



NEBRASKA AUDITOR OF PUBLIC ACCOUNTS

Mike Foley
State Auditor

Mike.Foley@nebraska.gov
PO Box 98917
State Capitol, Suite 2303
Lincoln, Nebraska 68509
402-471-2111, FAX 402-471-3301
auditors.nebraska.gov

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State Audit of Department of Correctional Services Reveals Challenges of Excessive Medical Costs, Inordinate Staff Overtime, and Improper Accounting of Inmate Trust Funds

State Auditor Mike Foley announced today a new audit report on the Nebraska Department of Correctional Services (Department) for the calendar year ending December 31, 2023. The various findings discussed therein highlight the continuing challenges faced by the agency, including needlessly high medical costs for inmates, excessive staff overtime, the improper handling of inmate trust funds, and other issues of concern highlighted below.

Inmate Medical Costs

The Department spends roughly \$70 million annually to provide medical services to the some 5,800 incarcerated persons – at an average cost in excess of \$12,000 each – in Nebraska’s penal system. The audit team found that more than \$3.5 million of those costs could have been avoided had the Department encouraged inmates to enroll in the Medicaid program immediately upon incarceration. Doing so would have resulted in their medical care expenses being split between Federal and State governments – as opposed to being assumed totally by the State, as was the case during 2023.

Moreover, Foley’s audit team noted, the Department needs to improve its procedures to ensure providers route Medicaid-eligible claims directly to Medicaid rather than submitting the expenses to its third-party claims processing administrator. The failure to do so has caused a significant delay between when the Department pays its bills and receives reimbursement, if any, from its third-party claims processing administrator.

In 2024, the Department began to make automatic Medicaid enrollment part of its inmate intake process; however, that process was not fully implemented at the time of the examination by Foley’s audit team.

Foley complimented the Department’s Director, Rob Jeffreys, for responding quickly to the audit team recommendation and observed, “The ongoing corrective action from this single audit finding, which is

only one out of literally hundreds that my auditors make each year for State and local governments alike, could produce several million dollars in taxpayer savings. That would more than cover the entire appropriated budget – amounting to less than \$4 million and constituting only two hundredths of one percent of overall State spending – of the Auditor’s office for an entire year, with plenty remaining for other significant governmental needs. Clearly, the Auditor’s office pays for itself many times over when agencies take audit suggestions seriously and implement appropriate corrective procedures.”

Inmate Trust Funds

The audit report points also to the inveterate inefficiency of the Department’s procedures for properly crediting inmate trust accounts, noting that well over a half-million dollars – mostly earned by inmates while on work release – were deposited in a State bank account but not credited timely to the individuals who actually earned the money. The Auditor’s office has notified the Department of this crucial issue at least twice in writing over the past 10 years, but the problem remains unresolved.

In response to this repeat audit finding, the Department claimed to be unable to credit the inmate funds properly because the earnings transmitted from the employers did not specify the recipients. However, the audit team disputes this contention outright, showing that \$460,972 in inmate earnings since February 14, 2020, were indeed designated for specific workers.

While the Department appears to have made some limited remedial progress in this area, the audit report states that over \$307,000 of inmate earnings has yet to be credited to the proper accounts.

The audit team examined the funds due to the 10 inmates with the highest uncredited balances and found that 9 out of those individuals are no longer incarcerated and were paroled without receiving the thousands of dollars that they had earned.

Inmate Maintenance Fees

Another audit concern relating to inmate income, whether earned within the correctional facility or through work release, is the Department’s failure to deduct from those wages the full maintenance fee – to help defray the cost of room and board, clothing, and medical and dental expenses – required by law and specified in administrative policies. According to the audit report, the Department undercharged inmates by some \$310,000, and possibly more, due to failure to apply the correct updated daily rate.

In 2023, the top 25 inmate earners totaled over \$1.1 million in net pay, with each one making over \$37,000. The highest-paid inmate worker for that year received \$54,566 in net pay. The report details how these incarcerated workers, as well as many others, should have paid more in maintenance fees to the Department.

For the past 15 years, the auditors observed, the Department has failed to increase the maintenance fee deducted from inmate income – despite a doubling in the minimum wage and staggering growth in the cost of not only medical services to prisoners but also incarceration overall during that time period. Although statutorily authorized to require inmates “to pay all or a part of the cost of their board, room, clothing, medical, dental and other correctional services,” the Department has neglected, through the deduction of insufficient maintenance fees, to fulfill that express legislative mandate.

Departmental Staff Overtime

The cost of recruiting and retaining qualified personnel for correctional facilities, which has been exacerbated by extraordinary amounts of overtime pay, continues to strain the Department's budget. Total Department payroll for 2023, not including benefits, was \$179,545,650 – almost \$58 million higher, Foley's audit team found, than a mere two years earlier.

This incredible jump in payroll costs has been driven, at least in part, by revisions to the union labor work agreement negotiated with the Fraternal Order of Police. As a result, the audit report points out, the Department paid \$22 million for employee overtime and compensatory time in 2023, roughly \$3 million higher than the \$19 million expended two years earlier.

Experienced correctional guards can earn over \$150,000 annually in wages, overtime, and compensatory time, with the highest-paid guard earning over \$205,000 last year – more than certain physicians and dentists received while employed by the Department. Full-time employment requires 2,080 work hours per year. According to the audit report, however, it is not unusual for guards to work a regular schedule of those hours plus another 1,000 to 2,000 hours of overtime per year, hiking substantially their annual incomes.

Over 250 Department personnel logged 500 hours or more of overtime during 2023.

Guards continually earning enormous amounts of overtime or compensatory time – sometimes as much as the equivalent of two full-time jobs (80 hours per work week throughout the year) – is exceedingly costly to the Department and potentially detrimental to the safety of both facility staff and the inmates being watched.

Inmate Debit Card Usage

Under supposedly highly restrictive rules, the audit report explains, certain inmates may carry a debit card for minor purchases while on work release or a 48-hour furlough. During calendar year 2023, though, Department personnel loaded some \$3.4 million onto the inmate debit cards, and no review of the transactions on the cards was performed. Funds for the debit cards come from work release earnings of the inmate or cash transfers from approved family members.

According to the audit report, the 25 highest inmate debit card loads ranged from \$10,180 to as much as \$21,100.

Per Department regulations, permissible cash-back transactions with the debit cards must be very small in nature, as inmates are prohibited from having more than \$100 cash in their possession at any given time. Nevertheless, the auditors found one inmate with \$9,860 in cash-back transactions and ATM withdrawals during a three-month stretch in late 2023. The Department was unable to provide support that a caseworker or anyone at the correctional facility was even aware of these transactions. The inmate's debit card activity also included \$3,216 in purchases at clothing and retail stores, gas stations, restaurants, and movie theaters, not to mention prohibited online purchase at Nike.com.

“Let’s apply some common sense here,” Foley commented. “While some debit card purchases by inmates may be legitimate,” he continued, “it is imperative that they be monitored, and all cash-back and ATM withdrawals must be highly scrutinized – if for no other reason than to ensure that the funds are not used for criminal purposes or to facilitate relationships with criminal associates.”

Central Pharmacy Control Weaknesses

The audit report documents over \$9 million in medications and pharmaceutical supplies purchased by the Department during 2023. The Department has a serious control weakness in its pharmacy operations, the auditors concluded, that could enable agency staff to pilfer certain medications by manually adjusting drug inventory levels without supervisory approval.

Foley’s audit team examined 30 manual inventory adjustments for medications, involving tens of thousands of dollars’ worth of Department pharmaceuticals, and found no evidence of a secondary review or approval for 23 of those of adjustments.

Additionally, spoilage of expensive drugs requiring refrigeration was found to have occurred when the Department’s Central Pharmacy personnel distributed medications that were never administered by facility medical staff. When not refrigerated during the return to the Central Pharmacy, those unused drugs, valued at \$6,500, had to be discarded.

In all, the audit report notes, the Department disposed of over \$84,000 in drugs for a variety of reasons, both reasonable and otherwise, during 2023.

Unnecessary Leave Payment

One issue that Foley’s audit team encountered had been pointed out approximately a decade earlier during a prior audit of the Department for fiscal year 2013-2014. The Department’s time-keeping application, the auditors noted at that time, was found to be granting staff paid leave regardless of the number of hours worked during the week. Despite being addressed specifically in the audit report for that previous examination, the Department appears to have taken no corrective action during the intervening years.

As explained some 10 years ago, employees have used leave to accumulate more than 40 hours during a work week, and the Department pays them at the standard rate for those additional hours. To illustrate, the current audit report describes a hypothetical employee who works 36 hours in four days and then takes the fifth day off. The Department requires the individual to use 8 hours of vacation time, even though only 4 would be needed – resulting in him or her being overpaid by 4 hours.

Based upon the auditors’ review of employees paid in excess of 40 hours during the period tested, the Department appears to have overpaid those workers by a total of 3,403 hours, squandering over \$105,000 in the process.

“This is a perfect example of what can happen when audit findings are ignored,” Foley stated. “This type of waste has likely been occurring for, at least, each year since the problem was revealed in 2014. At that time, the overpayment totaled around \$1,000,000. The \$105,000 found this year is certainly an improvement; however, if that same lesser amount were lost during each of the preceding nine years, the result would be another \$945,000 frittered away needlessly.”

Foley concluded, “Nobody could argue that running the Department of Corrections is anything but an enormously challenging – and, at times, largely thankless – task. My hat is off to every man and woman, from the Director to the guards and other staff, whose hard work contributes to that incredible responsibility.”

“Nevertheless, there is always room for improvement,” he added, “and the Department could realize savings of roughly \$3.9 million annually by implementing the recommendations contained in the audit report. I hope that the administrators will take those suggestions seriously, knowing that my office is always available to assist in any way possible.”

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