the Aged, Blind, and Disabled Program and the State Disability Program.

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SUMMARY OF COMMENTS

(Continued)

Draft copies of this report were furnished to DHHS to provide its management with an opportunity to review and to respond to the comments and recommendations contained herein. DHHS' overall response has been included as **Attachment B**. Responses that indicate corrective action has been taken were not verified at this time, but will be verified in the next examination.

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COMMENTS AND RECOMMENDATIONS

1. AABD Payment Errors

Per Neb. Rev. Stat. § 68-1001 (Reissue 2009):

There is hereby established in and for the State of Nebraska a program to be known as assistance to the aged, blind, or disabled, which assistance shall be administered by the Department of Health and Human Services. Such assistance shall consist of money payments to, medical care in behalf of, or any type of remedial care in behalf of needy individuals.

Per Neb. Rev. Stat. § 68-1001.02 (Reissue 2009):

No statute of limitations shall apply to any claim or cause of action, belonging to the county or state on account of the payment of assistance to the aged, blind or disabled while the recipient, former recipient, spouse, or dependent children of such recipient survive.

Rules and regulations for the AABD program are included in 469 NAC. Good internal control requires procedures to ensure payments are reasonable, necessary, and in accordance with State laws and regulations.

We tested 25 recipients of AABD cash assistance payments and noted payments were not reasonable or not in accordance with State laws and regulations as noted below:

AABD Client	Reason	2012 Payment Errors
1	Regional Center patient	\$ 4,424
2	Regional Center patient*	1,073
3	Spousal income	1,716
4	Income not considered	45
5	Income not considered	3,900
6	Rate not reasonable	628
7	Rate not correct	(24)
Total		\$ 11,762

*2013 also has questioned costs of \$2,154.

- Client 1: The case was closed December 2012 when DHHS received an alert from SSA that the client was a patient at a public institution. The APA contacted the Lincoln Regional Center (LRC), a DHHS facility, to determine the date of admittance. The individual was admitted to LRC on July 24, 2012. As LRC is a DHHS facility, DHHS was aware of the move and should have closed the case in July. In addition, per NFOCUS narratives the case review was completed in August 2012. An adequate review should have noted the change in living arrangement. Four months were overpaid at \$1,106 each for a total of \$4,424 questioned costs. DHHS cannot reasonably expect regional center patients to report their change in living arrangement. DHHS should have procedures to communicate regional center admissions to other divisions.

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COMMENTS AND RECOMMENDATIONS

(Continued)

1. AABD Payment Errors (Continued)

- Client 2: Per our review of the Beneficiary Data Exchange (Bendex), an NFOCUS interface with the Social Security Administration (SSA), we noted the client was a patient at a public institution. We contacted LRC and determined the individual was admitted on October 3, 2012. The case should have been closed. Total benefits overpaid in 2012 were \$1,073. The individual continued to receive monthly payments of \$359 in January through June 2013 for an additional overpayment of \$2,154.

Per Neb. Rev. Stat. § 68-1002 (Reissue 2009):

In order to qualify for assistance to the aged, blind, or disabled, an individual... (2) Shall not be receiving care or services as an inmate of a public institution, except as a patient in a medical institution, and if the individual is a patient in an institution for tuberculosis or mental diseases, he or she has attained the age of sixty-five years...

- Client 3: The State Employment Wages (SEW), an NFOCUS interface, noted earned income for the spouse. The spouse's earned income was not considered. If the spouse's earned income had been verified and included, the client would not have been entitled to benefits from September to December 2012, totaling \$1,716.
- Client 4: We noted an individual who was Section 1619(b) eligible. Section 1619(b) of the Social Security Act provides that Supplemental Security Income (SSI) beneficiaries who have earnings too high for a SSI cash payment may be eligible for Medicaid if they meet certain requirements. Per 469 NAC 2-010.01C, income must be reviewed for clients who are placed in 1619(b) status by SSI. The worker should have performed an income review and verification. Based on SEW quarterly income of \$5,000, the grant amount would be \$0. Benefits stopped in October 2012 due to a decrease in rent but the individual should not have received any payments during the calendar year. Questioned costs totaled \$45.
- Client 5: We noted an individual with earned income on SEW. However, if the client or his guardian had reported his earned income, the client would have qualified under Social Security Act 1619(b) rules. His budget with the income would have been \$112 per month instead of \$438 per month, for overpayments totaling \$3,900. Although NAC regulations do not require workers to verify income for SSI clients other than 1619(b), we question the costs because workers knew about the SEW alerts and should have known based on the SDX alerts that SSA did not know about the earned income. 469 NAC 1-010 and Neb. Rev. Stat. § 68-1007 would require the income be considered. 469 NAC 3-007.03B and Neb. Rev. Stat. § 68-1001.02 require overpayments be recouped.

Per Neb. Rev. Stat. § 68-1007 (Reissue 2009):

In determining need for assistance to the aged, blind, or disabled, the Department of Health and Human Services shall take into consideration all other income and resources of the individual claiming such assistance...

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COMMENTS AND RECOMMENDATIONS

(Continued)

1. AABD Payment Errors (Concluded)

Per 469 NAC 1-010 Prudent Person Principle:

When the statements of the client are incomplete, unclear, or inconsistent, or when other circumstances in the particular case indicate to a prudent person that further inquiry must be made, the worker must obtain additional verification before eligibility is determined. The client has primary responsibility for providing verification of information relating to eligibility.

Per 469 NAC 3-007.03B1:

There are two types of overpayments:

- 1. Administrative errors: Worker errors caused by inaccurate computation or the worker's failure to take action; and*
- 2. Client errors: Errors caused because the client supplies inaccurate or incomplete information or fails to provide information resulting in an overpayment.*

All overpayments, regardless of cause, must be recouped.

- Client 6: The October 2012 budget was based on the nursing home rate of \$50 less SSI of \$30 resulting in \$20 authorized. This same budget was paid for November and December 2012. The client moved into an assisted living facility on November 28, 2012. The move was reported in December. A budget was recalculated for November and December for \$648 each month. The additional amount was paid in December. Since the client was only in assisted living three days in November, and the move was not reported until December, it is not reasonable to pay the higher rate for the entire month of November. Per Neb. Rev. Stat. § 68-1006, the amount of assistance shall be based on the need of the individual. An individual does not need the higher assisted living rate for the entire month if only in that living arrangement for three days.
- Client 7: The application indicated no resources; however, the client was in an assisted living facility and has a court appointed guardian. Under the Prudent Person Principle, the worker should request statements from the guardian and the assisted living facility, but did not. We also noted the payment on January 26, 2012, incorrectly used the 2011 Standard of Need for an underpayment of \$24.

We noted 7 of 25 clients tested with incorrect payments, a 28% error rate. Calendar year payments to the 25 clients tested totaled \$106,472 and total questioned costs were \$11,762. AABD cash assistance payments for the calendar year totaled \$7,651,219.

Without adequate procedures to ensure proper payments, there is an increased risk for loss or misuse of State funds.

We recommend DHHS implement procedures to ensure compliance with State regulations including communication of regional center admissions; review and follow up of interface alerts; and consideration of all income and resources. We further recommend all overpayments be recouped.

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COMMENTS AND RECOMMENDATIONS

(Continued)

2. SDP Payment Errors

Per Neb. Rev. Stat. § 68-1005 (Reissue 2009):

In order to qualify for assistance to the disabled, an individual shall, in addition to the requirements set forth in section 68-1002, be considered to be disabled if he or she is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than one hundred eighty days or, in the case of a child under eighteen years of age, if he or she suffers from any medically determinable physical or mental impairment of comparable severity. In determining eligibility for assistance to the disabled, the Department of Health and Human Services may adopt the determination of the Social Security Administration that an individual is or is not disabled for the purposes of the federal programs of Supplemental Security Income or Old Age Survivors' and Disability Insurance, except that if the Social Security Administration has denied benefits to an individual on the basis of the duration of the individual's disability, the department shall perform an independent medical review of such individual's disability.

Rules and regulations for the State Disability Program (SDP) are included in Title 469 NAC. Good internal control requires procedures to ensure payments are reasonable, necessary, and in accordance with State laws and regulations.

We tested 30 recipients of SDP medical and cash assistance payments. Payments tested were not reasonable or not in accordance with State laws and regulations as noted below:

SDP Client	Reason	2012 Payment Errors	
		Medical Costs	Cash Payments
1	Disability not severe, living arrangement	\$ 2,120	\$ 1,990
2*	Disability not severe, excess resources	23,422	528
3	Disability not severe	4,750	1,266
4	Excess income and resources	219,353	50
5	Excess resources	107,604	-
6	Resources not verified	122,020	4,200
7	Resources not verified, living arrangement	-	(2,172)
8*	Excess income	4,767	-
9	Excess income	-	1,294
10	Excess income	-	420
11	Living arrangement	-	(1,316)
12	Living arrangement	-	696
13*	Retroactive eligibility, insurance	-	-
Total		\$ 484,036	\$ 6,956

*Errors also noted for claims paid in 2011 and 2013

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COMMENTS AND RECOMMENDATIONS
(Continued)

2. SDP Payment Errors (Continued)

Disability Not Severe

DHHS adopts SSA determination of disability. However, the State Review Team (SRT) may perform the medical review and make the determination under certain circumstances, for example, if the client requires immediate long-term hospitalization, or if the disability is expected to last less than 12 months. However, once SSA has made a determination, DHHS should abide by that decision.

Per 469 NAC 2-007.03A1(5d):

Duties of the IM Worker: ... If the applicant is not eligible for SSI because the applicant is not considered disabled due to lack of severity or the ability to engage in substantial gainful activity, reject the application. Do not make a referral to the SRT.

A good internal control plan requires procedures to ensure assistance stops if SSA determines the client is not disabled due to a lack of severity or ability to engage in substantial gainful activity.

Three SDP cases tested were not closed immediately after SSA determined the client was not disabled due to a lack of severity:

SDP Client	SSA Determined Not Severe	Subsequent SRT Review	Benefits Discontinued	Payments After SSA Determination
1*	July 24, 2012	N/A	November 30, 2012	\$3,260
2*	January 31, 2012	April 6, 2012	April 30, 2012	\$2,708
3	January 19, 2012	April 9, 2012	April 30, 2012	\$6,016

*Additional payment errors noted below due to living arrangement or excess resources.

Because the worker did not end assistance timely, an additional \$9,472 in medical assistance and \$2,512 in cash assistance was paid on behalf of the clients. Two of the cases above were referred to the SRT for medical review *after* SSA had already made a determination of non-disability.

Income and Resources

Per 469 NAC 1-010:

Prudent Person Principle: When the statements of the client are incomplete, unclear, or inconsistent, or when other circumstances in the particular case indicate to a prudent person that further inquiry must be made, the worker must obtain additional verification before eligibility is determined. The client has primary responsibility for providing verification of information relating to eligibility.

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(Continued)

2. SDP Payment Errors (Continued)

Per Neb. Rev. Stat. § 68-1007 (Reissue 2009):

In determining need for assistance to the aged, blind, or disabled, the Department of Health and Human Services shall take into consideration all other income and resources of the individual claiming such assistance...

Per 469 NAC 2-009, “Resources...if the total equity value of available non-excluded resources exceeds the established maximum, the client is ineligible.” Per 469 NAC 2-009.01, before determining eligibility of an AABD/MA or SDP/MA client who does not receive SSI, the worker must verify and document in the case record all resources. Per 469 NAC 2-009.08, the resource limit for cash assistance is \$2,000 for one person and \$3,000 for a two-person unit. Per 469 NAC 4-005.01, the resource limit for individuals eligible only for medical assistance is \$4,000 for one and \$6,000 for a two-person unit.

DHHS did not have adequate procedures to ensure all income and resources were considered. We noted the following:

- Client 2 did not disclose his ownership of a parcel of land valued at \$7,005, which we noted by reviewing county assessor records. The client should have been ineligible for assistance due to resources over the NAC limit. As a result, \$20,820 in medical assistance and \$422 in cash assistance was overpaid in 2012. We further noted \$7,034 in 2011 medical and cash assistance paid in error. These amounts are in addition to the errors noted for Client 2 above regarding disability not severe.

Per 469 NAC 2-009.07B5:

Additional Pieces of Real Property: The worker shall determine and use in computing the amount of the unit’s total available resources the potential sales value of all real property, other than the allowed exemption for the home.

- Client 4 did not disclose his co-ownership of a home out of state, valued at \$157,152. Inclusion of the home would have put him over the resources limit. Additionally, the worker did not verify the value of the motorcycle involved in the accident that disabled the client, nor did the worker verify the value of an old vehicle that the client said was no longer running. Because the client was ineligible for assistance due to excess resources, \$219,353 in medical assistance and \$50 in cash assistance was paid in error during calendar year 2012. Subsequent to the payment of 2012 claims, the client received a settlement of funds in 2013. A portion of this settlement was used to reimburse medical payments. We noted a third-party payment of \$165,094 in July 2013, which reduces the amount of the overpayment.

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(Continued)

2. SDP Payment Errors (Continued)

In addition, the \$50 cash assistance payment for February 2012 was paid in error as the client began receiving an SSI payment of \$783 per month. DHHS did not timely update this change in income.

- Client 5 owned a rental property and was on assistance for an entire year before he signed an Agreement to Sell Real Property and Repay Assistance. The property was subsequently sold for \$18,885. Additionally, he owned multiple vehicles and the worker did not adequately verify the value of these vehicles. The client should have been ineligible for assistance due to excess resources. As a result, \$107,604 in medical assistance was paid in error.

Per 469 NAC 2-009.07B4:

If the client has excess resources because of real property other than the home, s/he is ineligible until the month the Agreement to Sell Real Property and Repay Assistance is signed.

- Client 6: the worker did not verify the value of the motorcycle involved in the accident that disabled the client. The client indicated he might receive an insurance payout regarding the motorcycle, but the worker never followed up on this potential source of income. Additionally, the client owned a semi truck. The worker estimated the value of the truck at \$2,887 using a fax provided of truckbluebook.com. However, the fax provided did not have the correct vehicle identification number. Six months later, the client told the worker that he could probably get \$1,000 for the truck. The worker accepted the client's statement without further verification, but entered \$1,500 into the budget in an apparent effort to be conservative. When the worker reduced the value of the truck from \$2,887 to \$1,500 on the budget, this made the client eligible for cash assistance. The worker did not use any of the suggested methods per the NAC, and instead, took the client's word for the value of the truck. Because the client was ineligible for assistance due to excess resources, \$122,020 in medical assistance and \$4,200 in cash assistance was paid in error.

Per 469 NAC 2-009.07B7:

Motor Vehicles: The worker must disregard one motor vehicle regardless of its value as long as it is necessary for the client or a member of his/her household for employment, medical treatment, or use as the home...any other motor vehicles are treated as nonliquid resources and the equity is counted in the resource limit.

Per 469 NAC 2-009.07B7a:

If the vehicle is not listed in the Kelly Blue Book or the NADA Used Car Guide, or if the client or the worker feels the value listed in the Guide is inappropriate or not a true valuation of the vehicle, the worker may:

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(Continued)

2. SDP Payment Errors (Continued)

1. *Contact the county assessor's office for the assessed value;*
 2. *Use the client's most recent vehicle tax statement; or*
 3. *Have the client obtain the vehicle's value from used car dealers.*
- Client 7 was unable to communicate at the time of application. The relative applying on his behalf disclosed a bank account, and the worker requested verification. The bank verification was never returned but medical assistance was approved anyway. Because we do not know the value of the account, we cannot know whether the client would have been ineligible for assistance due to excess resources. The client received \$152,356 in medical assistance and \$722 in cash assistance during the calendar year.
 - Client 8 had a private disability insurance payout that was not included in the budget for May and June 2012, resulting in an overpayment of \$1,690. The client also had earned income in September through December 2012 totaling \$4,760. That income was not included in the budget, resulting in overpayments of \$3,077 in 2012. Additional overpayments of \$443 were noted for 2013.
 - Client 9's cash assistance for November 2012 through January 2013 (paid in 2012) totaling \$1,294 were not correct as the client had income greater than the standard of need. DHHS received notification in December 2012 that the client began employment in October 2012. The worker did not verify the income until January 2, 2013, and did not go back and calculate overpayments for November through January.
 - Client 10 received a cash payment in August 2012 of \$420 for February through August 2012 (\$60 per month). The client reported no income; however, according to NFOCUS interfaces, the client had income in the quarters ended March 31, 2012, totaling \$2,036, and June 30, 2012, totaling \$2,186. The SEW income is reported with the client's social security number but the employee name is different. The worker did not verify this income. It is not known if the name is incorrectly reported or if another individual used the client's social security number. If this income had been verified as the client's, the client would not have been eligible for a cash assistance payment. If someone else was using the client's social security number, it should have been reported to the SSA.
 - We noted four instances where the worker should have performed additional verification procedures. One client had vehicles listed on the Department of Motor Vehicles (DMV) website that were not disclosed. For three clients, additional inquiries should have been made regarding the lack of a bank account.

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(Continued)

2. SDP Payment Errors (Continued)

Per NAC Appendix 469-000-300:

Verify those resources declared by the client or appearing on the Internal Revenue Service (IRS) file. Also consider the possibility of ownership of resources that are not declared...If the client denies ownership of any bank accounts, inquire as to where the client cashes his/her assistance checks, or what banks were used for past transactions as a means of determining whether other accounts exist. Using prudent person principle, you may want to contact these institutions to verify that current accounts do not exist.

Living Arrangement

Per 469 NAC 3-004.01, “the standard of need is a consolidation of items necessary for basic subsistence with amounts based on unit size. Included in this standard are food, clothing, sundries, utilities, laundry...” A client’s standard of need varies based on their living arrangement.

On the four clients tested, payment errors occurred because the incorrect standard of need was used for the client’s living arrangement. (See **Attachment A** for rates)

- Client 1 resided in a nursing home in March and April 2012; however, the standard of need used in the budget was for a client residing at home and paying shelter costs. The client resided at home in June 2012; however, the standard of need used in the budget was for a client residing in a nursing home. Total overpayments of cash assistance related to these budget errors was \$850.
- Client 7 moved from a nursing home to a licensed assisted living facility in April 2012. The worker did not verify the facility type and used the \$50 nursing home standard of need. We verified the facility was a licensed assisted living facility per the DHHS website. Therefore, the standard of need should have increased to the licensed assisted living facility rate of \$1,136 for May and June 2012, for a total underpayment of \$2,172.
- For November and December 2012, Client 11 was residing in an assisted living facility; however, the standard of need used was the nursing home rate resulting in an underpayment of \$1,316.
- Client 12 was a hospital patient during November and December 2011; however, the standard of need used was the home rate resulting in an overpayment of \$696. The payment for November and December 2011 was made in February 2012.

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(Continued)

2. SDP Payment Errors (Concluded)

Retroactive Eligibility

- Client 13's SDP application was submitted August 11, 2011. Medical assistance was requested and approved by SRT retroactive to April 2011. However, per 469 NAC 1-004, retroactive eligibility for medical assistance may not begin before the first day of the third month before the month of request. Therefore, medical assistance should not have been approved for April 2011. Total claims paid for the client for services rendered in April 2011 were \$2,153. The claims were paid in January 2013.

Additionally, the worker did not verify the third-party medical insurance policy noted by the client on the application. It is unknown whether DHHS could have avoided paying medical claims if the insurance had been verified.

We noted 13 of 30 clients tested with incorrect payments, a 43% error rate. Some clients received SDP and AABD cash assistance as they were initially determined SDP eligible, and then changed to AABD, as their disability continued after 12 months.

	SDP Medical	SDP Cash	AABD Cash*
2012 errors noted for the 30 clients tested	\$484,036	\$4,072	\$2,884
Total payments tested for the 30 clients	\$1,186,269	\$44,977	\$8,217
Total 2012 expenditures	\$6,880,501	\$376,258	\$7,651,219

*Does not include comment 1 errors.

Without adequate procedures to ensure proper payments, there is an increased risk for loss or misuse of State funds.

We recommend DHHS implement procedures to ensure compliance with State regulations including ending benefits once SSA makes a determination of non-disability; considering all income and resources; ensuring the correct living arrangement is used in the budget; ensuring retroactive eligibility is proper; and verifying all medical insurance. We further recommend DHHS recoup all overpayments.

3. Invalid Social Security Numbers

All vendors, payees, and employees must have a unique address book number in EnterpriseOne to receive payments which includes all payees of AABD benefits. The Auditor of Public Accounts (APA) identified 159 public assistance address book numbers that did not have a valid

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(Continued)

3. Invalid Social Security Numbers (Continued)

Social Security Number (SSN) tied to them. All 159 address book numbers were associated with AABD benefit payments made during calendar year 2012. There were 144 that had a corresponding SSN of 0 and 15 had a SSN starting with 000 in EnterpriseOne.

The APA tested 15 individuals with a SSN starting with 000 and noted 13 clients had a valid SSN in NFOCUS; however, two clients did not. According to the Social Security Administration, "Any number beginning with 000 will NEVER be a valid SSN." The two clients with a SSN starting with 000 have been summarized below:

- Client 1: The APA observed this AABD client did not have a valid SSN and was not eligible for AABD benefits. The client received \$8,994 in cash and \$6,112 medical assistance during calendar year 2012; and received \$1,428 in cash and \$1,788 medical assistance during calendar year 2013. As documented by a DHHS worker on March 14, 2013, the AABD case was approved by Agency error. This individual did not have a valid Alien Number and was in the United States under a tourist visa. Even though DHHS noted that this client was approved by Agency error, no overpayments were setup by DHHS to recoup the funds. The APA has included the NFOCUS narrative below.

Recorded	03-14-2013	Recorded By		Updated By	
Subject	CLOSED		Program		
Subheading	Closed		AABD/MED MEDICAID SNAP		
Deselect All					
Describe the reason the case was closed. Document the effective date of closure. Provide clarification when 'Other' is the selected closing reason.					
Narrative Detail					
Other*** and his wife entered US on 07/08/2011. They are in the country under Tourist VISA, they are from Cuba, but they are not refugee. They have not Alien number. Case was approved by Agency Error. SAVE was never done. Alien number was never requested.					

At the Exit Conference, DHHS stated they now disagree with the case workers determination. After receiving the draft report, DHHS obtained additional documentation on October 16, 2013, in order to document this individual as a Cuban refugee. DHHS also stated that this case was incorrectly closed on March 14, 2013. However, based on the documentation available to the APA, it did not appear DHHS had documentation supporting the client as an eligible alien or refugee during the timeframe in which payments were made.

- Client 2: A second AABD client received assistance in calendar year 2012 and 2013. The client does not currently have a valid SSN, and DHHS had not followed up to ensure a valid SSN was received. The client arrived in the United States on December 3, 2012, as a refugee; however, as of July 2013, DHHS had not received a valid SSN from the client.

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3. Invalid Social Security Numbers (Concluded)

According to 469 NAC 2-004 Requirement of Social Security Number (SSN): “All eligible members of the AABD/MA or SDP/MA unit shall furnish Social Security numbers (SSN). The SSN, in conjunction with the other information, provides evidence of identity of the individual.”

Per 469 NAC 3-007.03B1, “All overpayments, regardless of cause, must be recouped.” Good internal control requires procedures be in place to ensure that complete and accurate information is included for all vendors in order to assist in the prevention of fictitious vendor payments.

Incomplete or inaccurate data related to specific payees increases the risk of fraud or misuse of State funds due to potential fictitious vendors or payees.

We recommend DHHS implement procedures to ensure all address book numbers are tied to a valid name and tax ID number. If erroneous AABD payments occur, DHHS must attempt to collect amounts paid as an overpayment.

4. Deceased AABD Clients

The APA identified 10 AABD clients who received benefit payments after their date of death totaling \$2,342. These individuals have been summarized in the chart below. Some of these individuals receiving benefits died after December 31, 2012; however, the APA has included these individuals as part of subsequent events testing.

AABD Client	Date of Death	Payment Date	Payment Type	Amount	Notes
Client 1	1/9/2013	2/1/2013	Debit Card	\$9.00	
Client 2	5/23/2012	5/31/2012	Warrant	\$5.00	Warrant Cashed After Death at J-N-J Grocery
Client 3	12/15/2012	12/31/2012	Debit Card	\$9.00	
Client 4	3/30/2012	4/2/2012	Warrant	\$5.00	Warrant Expired 5/3/2013
Client 5	11/27/2012	11/30/2012	Direct Deposit	\$118.25	
Client 5	11/27/2012	12/31/2012	Direct Deposit	\$130.25	
Client 5	11/27/2012	2/1/2013	Direct Deposit	\$130.25	
Client 6	1/17/2013	2/1/2013	Debit Card	\$9.00	
Client 6	1/17/2013	3/1/2013	Debit Card	\$9.00	
Client 7	7/27/2012	8/1/2012	Debit Card	\$5.00	
Client 8	12/21/2011	12/30/2011	Warrant	\$5.00	Warrant Expired 1/15/2013
Client 8	12/21/2011	1/31/2012	Warrant	\$5.00	Warrant Expired 2/5/2013
Client 9	3/4/2013	4/1/2013	Direct Deposit	\$442.00	Several death alerts were noted in NFOCUS dating back to March 2013; however, these alerts have not been followed up on.
Client 9	3/4/2013	5/1/2013	Direct Deposit	\$442.00	
Client 9	3/4/2013	5/31/2013	Direct Deposit	\$442.00	
Client 9	3/4/2013	7/1/2013	Direct Deposit	\$442.00	
Client 10	5/15/2013	5/31/2013	Direct Deposit	\$134.00	
			Total	\$2,341.75	

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(Continued)

4. Deceased AABD Clients (Concluded)

It did not appear that DHHS had setup overpayments for any of the AABD clients noted above. Per 469 NAC 3-007.03B1, "All overpayments, regardless of cause, must be recouped." Good internal controls require procedures to ensure all benefits are terminated upon the death of the client.

When payments are made to or on behalf of deceased AABD clients and overpayments amounts are not recouped, there is an increased risk for the loss or misuse of State funds.

We recommend DHHS implement procedures to stop AABD payments once a client has deceased. If payment cannot be stopped timely upon death, DHHS must collect the amount paid as an overpayment.

5. Guardianship Issues

As authorized under DHHS rules and regulations, and State statute, DHHS has the authority to pay AABD benefits to established payees on behalf of a client. These payments for assistance can be to a guardian, conservator, or a duly executed power of attorney.

Per 469 NAC 3-007.02A:

If an AABD/MA client has a guardian, conservator, or individual acting under a duly executed power of attorney, AABD or SDP payments may be made to the appointed person on behalf of the client. Certified copies of the letter of guardianship, conservatorship, or power of attorney are filed with the local office.

Guardians are appointed by the court as established under Neb. Rev. Stat. § 30-2620(a) (Cum. Supp. 2012):

The court may appoint a guardian if it is satisfied by clear and convincing evidence that the person for whom a guardian is sought is incapacitated and that the appointment is necessary or desirable as the least restrictive alternative available for providing continuing care or supervision of the person of the person alleged to be incapacitated.

During our testing of AABD clients, the APA observed a guardian, Judith Widener, who received payments on behalf of over 100 DHHS AABD clients during calendar year 2012. She is the President of Safe Haven Inc. which is a 501(c)(3) Nonprofit Corporation located in Scottsbluff, NE. The AABD payments were made directly to Judith Widener, Safe Haven, or to the AABD client in care of Judith Widener and were in the form of a State warrant, State issued ReliaCard® Visa® debit cards, or direct deposits.

On September 17, 2012, Judith Widener sent a letter to DHHS requesting that all benefits be direct deposited to an established Safe Haven bank account for a specific list of individuals for

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5. Guardianship Issues (Continued)

whom she stated she was the appointed guardian. As established by the note written on the letter, there were about 100 individuals on the attached listing; the letter was attached to each client's case file in NFOCUS. The APA has included a copy of the letter below.

September 17, 2012

[Redacted] DHHS Staff Name Removed

NDHHS
P.O. Box 95026

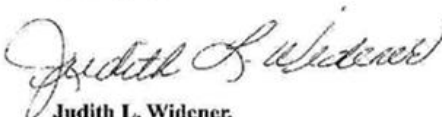
RE: Safe Haven as payee/guardian for DHHS clients

Dear [Redacted],

Attached is a list of individuals we assist that are also receiving financial assistance through the Department of Health and Human Services (DHHS). I confirm through this letter that I have been appointed as guardian for each of the individuals in the attached list. I am requesting that Safe Haven be set up as the payee for DHHS financial benefits. All DHHS financial assistance benefits for the clients should be submitted to the direct deposit account set up for Safe Haven as Safe Haven is responsible to use those benefits on behalf of the client.

A FA-84 has been submitted to DHHS as you requested and have since confirmed. The FA-84 was for Safe Haven (NFOCUS provider ID [Redacted]).

Thank you,


Judith L. Widener,
Executive Director

The list is not being scanned & attached to each case as there are about 100 individuals on the list & that information should not be on each case. This letter is only being attached to case with a client on the list. If questions contact [Redacted] Central Office. Judy Widener's office has been asked to send in guardianship papers for each client, to send those to the AABD Center.

The APA identified three of the AABD clients included in the letter were not under the guardianship of Judith Widener per court records at the time of the letter. In two cases, Judith Widener was not the guardian, as a new guardian had been appointed by the court prior to the letter. In another case, it did not appear that Judith Widener was ever the guardian. Per DHHS

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5. Guardianship Issues (Continued)

records, the AABD application noted she was the Power of Attorney; however, no documentation of the Power of Attorney was observed in NFOCUS. In all three cases, DHHS paid AABD benefits to Safe Haven as requested by the letter; even though, Judith Widener was not the guardian.

The APA noted four other instances where the guardianship either had terminated or had been transferred to a new guardian by the court; however, Judith Widener and/or Safe Haven continued to receive AABD benefits on their behalf. The following is a summary of the seven clients identified:

AABD Clients	Termination or Transfer of Guardianship	Total AABD Payments After Guardianship Terminated		Notes
		CYE 12/31/2012	1/1/2013 to 7/31/2013	
<i>Client 1</i>	5/9/2012	\$1,348		Guardianship was transferred to new guardian; however, AABD payments continued to go to Safe Haven. Client included in letter to DHHS.
<i>Client 2</i>	N/A	\$2,277	\$2,292	No guardianship case was noted per court records; AABD application noted power of attorney. No power of attorney documents were noted. Client included in letter to DHHS.
<i>Client 3</i>	6/20/2012	\$70	\$20	Guardianship was transferred to new guardian; however, AABD payments continued to go to Safe Haven. Client included in letter to DHHS.
<i>Client 4</i>	4/20/2011	\$30		Guardianship was transferred to new guardian; however, AABD payments continued to go to Safe Haven.
<i>Client 5</i>	12/2/2011	\$1,139		Judith Widener contacted DHHS on 3/5/2012, three months after being terminated, stating guardianship had been dismissed. DHHS received a reimbursement check on 3/13/2012 for \$438; however, it is unclear why only \$438 was reimbursed. The APA reduced the total amount paid by \$438.
<i>Client 6</i>	2/15/2013		\$76	Guardianship terminated; however, AABD payments continued to go to Safe Haven.
<i>Client 7</i>	1/4/2012	\$1,344		Guardianship was transferred to new guardian; however, AABD payments continued to go to Judith Widener.
Total		\$6,208	\$2,388	

Note: In all seven of these cases, DHHS had authorized a \$10 monthly guardianship fee that was included in the payment amount.

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(Continued)

5. Guardianship Issues (Continued)

In addition to the guardianship fees being paid to the wrong guardian, the APA observed that Client 3, as noted above, should have never been eligible for AABD benefits. The APA questions the entire AABD amount paid totaling \$120 during 2012 and \$20 during 2013. DHHS did not consider the \$90 Veterans Administration monthly payment in their budget calculation. The APA observed the following NFOCUS narrative questioning the \$10 monthly payment; however, the payments never stopped until 2013:

Recorded	01-23-2012	Recorded By	<input type="text"/>	Updated By	<input type="text"/>
Subject	CHANGE MANAGEMENT			Program	
Subheading	Expenses			AABD/MED	
Deselect All				MEDICAID	
Multi Select					
List the expenses used in the budget. Identify and explain expenses that are in the name of, or paid by, other people.					
Narrative Detail					
Started to process the AABD case for NH, due to the annual review being completed. In the process, worker found that credit for the \$10 Guardian Fee has been allowing <input type="text"/> to receive an AABD grant of \$10/mth since 1-'10. Worker questions whether this is correct. Policy question sent to supr. <input type="text"/> on 1-23-12.					

Payment to Prison Inmate

During review of payments made subsequent to 2012, the APA noted DHHS issued a debit card in the amount of \$4,027 to Judith Widener on behalf of one AABD client. The debit card was issued to Judith Widener on March 13, 2013, and included monthly retroactive payments dating back to October 1, 2012. However, the AABD client was not released from the State Penitentiary/Correctional Facility until October 29, 2012; therefore, the APA questions the \$645 paid for October 2012.

According to 469 NAC 2-008.07: "Prisons, jails, etc., are designated in the law as public institutions whose inmates are ineligible to receive assistance."

Safe Haven Audits and Other Guardianship Issues

The APA researched the history of Judith Widener and Safe Haven as guardians and noted other Agencies who had concerns:

- The Office of Inspector General of the Social Security Administration released an audit on Safe Haven, dated September 2010, for the period October 1, 2008 to September 30, 2009. There were 15 recommendations noted in the audit. The first recommendation was to refrain from placing additional beneficiaries with Safe Haven until corrective actions had been implemented. The Kansas City SSA Regional Commissioner responded noting the following, *"We agree with this recommendation. On April 12, 2010, the Area Director's office notified field office managers to stop selecting Safe Haven as representative payee."*

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(Continued)

5. Guardianship Issues (Continued)

- The APA observed an NFOCUS Narrative recorded on March 16, 2011, stating that Social Security is terminating this organization as payee for people receiving SSA.

Recorded	03-16-2011	Recorded By	<input type="text"/>	Updated By	<input type="text"/>
Subject	REVIEW/RECERT		Program		
Subheading	Administrative Roles		AABD/MED MEDICAID SNAP SSAD		
Deselect All					
Identify administrative roles such as Payee, POA, Nursing Home representative, guardian, and authorized rep. Include the name, address and phone number of the administrative role[s] person.					
Narrative Detail					
<input type="text"/> has Safe Haven as his payee, but Social Security is terminating this organization as payee for people receiving SSA. <input type="text"/> will have a new payee soon, so I will have to check to see who this person will be.					

- The APA observed another NFOCUS Narrative recorded on January 30, 2012, stating that the Veterans Administration had switched the payee from Safe Haven to another payee due to a complaint about how Safe Haven was using the money.


Recorded	01-30-2012	Recorded By	<input type="text"/>	Updated By	<input type="text"/>
Subject	CHANGE MANAGEMENT		Program		
Subheading	Administrative Roles Expenses Unearned Income		AABD/MED MEDICAID		
Deselect All					
Multi Select					
Narrative Detail					
On 1-30-12 <input type="text"/> guardian, Judy Widener from Safe Haven, clarified that the reason GALS (Guardian Angels Life Services) handles <input type="text"/> VA of \$90/mth is because he had complained about how Safe Haven was using his money so the VA made GALS his VA payee. They also receive his \$10/mth AABD check and send this to Safe Haven for Judy's guardian fee.					

- The APA observed that a Lancaster County Judge suspended Judith Widener as guardian in 2011. The Judge noted on February 16, 2011, that Judith Widener was not eligible for any more appointments.

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5. Guardianship Issues (Continued)



SAFE HAVEN, INC.

P.O. BOX 2126
SCOTTSBLUFF, NE 69363
(308) 635-8191
FAX (308) 635-8189

CLERK OF
LANCASTER COUNTY
COURT-FILED
2011 FEB 15 A 10:28

SPEED MEMO

DATE: February 10, 2011
TO: Judge Gerald Rouse
FROM: Judith Widener
SUBJECT:

Per your order of suspension in the above-referenced matter, I am writing to beg the Court's pardon for not filing the required inventory. I was appointed guardian on July 27 and died on September 19, 2010. I was not able to get his Social Security benefits transferred to me before his death. where he resided was his payee. The need for the inventory apparently was overlooked. Since you suspended me as guardian, I assume that I do not have to request to be released. Please let me know if I am mistaken in this assumption.

Again, my apologies for this oversight.

Judith Widener
Judith Widener
former Guardian for

2-16-2011.
That's correct
also not eligible
for any more
appointments
Seal Rouse

Alternate Payees

The APA identified several examples where DHHS did not maintain documentation to support the alternate payee of AABD benefits. As noted in the DHHS rules and regulations above, DHHS is required to obtain certified copies of the guardianship, conservator, or power of attorney. In addition, according to Neb. Rev. Stat. § 68-1014 (Reissue 2009):

If any guardian or conservator shall have been appointed to take charge of the property of any recipient of assistance to the aged, blind, or disabled, aid to dependent children, or medical assistance, such assistance payments shall be made to the guardian or conservator upon his or her filing with the Department of Health and Human Services a certified copy of his or her letters of guardianship or conservatorship.

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5. Guardianship Issues (Continued)

In addition to testing Safe Haven, the APA performed testing on Guardian Angel Life Services Inc. and Safe Harbor Inc., as they were receiving AABD benefits on behalf of a large number of clients. Guardian Angel Life Services is a 501(c)(3) Nonprofit Corporation located in Kenesaw, NE, and Safe Harbor is a 501(c)(3) Nonprofit Corporation located in Scottsbluff, NE.

In the cases involving Guardian Angel Life Services and Safe Harbor, these entities are also receiving the clients' Social Security Administration (SSA) benefits. It appears that DHHS is paying their AABD benefits to these entities based on who SSA has as the alternate payee. The DHHS rules and regulations allow for protective payees; however, there are specific requirements and evidence that must be documented in order for the payment to be paid on behalf of a client.

According to 469 NAC 3-007.02B1:

The determination of the need for protective payments must be substantiated by a physician's statement or medical report of condition. The case record must contain documentation of the reason protective payments were selected in lieu of guardianship or conservatorship.

In the examples below, the APA has summarized 21 examples in which there was not adequate documentation to support why there was an alternate payee other than the client.

AABD Client	Guardian	Payee	CY 2012	1/1/2013 – 7/31/2013	\$10 Fee included in Budget	Notes
Client 1	Individual 1 (Note 1)	Guardian Angel Life Services Inc.	\$ 4,070	\$ 3,078	Yes	Payee different than Guardian
Client 2	N/A	Guardian Angel Life Services Inc.	\$ 880	\$ 920	No	No Court Ordered Guardian
Client 3	N/A	Guardian Angel Life Services Inc.	\$ 3,508	\$ 2,652	No	No Court Ordered Guardian
Client 4	N/A	Guardian Angel Life Services Inc.	\$ 1,318	\$ 2,652	No	No Court Ordered Guardian
Client 5	N/A	Guardian Angel Life Services Inc.	\$ 3,710	\$ 2,652	No	No Court Ordered Guardian
Client 6	N/A	Guardian Angel Life Services Inc.	\$ 1,668	\$ -	No	No Court Ordered Guardian
Client 7	Safe Haven	Guardian Angel Life Services Inc.	\$ 2,190	\$ -	Yes	Payee different than Guardian
Client 8	N/A	Guardian Angel Life Services Inc.	\$ 2,632	\$ 2,652	No	No Court Ordered Guardian
Client 9	N/A	Guardian Angel Life Services Inc.	\$ 2,632	\$ 2,652	No	No Court Ordered Guardian
Client 10	N/A	Guardian Angel Life Services Inc.	\$ 5,260	\$ 2,652	No	No Court Ordered Guardian
Client 11	N/A	Guardian Angel Life Services Inc.	\$ 3,763	\$ 428	No	No Court Ordered Guardian
Client 12	Individual 2 (Note 1)	Guardian Angel Life Services Inc.	\$ 4,822	\$ 2,652	No	Payee different than Guardian
Client 13	N/A	Safe Harbor Inc.	\$ 44	\$ 18	No	No Court Ordered Guardian

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5. Guardianship Issues (Continued)

AABD Client	Guardian	Payee	CY 2012	1/1/2013 – 7/31/2013	\$10 Fee included in Budget	Notes
Client 14	N/A	Safe Harbor Inc.	\$ 2,190	\$ -	No	No Court Ordered Guardian
Client 15	N/A	Safe Harbor Inc.	\$ 34	\$ 54	No	No Court Ordered Guardian
Client 16	N/A	Safe Harbor Inc.	\$ 3,543	\$ -	No	No Court Ordered Guardian
Client 17	N/A	Safe Harbor Inc.	\$ 518	\$ -	No	No Court Ordered Guardian
Client 18	N/A	Safe Harbor Inc.	\$ 3,676	\$ 2,472	No	No Court Ordered Guardian
Client 19	AABD Client's Parents	Safe Harbor Inc.	\$ 5,260	\$ 2,652	No	Payee different than Guardian
Client 20	N/A	AABD Client's Son	\$ 300	\$ 290	No	No Power of Attorney papers on file
Client 21	N/A	Individual 3 (Note 1)	\$ 50	\$ -	No	No Court Ordered Guardian
Totals			\$ 52,068	\$ 28,476		

Note 1: APA did not include the name of these individuals.

Guardianship Fees

The APA observed that in 86 of the 125 cases reviewed involving guardianships, DHHS had authorized and budgeted for a monthly \$10 guardian/conservator fee. According to 469 NAC 3-004.03A7:

An allowance is included when a client has a court-appointed conservator or guardian. The actual fee or an amount not to exceed \$10 a month is allowed.

However, this established \$10 monthly fee appears to conflict with other rules established by the Court. According to the Court issued Letters of Guardianship and/or Conservatorship state:

As a Guardian and Conservator you are ordered to comply with the following restrictions: 1. The Guardian(s)/Conservator(s) shall not pay himself/herself/themselves or his/her/their attorney compensation from the assets or income of the protected person nor sell real property of the estate without first obtaining an Order of the Court....

In cases involving minors Neb. Rev. Stat. § 30-2613(1)(b) (Cum. Supp. 2012) states, “Sums so received by the guardian are not to be used for compensation for his or her services except as approved by order of court.”

In the applicable cases, DHHS added \$10 to the budget of the AABD client. It is unclear whether the \$10 monthly fee should be approved by an order of the court prior to payment by DHHS. In addition, the APA noted court orders approving fees in addition to the \$10 monthly fee. The APA also noted three cases in which the Court had denied any and all fees payable to Judith Widener; however, the \$10 guardian fee was still part of the AABD benefit. If the court is not aware of the \$10 fee, there is an increased risk for excessive fees to be paid to the guardian.

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(Continued)

5. Guardianship Issues (Continued)

In addition, when AABD benefits are not paid to the court ordered guardian and guardianship fees are paid without a court order, DHHS is noncompliant with State statute and there is a significant risk for the loss or misuse of State funds.

We recommend DHHS implement the following in relation to guardians and alternate payees of AABD benefits:

- Ensure adequate documentation is maintained for all alternate payees of AABD benefits.
- Establish procedures to ensure the alternate payee is the current guardian, conservator, or power of attorney of such AABD client.
- Work with the Supreme Court to establish a uniform set of rules over the specific fees paid to court appointed guardians and whether an order is required prior to the payment of guardian fees.

Other Guardian Issues Arising but not under the control of DHHS

The APA identified numerous issues related to specific guardians in Nebraska and their required annual filings with specific Nebraska County Courts. This information has been included in this report; however, the oversight of guardians in Nebraska does not fall under the control of DHHS.

As pointed out already, both guardians and conservators must make annual filings with the court. Neb. Rev. Stat. § 30-2628(6) (Neb. Laws 2013, LB 172, § 2) requires a guardian:

[T]o report the condition of his or her ward and of the estate which has been subject to the guardian's possession or control, at least every year and as required by the court or court rule.

It is worth noting that, along with the statutes mentioned herein, Supreme Court Rule § 6-442 (B) states:

Unless otherwise ordered by the court, every conservator or guardian that has control of the ward's estate shall, not later than 30 days after the expiration of 1 year after Letters are issued and annually thereafter, file with the court a complete accounting of his or her administration... Bank statements and brokerage reports or statements shall be submitted with all accountings. (Emphasis added)

The APA identified the following issues with the annual filings required by the Court in relation to AABD benefits paid:

- For 73 clients of Safe Haven/Judith Widener receiving AABD payments during 2012, the annual accounting and inventory report required of guardians had not been filed per Court records. In many of these cases, Judith Widener stated to the court the she

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(Continued)

5. Guardianship Issues (Concluded)

was not the payee; therefore, not requiring the need for an annual accounting report; however, she was the payee for AABD benefit payments. For twenty-eight of these clients, the annual report of guardian on condition of ward had not been filed.

- For six clients of Safe Harbor receiving AABD payments during 2012, the annual accounting and inventory had not been filed. In addition, the annual report of guardian on condition of ward was not filed for any of the six clients. For one of these clients, the individual had two different guardians in two different counties in Nebraska.

Due to the issues identified in relation to guardians, the APA will refer these issues to the Nebraska Supreme Court and local agencies overseeing guardians in Nebraska.

6. Inaccurate Reporting to SSA

The amount of State Supplementary payments (AABD) reported to the Social Security Administration (SSA) only includes subprogram 42 AABD expenditures, and not subprogram 22 AABD Special Rates expenditures. Subprogram 22 expenditures should have been included and the amount reported should have been \$7,221,164.

Reported to SSA (excludes individuals in medical facilities Federal Living Arrangement "D")	\$6,258,139
Plus Subprogram 22 journal entries	
Special Rate Transfer April 2012	190,610
Special Rate Transfer May 2012	192,369
Special Rate Transfer July 2012	193,585
Special Rate Transfer September 2012	192,214
Special Rate Transfer December 2012	194,247
Total Payments that should be reported	\$7,221,164

Pursuant to regulations published at Title 20 CFR § 416 (April 1, 2012) and Section 1618 of the Social Security Act, Nebraska is required to maintain AABD payment levels in order to be eligible for Federal participation in the Medicaid program under Title XIX. The State can either maintain the levels for each rate or by total expenditures. DHHS uses total expenditures for maintenance of effort. 20 CFR § 416.2099 requires the State to report to the SSA total State expenditures for supplementary payments in the 12-month period.

20 CFR § 416.2096(c)(1) states:

...we will consider a State to have met the requirement for maintaining supplementary payment levels for a particular month or months if total State expenditures for supplementary payments in the 12-month period within which the month or months fall, beginning on the effective date of a Federal SSI benefit increase, are at least equal to the total State expenditures for supplementary payments in the 12-month period immediately before the Federal SSI benefit increase provided that the State was in compliance for such preceding 12-month period.

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(Continued)

6. **Inaccurate Reporting to SSA** (Continued)

Periodically, DHHS transfers a portion of AABD payments from subprogram 42 to subprogram 22. DHHS generates a report for recipients in licensed assisted living facilities and licensed mental health centers and moves amounts up to \$220 for each to be paid from subprogram 22 instead of subprogram 42. The 2012 monthly Standard of Need for these living arrangements was \$1,136. The portion of the payment transferred to subprogram 22 is not included in the total State Supplements reported to SSA.

Per DHHS:

In the Departments 2001-2003 Biennial Budget Request, the department requested additional funding for State Supplement recipients living in licensed assisted living facilities. It was decided at that time that this was a separate benefit and not a State Supplement payment and therefore was not reported as MOE. There are no federal regulations that we are aware of on this, other than states having the choice to report MOE as Total Expenditures or payment levels.

DHHS' budget request for the biennium starting in fiscal year 2002 included the following:

[DHHS] is requesting a \$4,400,000 increase in funds in Program 347 to cover the cost of increased state supplemental payments to persons in assisted living as a strategy to address the housing crisis for persons with mental illness.

The State of Nebraska faces a shortage of community-based housing for indigent people with chronic mental illness, as evidenced by the recent closing of Paxton Manor in Omaha and the need to relocate its residents. Monthly maintenance payments to the residents of the facility through the AABD (Assistance to the Aged, Blind, and Disabled) state supplement grant process were insufficient to cover the expense of providing room, board, and medication supervision at that facility.

In order to secure adequate care for individuals who do not qualify for higher Medicaid waiver payments, (because they do not require support with general activities of daily living), but do qualify for Medicaid/State supplement services, payments need to be increased for State Supplement recipients living in licensed assisted living facilities. Since this payment is passed on to the providers the increase will raise facilities' reimbursement to a level which more reasonably reflects their cost of operation.

Failure to increase assisted living provider payments will extend or exacerbate the shortage of community housing for Nebraskans with mental illness.

The APA disagrees that subprogram 22 expenditures are a separate benefit and not State Supplementary payments for the following reasons:

- There is not a separate benefit payment made, one payment is issued to the AABD recipient and no distinction is made on the payment. The entire payment meets the Federal definition of a State Supplementary payment as noted below.
- All of the payments are made pursuant to AABD regulations, Title 469 NAC. The Standard of Need in the NAC manual does not separate the special rate benefit.
- In the budget document requesting additional funds, DHHS itself refers to the costs as increased State Supplementary payments.

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(Continued)

6. Inaccurate Reporting to SSA (Concluded)

- Not all payments for the increased rate are made from subprogram 22. For 2012 payments, special rate transfers were only made for the months April, May, July, September, and December. If these rates are not part of the State supplement, then all months should have been transferred, and none included in the amount reported to the SSA. Instead, DHHS transferred only the amounts needed to ensure the SSA maintenance of effort (MOE) was met, but MOE did not increase.

Per 20 CFR § 416.2001 State Supplementary payments are defined as:

State supplementary payments are any payments made by a State or one of its political subdivisions (including any such payments for which reimbursement is available from the Social Security Administration pursuant to Pub. L. 94-23, as amended) to a recipient of supplemental security income benefits (or to an individual who would be eligible for such benefits except for income), if the payments are made: (1) In supplementation of the Federal supplemental security income benefits; i.e., as a complement to the Federal benefit amount, thereby increasing the amount of income available to the recipient to meet his needs; and (2) Regularly, on a periodic recurring, or routine basis of at least once a quarter; and (3) In cash, which may be actual currency or any negotiable instrument, convertible into cash upon demand; and (4) In an amount based on the need or income of an individual or couple.

Inaccurate reporting and failure to comply with SSA requirements could affect the State's eligibility for Federal Medicaid dollars.

We recommend DHHS work with the SSA to determine the proper reporting of State Supplementary payments.

7. Payment Rates Not Supported

AABD and SDP cash assistance payments are based on an individual's standard of need. The standard of need (SON) varies depending on the individual's living arrangement. For example, the SON for an individual living in their home was \$422 with a possible additional shelter allowance up to \$281, while the SON for an individual in a licensed assisted living facility was \$1,136. See **Attachment A** for the 2012 Standard of Need rates. DHHS did not have any documentation to support the basis for the SON or the varying rates.

A good internal control plan requires assistance levels be periodically reviewed and support be maintained for the various rates paid. Per Neb. Rev. Stat. § 68-1006 (Revised 2009), "The amount of assistance to the aged, blind or disabled shall be based on the need of the individual and the circumstances existing in each case."

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7. Payment Rates Not Supported (Concluded)

It has been decades since rates were established. Per DHHS, changes to rates have been based on SSA cost-of-living adjustments, maintenance of effort requirements, and budget constraints. The SSA requires the State to maintain payment levels for State Supplementary payments. The State can either maintain the levels for each rate or by total expenditures. DHHS uses total expenditures for maintenance of effort.

Without documentation to support the SON rates, there is an increased risk that those differences in rates are not reasonable and participants will not be treated equitably.

We recommend DHHS periodically review SON rates and maintain documentation to support the differences in the various levels.

DHHS' Overall Response

DHHS' response has been included, in its entirety, as **Attachment B**.

APA Response

State regulation 469 NAC 1-010 requires, "When the statements of the client are incomplete, unclear, or inconsistent, or when other circumstances in the particular case indicate to a prudent person that further inquiry must be made, the worker must obtain additional verification before eligibility is determined." DHHS cannot rely on the client to provide complete and accurate information, without verifying the information or following up on incomplete or inconsistent statements. Nor can DHHS reasonably expect individuals in the Regional Centers to provide timely notice of changes. DHHS should have been aware of the facts resulting in many of the errors noted in the report. We noted errors in 20 of 55 cases tested, a 36% error rate. The APA only tested a small population of the thousands of AABD and SDP clients paid during 2012. Based on the number of errors noted, the APA believes there would be additional errors identified if other clients were to be tested. DHHS' control procedures were not adequate to ensure taxpayer funds were spent appropriately.



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NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES ASSISTANCE TO THE AGED, BLIND, AND DISABLED PROGRAM AND THE STATE DISABILITY PROGRAM

INDEPENDENT ACCOUNTANT'S REPORT

Department of Health and Human Services
Lincoln, Nebraska

We have examined the accompanying Schedule of Expenditures of the Nebraska Department of Health and Human Services (DHHS) Assistance to the Aged, Blind, and Disabled Program and State Disability Program for the year ended December 31, 2012. DHHS' management is responsible for the Schedule of Expenditures. Our responsibility is to express an opinion based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants, and the standards applicable to attestation engagements contained in *Government Auditing Standards*, issued by the Comptroller General of the United States and, accordingly, included examining, on a test basis, evidence supporting the Schedule of Expenditures and performing such other procedures as we considered necessary in the circumstances. We believe that our examination provides a reasonable basis for our opinion.

In our opinion, the schedule referred to above presents, in all material respects, expenditures of the Department of Health and Human Services Assistance to the Aged, Blind, and Disabled Program and State Disability Program for the year ended December 31, 2012, based on the accounting system and procedures prescribed by the State of Nebraska's Director of Administrative Services, as described in Note 1.

In accordance with *Government Auditing Standards*, we are required to report findings of deficiencies in internal control, violations of provisions of contracts or grant agreements, and abuse that are material to the Schedule of Expenditures and any fraud and illegal acts that are more than inconsequential that come to our attention during our examination. We are also required to obtain the views of management on those matters. We performed our examination to

express an opinion on whether the Schedule of Expenditures is presented in accordance with the criteria described above and not for the purpose of expressing an opinion on the internal control over the Schedule of Expenditures or on compliance and other matters; accordingly, we express no such opinions. Our examination disclosed certain findings that are required to be reported under *Government Auditing Standards*, and those findings, along with the views of management, are described in the Comments Section of the report.

This report is intended solely for the information and use of management, others within DHHS, and the appropriate regulatory agencies, and is not intended to be and should not be used by anyone other than these specified parties. However, this report is a matter of public record, and its distribution is not limited.

SIGNED ORIGINAL ON FILE

October 21, 2013

Mike Foley
Auditor of Public Accounts

NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES
SCHEDULE OF EXPENDITURES
ASSISTANCE TO THE AGED, BLIND, AND DISABLED PROGRAM
AND THE STATE DISABILITY PROGRAM
For the Year Ended December 31, 2012

	General Fund 10000
EXPENDITURES:	
Assistance to the Aged, Blind, and Disabled Program	\$ 6,466,214
AABD Special Rates	1,185,005
State Disability Program	7,256,759
TOTAL EXPENDITURES	<u>\$ 14,907,978</u>

The accompanying notes are an integral part of the schedule.

NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES
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NOTES TO THE SCHEDULE OF EXPENDITURES

For the Year Ended December 31, 2012

1. Criteria

The accounting policies of the Nebraska Department of Health and Human Services (DHHS) are on the basis of accounting, as prescribed by the State of Nebraska Department of Administrative Services.

Per Neb. Rev. Stat. § 81-1107(2) (Reissue 2008), the duties of the State of Nebraska's Director of the Department of Administrative Services (DAS) include:

The keeping of general accounts and the adoption and promulgation of appropriate rules, regulations, and administrative orders designed to assure a uniform and effective system of accounts and accounting, the approval of all vouchers, and the preparation and issuance of warrants for all purposes[.]

In accordance with Neb. Rev. Stat. § 81-1111(1) (Reissue 2008), the State Accounting Administrator has prescribed the system of accounts and accounting to be maintained by the State and its departments and agencies and has developed necessary accounting policies and procedures. The prescribed accounting system currently utilizes EnterpriseOne, an accounting resource software, to maintain the general ledger and all detailed accounting records. Policies and procedures are detailed in the Nebraska State Accounting Manual published by DAS State Accounting Division (State Accounting) and are available to the public. The financial information used to prepare the Schedule of Expenditures was obtained directly from the general ledger maintained on EnterpriseOne. As transactions occur, DHHS records the expenditures in the general ledger. The expenditures recorded in the general ledger, as of December 31, 2012, include only those expenditures posted in the general ledger as of December 31, 2012. The amount recorded as expenditures, as of December 31, 2012, **does not** include amounts received or expended before December 31, 2012, which had not been posted to the general ledger as of December 31, 2012.

The fund type established by the State that is used by the Assistance to the Aged, Blind, and Disabled Program (AABD) and the State Disability Program (SDP) is:

10000 – General Fund – accounts for activities funded by general tax dollars and related expenditures and transfers.

The major expenditure account classification established by State Accounting and used by the AABD Program and SDP is:

Government Aid – Payment of Federal and/or State money to governmental subdivisions, State agencies, local health and welfare offices, individuals, etc., in furtherance of local activities and accomplishment of State programs.

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NOTES TO THE SCHEDULE OF EXPENDITURES

(Continued)

2. Reporting Entity

DHHS is a State agency established under and governed by the laws of the State of Nebraska. As such, the AABD Program and SDP are exempt from State and Federal income taxes. The schedule includes all expenditures of the AABD Program and SDP, a subprogram, included in the general ledger as identified on EnterpriseOne.

DHHS is part of the primary government for the State of Nebraska.

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Our examination was conducted for the purpose of forming an opinion on the Schedule of Expenditures. Supplementary information is presented for purposes of additional analysis. Such information has not been subjected to the procedures applied in the examination of the Schedule of Expenditures, and, accordingly, we express no opinion on it.

[Continued on Next Page]

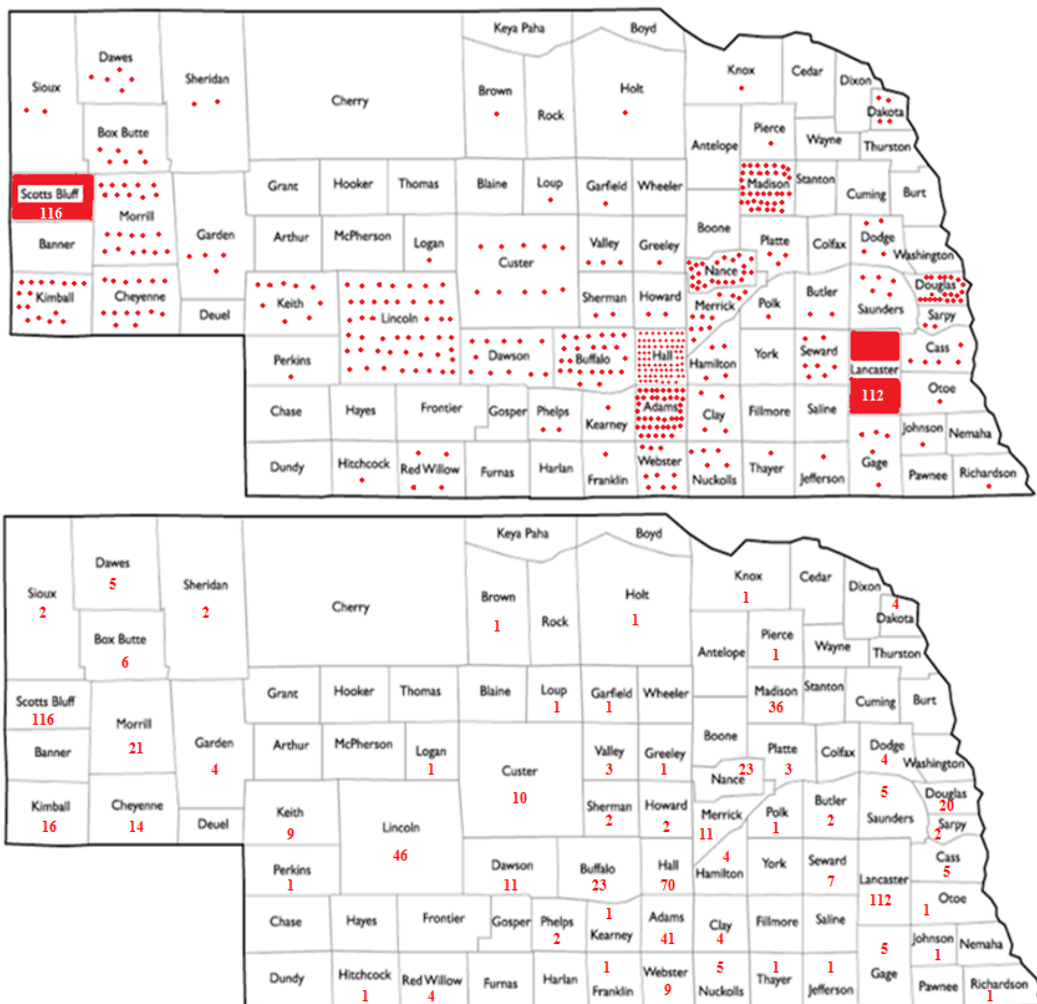
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Judith Widener Director of Safe Haven

As a result of the significant issues identified during testing of AABD benefit payments to Judith Widener and Safe Haven, the APA worked with the Scotts Bluff County Attorney to subpoena certain bank records of both Judith Widener and Safe Haven. As of October 23, 2013, Judith Widener had signature authority on over 40 different bank accounts with a cumulative balance in excess of \$600,000. It is important to note that these are the only accounts presently known to the APA; however, there may have been additional bank accounts not located in Scottsbluff.

A large majority of those account balances were owned by many different wards spread across multiple counties throughout Nebraska. Per Court records, Judith Widener has been the guardian and/or conservator for several hundred cases. The following maps highlight over 600 guardianship and conservator cases with which she has been involved. These cases include inactive and closed cases. Per Court records, however, hundreds of these cases remain active.



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Illicit Deposits of Deceased Wards

The APA identified a number of instances in which checks on behalf of deceased wards were deposited into the operating account of Safe Haven, rather than being appropriately deposited into the Safe Haven representative payee account or to the clients' separate bank accounts. Safe Haven's operating account was set up to pay for the operating expenses of the business, while the other accounts were used to track the wards' assets on hand. Specifically, the APA identified 11 checks, totaling \$11,836.91, that belonged to the estates of 9 different deceased wards but were deposited into Safe Haven's operating account after the wards' date of death.

The APA has summarized these 11 checks below:

Ward	County	Date of Death	Check Deposit Date	Amount	APA Notes
Client 1	Douglas	12/14/2011	1/7/2013	\$644.00	Check was deposited after death and no other checks were noted as being paid out of this account on his behalf. Due to no appearances in Court, the guardian and conservatorship was suspended and ceased on November 16, 2012.
Client 2	Lancaster	7/18/2006	5/31/2012	\$2,693.78	Check was deposited after death and no other checks were noted as being paid out of this account on her behalf. The guardianship terminated September 7, 2006.
Client 3	Scotts Bluff	2/22/2012	4/26/2012	\$786.36	Checks were deposited after death and no other checks were noted as being paid out of this account on his behalf. The last activity per the Court records was a notice to Judith Widener dated April 18, 2012, stating that reports are due. It appears Judith did not notify the Court of his death.
Client 3	Scotts Bluff	2/22/2012	3/20/2012	\$87.35	
Client 3	Scotts Bluff	2/22/2012	3/20/2012	\$2,579.89	
Client 4	Lancaster	12/2/2009	8/3/2012	\$3,085.42	Check was transferred from Safe Haven representative payee account to the operating account after death and no other checks were noted as being paid out of this account on her behalf. The guardianship terminated May 10, 2012.
Client 5	Scotts Bluff	1/19/2011	12/29/2011	\$1,255.68	Check was transferred from Safe Haven representative payee account to the operating account after death and no other checks were noted as being paid out of this account on his behalf. The last activity per the Court records was the Annual Accounting filed by Judith Widener on May 10, 2010. It appears Judith did not notify the Court of his death.
Client 6	Scotts Bluff	3/15/2012	5/29/2012	\$350.00	Check was deposited after death and no other checks were noted as being paid out of this account on his behalf. The last activity per the Court records was a notice to Judith Widener dated September 5, 2012, stating that reports are due. It appears Judith did not notify the Court of his death.
Client 7	Hall	4/10/2012	8/3/2012	\$166.25	Check was transferred from Safe Haven representative payee account to the operating account after death and no other checks were noted as being paid out of this account on her behalf. The guardianship terminated November 15, 2012. On November 12, 2012, Judith Widener filed the Annual Condition of the Ward, stating she had never met the ward.
Client 8	Lancaster	1/19/2013	4/12/2013	\$28.00	Check was deposited after death and no other checks were noted as being paid out of this account on his behalf. The guardianship and conservatorship terminated May 8, 2013; Judith Widener stated there are no funds in the estate.
Client 9	Morrill	2/24/2013	5/3/2013	\$160.18	Check was deposited after death and no other checks were noted as being paid out of this account on his behalf. The conservatorship terminated September 4, 2013. The annual accounting filed did not list the deposit of \$160.18.
Total Deposits				\$11,836.91	

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In some cases, Judith Widener's guardianship/conservatorship had terminated, and in other cases the Court had no knowledge of the wards' death. However, in all of these cases, Ms. Widener was the guardian and/or conservator at some point prior to the wards' death and had control of their finances.

On November 20, 2013, the APA and the Nebraska State Patrol questioned Judith Widener regarding the deposit of these checks. She admitted that these checks should not have been deposited into this operating account and should have been issued to the heirs of the estate or returned to the payer. Instead, these checks were used to pay for the operating expenses of Safe Haven and personal expenses of Judith Widener.

Other Questionable Deposits

The APA also identified 12 other questionable deposits, totaling \$14,020.75, into the operating account of Safe Haven. These deposits also appear to consist of ward assets. Additionally, several of these checks were not included on the annual accounting filed with the County Court for that specific ward. Therefore, the funds were never added to the wards' assets held by Judith Widener and Safe Haven.

The APA has summarized these 12 checks noted below:

Ward	County	Check Deposit Date	Amount	APA Notes
Client 9	Morrill	4/26/2012	\$3,499.50	Check was deposited into the operating account and no other checks were noted as being paid out of this account on their behalf. The deposited check was not included on the Annual Accounting filed with Morrill County. It appears this deposit was not applied to the wards' asset account.
Client 10	Scotts Bluff	1/18/2013	\$494.60	Checks were deposited into the operating account and no other checks were noted as being paid out of this account on their behalf. The ward moved to Wyoming. The guardianship terminated April 8, 2013 and was transferred to Wyoming. It was ordered that Judith Widener shall file any final accountings with the Court, if applicable, within the next 30 days. However, no such filings were noted.
Client 10	Scotts Bluff	1/7/2013	\$234.44	
Client 11	Nance	12/28/2012	\$6,573.98	Checks were deposited into the operating account and no other checks were noted as being paid out of this account on their behalf. The deposited checks were not included on the Annual Accounting filed with Nance County. It appears this deposit was not applied to the wards' account.
Client 11	Nance	4/12/2013	\$187.24	
Client 12	Nuckolls	11/27/2012	\$1,400.00	Check was transferred from one Safe Haven account to the operating account and no other checks were noted as being paid out of this account on their behalf. Judith Widener stated on her Annual Accounting filed with Nuckolls County that she did not have possession of the Ward's Estate. Guardian fees of \$150 and \$125 were approved in 2013 and 2011, respectively. There was no Court approval of the \$1,400 nor was the amount included in the Annual Accounting filed with the Court.

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(Continued)

Ward	County	Check Deposit Date	Amount	APA Notes
Client 13	Madison	2/13/2013	\$140.00	Check was transferred from one Safe Haven account to the operating account and no other checks were noted as being paid out of this account on his behalf. Judith Widener was approved by the Court on November 11, 2012, to receive a guardian fee of \$150. Judith Widener received \$150 on November 28, 2012 for said guardian fee that was deposited into operating account. There was no Court approved guardian fee of \$140. Both checks were deposited into the operating account. Per the Annual Accounting filed, Judith Widener stated she did not have possession of the ward's estate.
Client 14	Lancaster	4/26/2012	\$860.00	Check was transferred from one Safe Haven account to the operating account and no other checks were noted as being paid out of this account on their behalf. The conservatorship terminated April 13, 2012, as Judith Widener stated there were minimal funds in the estate. There was no approval of the \$860 per Court records. See additional information below.
Client 14	Lancaster	8/29/2013	\$120.00	Check was deposited into the operating account and no other checks were noted as being paid out of this account on their behalf. There was no Court approval of guardian fees per Court records. In addition, Judith Widener was receiving \$316 per month from the Nebraska Department of Health and Human Services for AABD benefits during calendar year 2012. The benefits were deposited into the Safe Haven representative payee account. \$286 was then being remitted to where the individual was staying. Judith Widener did not include the AABD benefits on her Annual Accounting filed with the Court. The APA could not determine where the remaining \$30 was going. The APA also questioned the potential duplication of guardian fees.
Client 15	Cheyenne	9/17/2013	\$80.99	Check was deposited into the operating account and no other checks were noted as being paid out of this account on their behalf. Judith Widener has a separate bank account set-up for this ward, so it was unknown why this check would be deposited into this account. It appears this deposit was not applied to the wards' account.
Client 16	Kimball	8/28/2012	\$130.00	Check was deposited into the operating account and no other checks were noted as being paid out of this account on their behalf. There was a Court order approving the fees of \$130. However, Judith Widener was receiving \$448 per month from the Nebraska Department of Health and Human Services for AABD benefits. The benefits were deposited into the Safe Haven representative payee account. \$418 was then being remitted to where the individual was staying. Of the \$30 remaining, \$10 went to guardian fee and \$20 remained in account. A successor guardian and conservator was appointed on May 9, 2012. As of February 1, 2012, the account at Safe Haven had \$340. It appears the ward's funds did not go to the new guardian. The APA also questions the potential duplication of guardian fees.
Client 17	Pierce	7/24/2012	\$300.00	Check was deposited into the operating account and no other checks were noted as being paid out of this account on their behalf. There was a Court order approving the fees of \$300. However, Judith Widener was receiving \$30 per month from the Nebraska Department of Health and Human Services for AABD benefits. The benefits were deposited into the Safe Haven representative payee account. The \$30 AABD benefits were included on the Annual Accounting; however, no statements were provided. It appears Judith was keeping the \$30 each month, as she stated she did not have possession of the ward's estate.
Total Deposits			\$14,020.75	

On November 20, 2013, the APA and the Nebraska State Patrol questioned Judith Widener. She admitted that these checks should not have been deposited into the operating account and should have gone to the individual wards' accounts held at Safe Haven. Instead, these checks were used to pay for the operating expenses of Safe Haven and personal expenses of Judith Widener.

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(Continued)

Personal Credit Card Expenses

The APA also observed personal expenses paid from the Safe Haven operating account. This included payments to two credit card companies, Capital One and Discover.

The APA found 21 payments to Capital One, totaling \$3,912.58, from January 1, 2012, through August 30, 2013. On November 20, 2013, the APA obtained the Capital One credit card statements. Some of the questionable transactions include:

Date	Description	Amount
8/22/2012	Fort Randall Casino Hotel Pickstown SD Arrive: 8/21/2012	\$66.08
12/1/2012	Harrah's Resort F/D Council Bluff IA	\$4.28
12/19/2012	Purchase Check	\$500.00
1/11/2013	Purchase Check	\$600.00
2/1/2013	Purchase Check	\$500.00
2/6/2013	Purchase Check	\$2,500.00
2/13/2013	US Bank Consumer Finance	\$395.00
	Total	\$4,565.36

The APA also noted 19 payments to Discover, totaling \$1,946, from January 1, 2012, through July 11, 2013. The Discover card statements were not found at Safe Haven, as Judith Widener indicated that this was her personal credit card.

On November 20, 2013, the APA and the Nebraska State Patrol questioned Judith Widener about these credit card charges. She admitted that these credit card payments were for personal expenses.

Other Questionable Expenses

The APA also noted several additional questionable expenses paid out of the operating account of Safe Haven. The following items were identified:

- Non-payroll checks were being paid to Judith Widener. These checks included two different \$500 checks for Christmas and birthday gifts to herself. The following is a listing of the non-payroll checks to Judith Widener from January 1, 2012, through October 2013.

Date	Payee	Check Memo	Amount
1/26/2012	Judith Widener	1st QTR 2011 SSA Tax Refund	\$134.00
3/10/2012	Judith Widener	4th QTR FICA Refund	\$120.00
3/15/2012	Judith Widener	Reimb Postage & Filing Fees	\$150.00
4/9/2012	Judith Widener	Reimburse Travel	\$200.00
5/8/2012	Judith Widener	Reimb expenses	\$100.00
6/11/2012	Judith Widener	Reimburse Expenses	\$250.00
7/21/2012	Judith Widener	Reimburse Expenses	\$250.00
9/4/2012	Judith Widener	B-Day Gift	\$500.00
12/3/2012	Judith Widener	Postage Reimb	\$118.93
12/31/2012	Judith Widener	Xmas Gift	\$500.00
1/30/2013	Judith Widener	Reimburse New Cell & Ins	\$225.11
3/28/2013	Judith Widener	Reimburse Postage	\$185.00
8/16/2013	Judith Widener	Reimb. Postage	\$97.64
9/3/2013	Judith Widener	Reimb. Janitorial	\$100.00
9/26/2013	Judith Widener	Reimb. Janitorial	\$150.00
9/26/2013	Judith Widener	Reimb. Postage	\$65.00
		Total	\$3,145.68

NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES
ASSISTANCE TO THE AGED, BLIND, AND DISABLED PROGRAM
AND THE STATE DISABILITY PROGRAM

SUPPLEMENTARY INFORMATION

(Continued)

- Checks were paid to CenturyLink, which is a phone and internet service provider. The account name was under Ray Widener and appeared to be for services at Judith and Ray's home address. The following payments came out of the Safe Haven operating bank account:

Bill Date	Check Date	Payee	Billing Account Name	Amount
1/6/2013	1/14/2013	CenturyLink	Ray Widener	\$257.23
2/6/2013	2/27/2013	CenturyLink	Ray Widener	\$87.41
3/6/2013	4/1/2013	CenturyLink	Ray Widener	\$87.41
4/6/2013	5/1/2013	CenturyLink	Ray Widener	\$87.32
5/6/2013	5/30/2013	CenturyLink	Ray Widener	\$88.31
6/6/2013	7/1/2013	CenturyLink	Ray Widener	\$87.32
7/6/2013	7/31/2013	CenturyLink	Ray Widener	\$87.94
8/6/2013	9/3/2013	CenturyLink	Ray Widener	\$86.60
9/6/2013	10/1/2013	CenturyLink	Ray Widener	\$87.73
			Total	\$957.27

Case Summary

As stated above, the APA has worked closely with the Nebraska State Patrol and the Scotts Bluff County Attorney in order to obtain these records. At this time, the APA has turned over the investigation to these offices and will continue to assist with the case as needed. It is important to note that the APA did not look at every single check deposited into the Safe Haven accounts, so it is extremely likely that other examples similar to the ones highlighted above exist. It is apparent that Judith Widener and Safe Haven are unfit to control the finances of several hundred wards throughout the State. Based on the monthly bank activity within the operating account, it does not appear that Safe Haven could have met all of its monthly obligations without supplementing the deposits with wards' funds. On November 20, 2013, Judith Widener agreed that she had not done a good job of controlling the wards' assets and admitted that the State should no longer allow her to be a guardian. On that same date, Judith Widener also confessed to both the APA and the State Patrol to taking and using monies of wards/clients, which she was not entitled to receive.

From only the 8 client bank accounts the APA analyzed – out of the more than 40 currently known to exist – a total of \$35,819.19, as identified individually above, appears to have been subject to fraud or abuse. Therefore, it is highly likely that the other bank accounts not examined by the APA were also vulnerable to fraud or abuse, which would result in a much higher total amount of misappropriated funds.

The APA has included a copy of the Safe Haven search warrant obtained by the Nebraska State Patrol on November 20, 2013. See [Attachment C](#).

Judith Widener is currently being held in the Scotts Bluff County Detention Center. The APA has included a copy of the Arrest Warrant issued on November 22, 2013. See [Attachment D](#).

NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES
ASSISTANCE TO THE AGED, BLIND, AND DISABLED PROGRAM
AND THE STATE DISABILITY PROGRAM

Attachment A

REV. DECEMBER 1, 2011
MANUAL LETTER # 86-2011

NEBRASKA DEPARTMENT OF
HEALTH AND HUMAN SERVICES

AABD
469-000-211

469-000-211 AABD or SDP STANDARD OF NEED

Number In Unit	1	2	3	4	5	6	7	8	9	10
Standard	\$422	\$690	\$857	\$1029	\$1201	\$1373	\$1545	\$1717	\$1889	\$2061

Add \$172 for each additional person.

The standard of need for -

Nursing Home, Public Institution for the Treatment of Mental
Diseases and/or Mental Retardation \$ 50.00

The Personal Needs Allowance of \$60 is included in the living arrangements listed below.

Maximum Board and Room \$698.00

Drug Treatment Centers are budgeted as Board and Room unless
Medicaid is paying. If Medicaid is paying, use \$60.

Maximum for Licensed or Non-Licensed
Boarding Home (providing board and room) \$698.00

Certified Adult Family Home \$826.00

Licensed Assisted Living Facility \$1,136.00

Assisted Living Waiver \$698.00

Licensed Group Home for Children
and/or Child Caring Agency \$762.00

Licensed Center for the Developmentally Disabled \$698.00

Licensed Mental Health Center \$1,136.00

(For alternate living arrangements, see 469 NAC 3-004.01A ff.).

MAXIMUM SHELTER ALLOWANCE

Single shelter amount - \$281

Multiple shelter amount - \$349

SSI REFERRAL AMOUNTS

Single individual - \$718

Couple - \$1,068

ALLOWANCE FOR MAINTENANCE OF A SERVICE ANIMAL: \$50

OVERALL RESPONSE



Kerry T. Winterer
Chief Executive Officer

State of Nebraska
Dave Heineman, Governor

October 30, 2013

Mike Foley
Auditor of Public Accounts
State Capitol, Suite 2303
P.O. Box 98917
Lincoln, Nebraska 68509-8917

Dear Mr. Foley:

This letter is in response to your attestation report of the Nebraska Department of Health and Human Services Assistance to the Aged, Blind, and Disabled Program and State Disability Program for the year ended December 31, 2012. Below is our response that we would like included in the published version of your report.

Management Response: The Nebraska Department of Health and Human Services (DHHS) appreciates the time and effort put in by the State Auditor's Office in conducting this attestation. The Department believes the work of the Auditor of Public Accounts (APA) serves an important quality control function in addition to the quality control procedures currently being conducted by DHHS. The report identifies several recipients of benefits who failed to comply with the requirements imposed upon them and DHHS will seek to recoup those funds.

DHHS does not agree with a significant number of the findings contained in this report. As one example, state statute says, "the client is required to provide complete and accurate information" as well as "report a change in circumstances no later than ten days following a change in living arrangements". The report identifies several instances where a recipient failed to comply with these requirements and thus was issued benefits that they were not entitled to. The APA is alleging in this report that in these cases, DHHS has violated state law or that the Department's procedures were not "reasonable". The position of DHHS is that based on available resources and the respective responsibilities of the recipient and the Department, procedures are compliant and reasonable. The Department does have quality control procedures in place to test for program integrity.

Throughout this attestation report and as stated during the APA's exit conference with DHHS, the Department's internal controls were not tested for compliance with state statutes (most especially 469 NAC) but rather compliance with the APA's definition of "reasonableness" as it relates to efforts to ensure that recipients comply with their responsibilities. As stated above, based on available resources and the respective responsibilities of the recipient and the Department, procedures are compliant and reasonable.

Corrective Action Plan: DHHS will seek to recoup overpayments from recipients identified by the APA. DHHS will also review its quality control procedures related to this program for economical improvements that will improve program integrity.

Sincerely,

A handwritten signature in blue ink, appearing to read "Kerry T. Winterer".

Kerry T. Winterer
Chief Executive Officer
Nebraska Department of Health and Human Services

NEBRASKA STATE PATROL
NOVEMBER 20, 2013 SEARCH WARRANT OF SAFE HAVEN

Attachment C

IN THE COUNTY COURT OF SCOTTS BLUFF, NEBRASKA

STATE OF NEBRASKA)	
) ss.	SEARCH WARRANT
COUNTY OF SCOTTS BLUFF)		

TO: Monty Lovelace, a law enforcement officer of the Nebraska State Patrol, and to all other law enforcement officers:

1. This matter came for consideration on this 20th day of November, 2013, upon the sworn Affidavit and Application for Issuance of a Search Warrant of Sergeant Monty Lovelace of the Nebraska State Patrol, and the Court, being fully advised in the premises, finds as follows:

2. That the Court has jurisdiction of this matter pursuant to Neb.Rev.Stat. § 29-812 through Neb.Rev.Stat. § 29-829.

3. That the search warrant will be served on Safe Haven, 945 O St., Gering, Scotts Bluff County, Nebraska.

4. That based upon the sworn Affidavit and Application for Issuance of a Search Warrant of Sergeant Monty Lovelace of the Nebraska State Patrol dated the 20th day of November, 2013, there is probable cause to believe that the evidence of the crimes described in the Affidavit is located at Safe Haven, 945 O St., Gering, Scotts Bluff County, Nebraska and consists of the following property, to wit:

- a. All banking and financial account records relating to the accounts of Safe Haven or personal records of Judith Widener, director of Safe Haven. Records should include account numbers, transaction history for savings deposits and withdraws, transaction history for checking deposits and debits, copies of checks, copies of receipts showing account activity, books, papers, receipts of transactions and any other records relating to the account records of Safe Haven or personal records of Judith Widener, director of Safe Haven.
- b. All computers, hard drives, thumb drives, external hard drives, cell phones or any other electronic storage devices and content of the same to include but not limited to all banking and financial account records relating to the accounts of Safe Haven or personal records of Judith Widener, director of Safe Haven. Records should include account numbers, transaction history for savings deposits and withdraws,

NEBRASKA STATE PATROL
NOVEMBER 20, 2013 SEARCH WARRANT OF SAFE HAVEN
(Continued)

Attachment C

transaction history for checking deposits and debits, copies of checks, copies of receipts showing account activity, books, papers, receipts of transactions and any other records relating to the account records of Safe Haven or personal records of Judith Widener, director of Safe Haven.

- c. To save all content of electronic devices found to an external Hard Drive belonging to the State of Nebraska Auditor of Public Accounts for further examination at a later.

5. YOU ARE THEREFORE ORDERED, with the necessary and proper assistance, to search the above described premises, to include vehicles and outbuildings, for the purpose of seizing and searching the before described property, and if found, to seize, search and deal with the same as provided by law.

6. IT IS FURTHER ORDERED, that Sergeant Monty Lovelace of the Nebraska State Patrol, or his designee, make return of this warrant in ten (10) working days.

7. IT IS FURTHER ORDERED, that said warrant be executed during daylight hours.

GIVEN under my hand this 20 day of Nov, 2013.


JUDGE

NEBRASKA STATE PATROL
ARREST WARRANT OF JUDITH WIDENER

Attachment D

2013 11/25 08:03 FAX

0002/0003

IN THE COUNTY COURT OF SCOTTSBLUFF COUNTY, NEBRASKA

THE STATE OF NEBRASKA,

Plaintiff,

VS

Judy Widener
6-11-1943

Defendant

CASE NO. CR13-2236

WARRANT

Doc # 337012

To the Sheriff or any constable of Scotts Bluff
County, Nebraska or any Marshal or other
Police Officer

THEFT BY TAKING (Value of More than \$1500.00)
§ 28-511(A)
CLASS III FELONY

STATE OF NEBRASKA

ss.

COUNTY OF SCOTTS BLUFF



000178227C21

WHEREAS, there has this day been filed before me a complaint in writing in which Douglas Warner, County Attorney of Scotts Bluff County, Nebraska, for and in the name of the State of Nebraska, complains before a County Judge of Scotts Bluff County, Nebraska that **Judy Widener** on or about January 1, 2012 through August 31, 2013, then in Scotts Bluff County, Nebraska, did unlawfully and feloniously take or exercise control over movable property of another valued at more than \$1500, with the intent to deprive them thereof, or did transfer immovable property of another or any interest therein with the intent to benefit herself or another not entitled thereto, contrary to the statutes of the State of Nebraska.

Based upon the affidavit and evidence submitted, the Court finds that probable cause exists for the issuance of a warrant.

YOU ARE THEREFORE COMMANDED forthwith to take the said accused and bring him before me, or some other magistrate having cognizance of the case, to be dealt with according to the law.

This warrant shall be void and of no force and effect on or after Nov 22, 2014 and the law enforcement agency holding this warrant is ordered to return it to the issuing court as soon as possible thereafter. Such return shall contain the reason not served and the defendant's last known address.

Bond: \$500,000.00
(10%)

DATED Nov 22, 2013

Douglas Warner
County Judge

2013 11 22 PM 22:42

30440 11/25/13
ALVINSON 11/25/13

FILED

NOV 25 2013

Deanne Chava
CLERK OF THE COUNTY COURT

11/23/13
NSP.
Mike Cerny
20:30

NEBRASKA STATE PATROL
ARREST WARRANT OF JUDITH WIDENER
(Continued)

Attachment D

2013 11/25 09:04 FAX

0003/0003

CR13-7236

STATE OF NEBRASKA

SCOTTS BLUFF COUNTY

I received this warrant on 11/22/13 AT 1:33 PM and pursuant to the Command thereof,
(date) (time)

I arrested the within name JUDY WIDENER on 11/23/13 AT 20:30 PM
(date) (time)

and now have him/her before the court.

This prisoner was transported from _____ causing an increase in the mileage amount.

Date 11/25/13

Fee: ARREST \$
MILEAGE \$
CHARGE \$

MARK L. OVERMAN
SHERIFF

TOTAL \$ 2.00

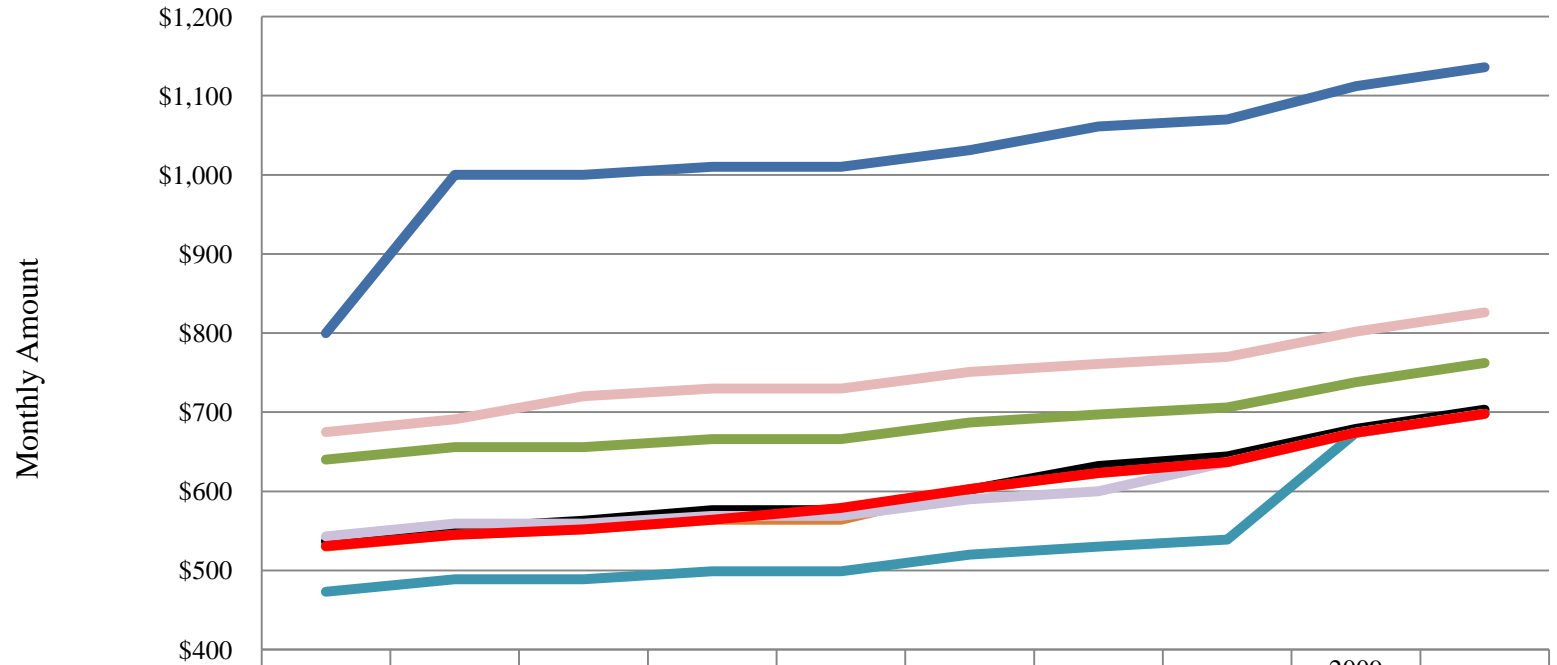
Arresting Office/Deputy

Mike Cerny, Nebraska State Patrol

NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES
ASSISTANCE TO THE AGED, BLIND, AND DISABLED PROGRAM
AND THE STATE DISABILITY PROGRAM

Exhibit 1

Standard of Need Rates and Federal SSI Rates as of January 1
Calendar Years 2001 through 2012



— Licensed Assisted Living Facility & Licensed Mental Health Center	\$800	\$1,000	\$1,000	\$1,010	\$1,010	\$1,031	\$1,061	\$1,070	\$1,112	\$1,136
— Certified Adult Family Home	\$675	\$691	\$720	\$730	\$730	\$751	\$761	\$770	\$802	\$826
— Licensed Childrens Group Home	\$640	\$656	\$656	\$666	\$666	\$687	\$697	\$706	\$738	\$762
— Single SON and Single Shelter	\$537	\$553	\$563	\$576	\$576	\$602	\$632	\$644	\$679	\$703
— Boarding Home	\$473	\$489	\$489	\$499	\$499	\$520	\$530	\$539	\$674	\$698
— Assisted Living Waiver	\$530	\$545	\$552	\$564	\$564	\$603	\$623	\$637	\$674	\$698
— Licensed Center for Developmentally Disabled	\$543	\$559	\$559	\$569	\$569	\$590	\$600	\$637	\$674	\$698
— Federal SSI Individual Amount	\$531	\$545	\$552	\$564	\$579	\$603	\$623	\$637	\$674	\$698

Note: The Standard of Need for Nursing Home, Public Institution for the Treatment of Mental Diseases, and/or Mental Retardation has been \$50 since January 2000.