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May 18, 2017

Scott Frakes, Director
Nebraska Department of Correctional Services
P.O. Box 94661
Lincoln, NE 68509-4661

Dear Mr. Frakes:

This letter is provided pursuant to AICPA Auditing Standards AU-C Section 265, which permits the early communication of audit findings due to their significance and the need for corrective action. The work addressed herein was performed as part of the fiscal year ended June 30, 2017, Comprehensive Annual Financial Report (CAFR) audit at the request of the Nebraska Department of Correctional Services (NDCS) due to concerns regarding claims submitted by a dentist under contract with the agency. This communication is based on our audit procedures and related activity through December 2016. Because we have not completed our audit of the fiscal year 2017 CAFR, additional matters may be identified and communicated in our final reports.

In planning and performing our audits of the State's financial statements, the Auditor of Public Accounts (APA) considered the State's internal control over financial reporting (internal control) as a basis for designing the audit procedures. The audit procedures selected were utilized for the purpose of expressing our opinions on the financial statements of the State, but not for the purpose of expressing an opinion on the effectiveness of the State's internal control. Accordingly, we do not express an opinion on the effectiveness of the State's internal control.

We noted certain internal control or compliance matters related to the activities of the NDCS or other operational matters, which are presented below for your consideration. The following comments and recommendations, which have been discussed with the appropriate members of the NDCS and its management, are intended to improve internal control or result in other operating efficiencies.

Draft copies of this letter were furnished to the NDCS to provide its management with an opportunity to review and to respond to the comments and recommendations contained herein. Any formal responses received have been incorporated into this letter. Such responses have been objectively evaluated and recognized, as appropriate, in the letter. A response that indicates corrective action has been taken was not verified at this time, but it will be verified in the next audit.

Background Information

The NDCS employs professionals to provide dental services to its inmate population. Under this scenario, the NDCS pays for the salary and benefits of those employees, in addition to the cost of any equipment and supplies needed by them to provide dental services.

In May 2015, the NDCS began a pilot project, entering into service contract with one dentist to provide dental care to inmates. Under the terms of the agreement, this independent contractor billed Blue Cross Blue Shield (BCBS) directly for the dental services provided. After paying the contract dentist for the work performed, BCBS was then reimbursed by the NDCS for those payments.

In December 2016, the NDCS first contacted the APA with concerns regarding the dentist under contract. Specifically, the NDCS was suspicious about the volume of denture-related services provided to inmates under the contract and whether those services complied with the NDCS Medical Protocol for Dental Services (June 2016) (“Protocol”).

At the end of January 2017, the NDCS provided the APA with a list of all claims paid by BCBS to the dentist from January 2015 through December 2016. From that listing, the APA was able to determine that the dentist had billed BCBS for the following dental services:

Number of Procedures	Number of Inmates	Amount Reimbursed
5,666	1,523	\$787,334.00

The initial list of claims was narrowed to include only denture-related services for the period January 2015 through July 2016. That list included the following information:

Number of Procedures	Number of Inmates	Amount Reimbursed
289	183	\$220,831.31

The NDCS determined that 117 inmates received denture-related services prior to having been incarcerated for at least 24 months. The APA tested those 117 inmates, along with an additional 5 others to ensure that the Protocol was followed, and adequate documentation existed to support the BCBS payments to the dentist. The summary of the testing is as follows:

Number of Procedures	Number of Inmates	Amount Reimbursed
185	117	\$153,060.87
9	5	\$8,976.80
194	122	\$162,037.67

Comments and Recommendations

1. Failure to Comply with NDCS Protocol

The NDCS failed to ensure that the contracted dentist adhered to the Protocol. A total of 111 of the 122 inmates had claims submitted for denture-related services that were not allowed under the Protocol, as follows:

Number of Inmates	Amount	Reason
108	\$140,720.28	The dentist billed BCBS for services provided prior to the inmate being incarcerated for at least 24 months.
3	\$4,780.30	The dentist billed BCBS for services provided within six months of the inmate's release date.
111	\$145,500.58	Totals

The APA also determined that two of the NDCS Internal Consultation Request Forms, which are used to grant approval for services not allowed under the Protocol, were not actually signed by the NDCS Medical Director. In both instances, the Medical Director's name was typed on the front of the forms.

The Protocol sets the following priority for covered procedures.

2. Covered Services:

a. Services which are medically/dentally necessary

b. Priority of Services:

Within the limits of available dental resources, care and treatment will be provided consistent with the following four priorities and listed examples. The dental practitioner may use their professional judgment to upgrade or downgrade the priority of an inmate's dental condition. The dental record must reflect written objective data supporting such changes.

- 1) Priority I - evaluate and/or treat immediately
 - a) Incapacitating pain
 - b) Facial swelling
 - c) Oral - facial trauma
 - d) Suspected serious pathological conditions
 - e) Profuse bleeding
- 2) Priority II
 - a) Extraction of non-restorable, symptomatic teeth
 - b) Placement of sedative restorations in grossly decayed teeth
 - c) Pulpotomy or pulpectomy
 - d) Prescription of medications as appropriate
 - e) Gross scaling and debridement of calculus, such as in the case of acute necrotizing ulcerative gingivitis (ANUG).
- 3) Priority III - Routine, non-acute care for conditions that are not of an urgent nature. Inmates with NDCS length of stay greater than one (1) year are eligible. This care shall NOT be provided prior to one (1) year of NDCS incarceration. Eligible services are as follows:
 - a) Routine restorations such as modified glass ionomer, amalgam and composite.
 - b) Routine dental Scaling.
- 4) Priority IV - may be scheduled after all other priorities are met or as medically indicated. Prosthodontic care reserved for inmates with NDCS length of stay greater than two (2) years and mandatory release date is more than six (6) months.
 - a) Partial or full denture construction
 - b) Repair or reline partial or full dentures

3. Non-covered Services:

- a. Elective procedures
- b. Orthodontics
- c. Fixed bridgework or cast crowns or labial veneers for cosmetic purposes
- d. Implants
- e. Except in specific cases*, dental prosthesis will not be fabricated for new commitments until 24 months minimum have been served and the earliest parole or mandatory discharge release date is more than six months away.
*Chief of Dental Services/Designee approval must be obtained.
- f. Periodontal diagnosis and treatment
- g. Routine removal of asymptomatic third molars

The highlighted information above permits prosthodontic care (i.e. dentures, dental implants, removable partial dentures, etc.) only “for inmates with NDCS length of stay greater than two (2) years and mandatory release date is more than six (6) months.” Except for specific cases in which approval is obtained from the Chief of Dental Services or his or her designee, moreover, virtually identical criteria must be met before a dental prosthesis will be manufactured for “new commitments.”

The following is an image of one of the Internal Consultation Request Forms mentioned above, which were used to seek approval of exceptions from the Protocol:

NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES
HEALTH SERVICES
INTERNAL CONSULTATION REQUEST FORM

TO: Dr. Randy Kohl, Medical Director
FROM: [REDACTED] Phone #: [REDACTED]
DATE: 03/16/16 Urgent: Yes No

[REDACTED]

INMATE NAME	NUMBER	D.O.B	FACILITY
Prior Pertinent History (including lab, imaging, meds, exam findings, surgery, allergies): <u>RMH, LMEX, pt requests /P replacing teeth #23-27; will request approval as pt's total time less than 2 years.</u>			
Consult completed by <u>[REDACTED]</u> Acting Nurse Supervisor			
CONSULT REQUEST: <u>dental partial</u>			
INDICATIONS: <u>as above</u>			
County Safe-Keeper: Yes <input type="radio"/> No <input checked="" type="radio"/>	Interstate Transfer: Yes <input type="radio"/> No <input checked="" type="radio"/>		
Re-Entry Furlough: Yes <input type="radio"/> No <input checked="" type="radio"/>	Please Phone: Yes <input type="radio"/> No <input checked="" type="radio"/>		
Information attached: Yes <input type="radio"/> No <input checked="" type="radio"/>	Provider Signature: <u>[REDACTED]</u>		

MEDICAL DIRECTOR COMMENTS

Disposition: Approve dental partial fabrication.

Comments: _____

Date completed: _____
Comments: _____

R. Kohl, MD 03/16/16
Randy T. Kohl, MD Date

DCS-A-med-067-pc (rev 10.2014)

As highlighted in the above image, the form is not signed by the Medical Director. Rather, his name is merely typed in, which increases the risk that an unauthorized individual might approve the request.

The APA also determined that language in the service contract between the NDCS and the dentist required the latter to comply with the Protocol. The APA obtained email correspondence between the NDCS and the dentist regarding the need for him to follow the Protocol.

Good internal controls require procedures to ensure that denture-related services are provided to inmates in strict compliance with the requirements of the Protocol. Without such procedures, there is an increased risk for fraud and for impermissible services to be provided.

We recommend the NDCS implement procedures to ensure denture-related services are provided to inmates in strict compliance with the requirements of the Protocol. We also recommend the NDCS review the dentist charges for denture-related services to determine whether any amounts paid to him should be recovered due to noncompliance with the Protocol.

NDCS Response: NDCS agrees that its medical protocol should be followed, and any exception to the protocol must be obtained from the Medical Director or designee. Dr. Schrad was aware of NDCS' protocol. Measures have been implemented by NDCS' new Medical Director, Dr. Deol Harbans, to provide oversight and measures to ensure the protocol is followed.

2. Inadequate Documentation of Services

The APA determined that 65 of 122 inmate files tested did not contain adequate documentation to support the services provided.

Staff at the NDCS explained that four appointments are required for most denture-related services. The purpose of the first appointment is to make the denture impression. During the second appointment the wax rim is made. The third appointment is for fitting the wax try-in. Delivery of the finished dentures takes place at the fourth and final appointment.

The APA reviewed the medical files for all 122 inmates tested. In each file, the NDCS maintained a Chronological Record of Medical Care as well as lab forms to document the services provided. An example of the Chronological Record of Medical Care is provided below:

NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES					
HEALTH RECORD		CHRONOLOGICAL RECORD OF MEDICAL CARE			
DATE	Location,	Symptoms,	Diagnosis,	Treatment	(sign each entry)
10-5-15		Visual exam, charting, x-rays read, tentative diagnosis & treatment plan. Patient to kite if any dental problems while at DEC. Patient to kite next location for further dental treatment.		PANO AND 2-BITE WINGS TAKEN. PATIENT TO KITE WITH ANY DENTAL PROBLEMS WHILE AT DEC.	
12-9-15	RmH;	F/F	1° sup occlusal		
12-18-15	RmH;	F/F	wax rim		DS
1-8-16	RmH;	F/F	try in		DS
1-22-16	RmH;	F/F	delivery of case & detailed instructions		DS
2-19-16		NO SHOW			DS
3-16-16	RmH, LMEX;	ad; F			DS

Sixty-five of the inmate files examined failed either to document all of the required appointments for denture-related services on the Chronological Record of Medical Care or to contain copies of the forms sent to the laboratory for the creation of the dentures.

For eight of the inmates, the final appointment for delivery of the dentures was not documented. Because this documentation was missing, there is an increased risk that the dentures were not provided. The NDCS has been given a list of those inmate files.

In January 2017, the NDCS requested a refund of \$2,166 from the dentist for an inmate who did not receive his dentures because he was released early. The inmate did not meet the requirements in the Protocol for denture-related services. At the time of the procedures, he had not yet been incarcerated for 24 months. He was then released early, prior to receiving his dentures.

Good internal controls require procedures to ensure that all medical appointments are adequately documented, and copies of laboratory forms are maintained in the inmate files. Without such procedures, there is an increased risk for fraud and for loss or misuse of NDCS funds.

We recommend the NDCS implement procedures to ensure all medical appointments are adequately documented, and copies of laboratory forms are maintained in inmate files.

NDCS Response: NDCS agrees that inadequate documentation was provided by Dr. Schrad in the inmate medical files. Additionally, NDCS agrees that services provided by Dr. Schrad should only be billed upon completion of the services. NDCS became aware of this and changed that practice. With the oversight of Dr. Harbans, any services provided by contractual dentists will be required to have adequate documentation.

3. Other Internal Control Issues

The APA noted also the following internal control issues regarding the contract dentist:

Billing Prior to Delivery

The dentist failed to follow the terms of his contract with the NDCS for advance payment. As described previously, multiple appointments are required for the completion of most denture-related services. However, the dentist billed BCBS for the total cost of the finished dentures after only the initial appointment, which is not permitted under the service contract.

The following language is found in the most recent contract between the dentist and the NDCS, effective August 2016.

PROHIBITION AGAINST ADVANCE PAYMENT

Payments shall not be made until contractual deliverable(s) are received and accepted by NDCS.

Good internal controls require procedures to ensure that, as required by the terms of the contract, services are billed only after the inmate has received the completed dentures. Without such procedures, there is an increased risk for loss or misuse of the NDCS funds.

NDCS Dental Calendar

The NDCS utilizes an Outlook calendar to organize and track dental appointments. In the very limited testing of two dates in July 2015, the APA determined that the inmates included on the Outlook calendar did not agree to the claims listing provided by BCBS for that same date.

In both cases, the BCBS listing included two more inmates than the Outlook calendar.

Additionally, upon review of the calendars, the APA noted that the dentist sometimes billed for providing services to more than 20 inmates per day. The NDCS did not adequately document the hours the dentist provided services under the contract in order to ensure that the number of daily patient billings was reasonable.

Good internal controls require procedures to ensure that adequate records are maintained of all dental appointments so that a comparison of the dentist's schedules and his billings can be completed. Good internal controls also require procedures for the documentation of hours worked by contractual service providers so that a determination can be made regarding the reasonableness of the services billed. Without such procedures, there is an increased risk for loss or misuse of the NDCS funds.

Number of Required Appointments for Dental Services

The NDCS was unsure of the number of required appointments for each dental procedure code.

Good internal controls require procedures to ensure that the NDCS has a proper understanding of the number of appointments necessary for each dental service provided so that an adequate review of the services billed can be completed, as well as to ensure that dental appointments are adequately documented in the medical records.

Failure to review inmate medical files to ensure that adequate documentation of dental services provided is maintained increases the risk for fraud and for the loss or misuse of the NDCS funds.

We recommend the NDCS implement procedures to ensure the following:

- Services are billed only upon delivery of the completed dentures.
- Dental calendars are kept current to allow for an adequate comparison to the billings.
- The number of inmates seen per day is reasonable.
- There is a proper understanding of the number of required appointments for each procedure to ensure all appointments are adequately documented.

NDCS Response: In response to the meeting with the Auditor's office, NDCS staff did research the eight inmates identified on the listing. NDCS will follow up on those findings, which were shared with the Auditor's office. NDCS did contact BCBS on April 6, 2017 to confirm whether a refund had been received by Dr. Schrad for Mr. Quint. BCBS notified NDCS on April 7, 2017 that a refund for \$2,166.25 was received by BCBS and was being processed.

Over 20 Appointments/Day

In response to the July 7, 2015 billing for 23 inmates and on July 21, 2015 for 23 inmates by Dr. Schrad, NDCS will be researching the files and documentation to determine if all of the inmates received services.

Additionally, NDCS has contacted Blue Cross Blue Shield and requested if they are able to perform an edit function on all dental claims submitted by Dr. Schrad for services to NDCS inmates. We have not received a response from Blue Cross Blue Shield at this time if this can be done; however, if this process can occur, NDCS will proceed with this additional review process for Dr. Schrad's claims. The edit function is part of the new Blue Cross Blue Shield contract. Dr. Schrad has not provided services since we contacted your office about these issues, and his contract was formally terminated April 10, 2017.

* * * * *

Our audit procedures are designed primarily on a test basis and, therefore, may not bring to light all weaknesses in policies or procedures that may exist. Our objective is, however, to use our knowledge of the NDCS and its interaction with other State agencies and administrative departments gained during our work to make comments and suggestions that we hope will be useful to the NDCS.

This interim communication is intended solely for the information and use of the NDCS, its management, the Governor and the State Legislature, and others within these State agencies. It is not intended to be, and should not be, used by anyone other than the specified parties. However, this letter is a matter of public record, and its distribution is not limited.

If you have any questions regarding the above information, please contact our office.

Sincerely,



Philip J. Olsen, CPA CISA
Audit Manager