Legislative Post Audit
Performance Audit
Report Highlights

Highlights

CDDOs: Reviewing Issues Related to Community Services Provided for Individuals with Developmental Disabilities

Report Highlights

March 2014 ● R-14-006

Summary of Legislator Concerns

Legislators have expressed concerns about inherent conflicts of interest, the level of oversight provided for home and community services, and whether CDDOs and service providers are maximizing funding for those services.

Background Information

Most individuals with developmental disabilities receive services in the community through the Medicaid Home and Community Based Services (HCBS) Waiver. As of December 2013, about 8,700 individuals were served in the community. Of these, about 1,750 were underserved because they only received some of the services they requested. An additional 3,250 individuals were unserved (and on a waiting list) because of a lack of available funding.

***QUESTION 1:** Do substantial conflicts of interest remain for Community Developmental Disability Organizations (CDDOs) that have their own service providers, and how could those conflicts be resolved?*

- The structure of the state's developmental disabilities system creates an inherent conflict of interest for 21 of the 27 CDDOs, which have their own service provider.
  - CDDOs provide referrals to and oversight of all service providers, which put the 21 CDDOs with their own service provider in a unique position to take advantage of the system.
    - In their gatekeeping role, CDDOs are in a position to steer individuals toward or away from their own service providers, whichever is more advantageous.
    - CDDOs are in a position to approve or deny requests for extraordinary funding for both their own service provider and from independent service providers.
    - CDDOs oversee the complaint process in their region, putting them in a position to ignore complaints against their own service provider.
    - CDDOs are in a position to ignore deficiencies of their own service provider during quality assurance reviews.
  - Although the current structure creates an inherent conflict of interest, CDDOs are not necessarily using it to their advantage.
- Although CDDOs have made efforts to mitigate the inherent conflict of interest, stakeholders still cite unfair advantages.
  - CDDOs appear to provide information about all service providers in their region, and have instituted a peer review process to help ensure that individuals are not referred inappropriately.
  - Some independent community service providers still think that CDDOs with their own service provider have an unfair advantage, and that more should be done by both CDDOs and the Kansas Department for Aging and Disability Services (KDADS) to mitigate the conflict of interest.

- For the areas we assessed, we did not find direct evidence that CDDOs have taken advantage of the inherent conflict of interest.
  - Independent service providers tend to serve a larger proportion of high-needs individuals than the CDDO's own service provider, but this appears to be the result of providers' specialization rather than CDDOs steering individuals in the referral process.
  - In all 10 cases we reviewed, CDDOs appropriately approved extraordinary funding to individuals served by independent providers and their own provider.
  - Complaints are not tracked at the aggregate level by CDDOs or KDADS, so we were unable to evaluate the dispute resolution process. Many independent service providers do not think the process is fair.
  - We did not find direct evidence of CDDOs favoring their own service provider when performing quality assurance reviews.

- The Kansas Department for Aging and Disability Services provides weak oversight for CDDOs related to approving extraordinary funding, consistency in peer reviews, tracking complaints, and verifying assessment results for individuals with disabilities.
  - KDADS officials told us that strengthening their oversight of CDDOs is hindered by a cumbersome and ambiguous contracting process.

- A bill proposed during the 2013 legislative session would prohibit CDDOs from both determining an individual's eligibility and providing services through their own service provider, which could eliminate the inherent conflict of interest.
  - The effectiveness of 2013 Sen Sub for House Bill 2155 in addressing the inherent conflict of interest would depend on whether CDDOs completely separate from their own community service provider.

- KanCare has added an additional layer to the current developmental disability system, but on its own will not address the inherent conflict of interest issue.
  - The developmental disability waiver, added to KanCare on February 1, 2014, adds an additional administrative layer to the system but does not address the conflict of interest issue.
  - It is difficult to predict how the developmental disability system would change if Sen Sub for House Bill 2155 were passed now that KanCare has been implemented. All three CDDOs we spoke to told us they would have to consult their governing board.

To provide services in the community, Kansas contracts with 27 Community Developmental Disability Organizations (CDDOs), which are the single point of entry, eligibility determination, and referral for any individual seeking services through HCBS.

CDDOs maintain a network of about 480 service providers to meet the needs of individuals eligible for HCBS Waiver funds. While all 27 CDDOs contract with independent service providers, 21 CDDOs have also established their own service provider.

There are 13 different services available to individuals with developmental disabilities but targeted case management, day supports, and residential supports are the most common.

While most Medicaid waivers were moved to the state's new managed care program (KanCare) on January 1, 2013, the developmental disability waiver was delayed until February 1, 2014 because of a legislative proviso and concerns from the federal Centers for Medicare and Medicaid Services (CMS).

QUESTION 2: *How could the community services system be changed to maximize the amount of funding available to provide services for individuals with developmental disabilities?*

- In FY 2014, CDDO regions will receive about $360 million to provide services to about 8,700 individuals with developmental disabilities. This money includes HCBS Waiver funding, administrative funding, state aid, and local mill levy funds. Most of this money ($328 million) is used to provide direct services to individuals.

- Consolidating CDDOs could reduce administrative costs by about $500,000 to $800,000 per year.

  - With 27 CDDOs, Kansas has significantly more administrative entities for the developmental disability waiver than it does for the physical disability or frail elderly waivers.
  - Reducing the number of CDDOs could save an estimated $500,000 to $800,000 each year in administrative costs.
    - CDDO's administrative cost per individual served ranged from about $790 to $1,900 with larger CDDOs generally having lower costs, likely because of economies of scale.
    - Our estimate is based on reducing CDDO administrative costs to the median level of $1,140 per individual served (plus or minus 20%) to simulate economies of scale from consolidation.
  - The 11 Aging and Disability Resource Centers (ADRCs) across the state could be used as a model for consolidating CDDO regions.
  - To further reduce overall administrative costs, KDADS could consider combining the CDDOs with the ADRCs.

- Kansas could increase federal revenues by up to $6.5 million per year by redirecting $5 million in state aid.

  - KDADS distributes $5 million in state aid to CDDOs that is not matched with federal funding because it is not used for Medicaid services. If it were used for Medicaid-eligible wavier services instead, it would generate an additional $6.5 million in federal matching funds.
  - Taking this action would help some individuals with developmental disabilities but could potentially cause others to lose services.

- Other cost saving options to help maximize funding for developmental disability services include using fewer fee-for-service payments and adopting more preventative controls to reduce the risk of inappropriate Medicaid payments and fraud.

Other Findings

- Several CDDOs we reviewed spent funds on lobbying-related activities, which appears to violate federal and contractual requirements.

  - Federal requirements and CDDOs' contracts with KDADS prohibit CDDOs from using funds to pay for lobbying activities.
  - Three of five CDDOs we reviewed spent a total of about $104,000 on membership dues to Interhab during the past two years

- KDADS does little to monitor CDDOs' administrative expenditures for the developmental disability waiver.

SUMMARY OF RECOMMENDATIONS

Question 1 Recommendations:

- We made a series of recommendations aimed at increasing the amount of oversight that KDADS has over the developmental disability system, especially in the areas of eligibility screening, extraordinary funding, peer reviews, and complaint tracking. Additionally, if legislation is passed that prohibits CDDOs from serving both as gatekeeper and service provider, KDADS should develop a process for approving all reorganizations.

Question 2 Recommendations:

- We made a series of recommendations to KDADS, KDHE, and the Attorney General's Office to explore cost savings measures and to ensure appropriate use of funds.

- We recommended that the four sampled CDDOs that had non-allowable expenditures of state and federal money for lobbying-related activities should take the steps to prevent such payments.

- We also recommend that the Legislative Post Audit Committee consider introducing legislation to reduce the number of CDDO regions, and consider redirecting all or a portion of the $5 million in state aid to provide Medicaid-eligible waiver services and receive federal matching funds.

AGENCY RESPONSE

- KDADS generally concurred with the report's finding, conclusions, and recommendations. However, agency officials disagreed that membership dues paid by CDDOs to Interhab were not allowable under the state's contract.
- KDHE and the Attorney General generally concurred with the report's finding, conclusions, and recommendations.
- Interhab, an association that represents most CDDOs, disagreed with several findings including that membership dues paid by CDDOs to Interhab were not allowable under the state's contract.
- Of the four CDDOs responding to our recommendations related to using restricted funds for non-allowable lobbying costs, three disagreed with the audit's finding that CDDOs' use of state and federal funds to pay for Interhab membership dues was lobbying-related and therefore unallowable.
- Of the 27 CDDOs invited to respond, 14 provided responses. Several CDDOs disagreed with a number of findings including consolidation of CDDOs, bundled payments, and lobby-related expenditures.

HOW DO I REQUEST AN AUDIT?

By law, individual legislators, legislative committees, or the Governor may request an audit, but any audit work conducted by the division must be directed by the Legislative Post Audit Committee. Any legislator who would like to request an audit should contact the division directly at (785) 296-3792.

Legislative Division of Post Audit

800 SW Jackson Street
Suite 1200
Topeka, Kansas 66612-2212
Telephone (785) 296-3792
Fax: (785) 296-4482
Website:
http://www.kslpa.org/

Scott Frank
Legislative Post Auditor

For more information on this audit report, please contact
Dan Bryan
(785) 296-3792
dan.bryan@lpa.ks.gov

PERFORMANCE AUDIT REPORT

CDDOs: Reviewing Issues Related to Community Services Provided for Individuals with Developmental Disabilities

A Report to the Legislative Post Audit Committee
By the Legislative Division of Post Audit
State of Kansas
March 2014

R-14-006a

Legislative Division of Post Audit

The **Legislative Division of Post Audit** is the audit arm of the Kansas Legislature. Created in 1971, the division's mission is to conduct audits that provide the Legislature with accurate, unbiased information on the performance of state and local government. The division's audits typically examine whether agencies and programs are effective in carrying out their duties, efficient with their resources, or in compliance with relevant laws, regulations and other requirements.

The division's audits are performed at the direction of the **Legislative Post Audit Committee**, a bipartisan committee comprising five senators and five representatives. By law, individual legislators, legislative committees, or the Governor may request a performance audit, but the Legislative Post Audit Committee determines which audits will be conducted.

Although the Legislative Post Audit Committee determines the areas of government that will be audited, the audits themselves are conducted independently by the division's professional staff. The division's reports are issued without any input from the committee or other legislators. As a result, the findings, conclusions, and recommendations included in the division's audits do not necessarily reflect the views of the Legislative Post Audit Committee or any of its members.

The division conducts its audit work in accordance with applicable government auditing standards set forth by the U.S. Government Accountability Office. These standards pertain to the auditor's professional qualifications, the quality of the audit, and the characteristics of professional and meaningful reports. The standards also have been endorsed by the American Institute of Certified Public Accountants (AICPA) and adopted by the Legislative Post Audit Committee.

LEGISLATIVE POST AUDIT COMMITTEE

Senator Jeff Longbine, Chair
Senator Anthony Hensley
Senator Laura Kelly
Senator Julia Lynn
Senator Michael O'Donnell

Representative John Barker, Vice-Chair
Representative Tom Burroughs
Representative Peggy Mast
Representative Virgil Peck, Jr.
Representative Ed Trimmer

LEGISLATIVE DIVISION OF POST AUDIT

800 SW Jackson
Suite 1200
Topeka, Kansas 66612-2212
Telephone: (785) 296-3792
Fax: (785) 296-4482
Website: **http://www.kslpa.org**

Scott Frank, Legislative Post Auditor

HOW DO I REQUEST AN AUDIT?

By law, individual legislators, legislative committees, or the Governor may request an audit, but any audit work conducted by the division must be directed by the Legislative Post Audit Committee. Any legislator who would like to request an audit should contact the division directly at (785) 296-3792.

The Legislative Division of Post Audit supports full access to the services of state government for all citizens. Upon request, the division can provide its audit reports in an appropriate alternative format to accommodate persons with visual impairments. Persons with hearing or speech disabilities may reach the division through the Kansas Relay Center at 1-800-766-3777. The division's office hours are 8:00 a.m. to 5:00 p.m., Monday through Friday.

LEGISLATURE OF KANSAS

LEGISLATIVE DIVISION OF POST AUDIT

800 SOUTHWEST JACKSON STREET, SUITE 1200
TOPEKA, KANSAS 66612-2212
TELEPHONE (785) 296-3792
FAX (785) 296-4482
WWW.KSLPA.ORG

March 12, 2014

To: Members, Legislative Post Audit Committee

Senator Jeff Longbine, Chair	Representative John Barker, Vice-Chair
Senator Anthony Hensley	Representative Tom Burroughs
Senator Laura Kelly	Representative Peggy Mast
Senator Julia Lynn	Representative Virgil Peck, Jr.
Senator Michael O'Donnell	Representative Ed Trimmer

This report contains the findings, conclusions, and recommendations from our completed performance audit, *CDDOs: Reviewing Issues Related to Community Services Provided for Individuals with Disabilities*.

In their responses, most CDDOs generally concurred with most of the report's findings and recommendations. However, some disagreed with its characterization of CDDOs and Aging and Disability Resource Centers (ADRCs) as fulfilling similar roles and functions in their respective systems. Additionally, three CDDOs from our sample of five disagreed that they had inappropriate lobbying expenditures, which led them to reject the report's recommendations. More information on these issues can be found in ***Appendix D*** on page 51.

The audit was requested by Senator Bruce. We would be happy to discuss the findings, recommendations, or any other items presented in this report with any legislative committees, individual legislators, or other state officials.

Sincerely,

Scott Frank
Legislative Post Auditor

This audit was conducted by Dan Bryan, Laurel Murdie, Brad Hoff, and Michael Shelton. Chris Clarke was the audit manager. If you need any additional information about the audit's findings, please contact Dan Bryan at the Division's offices.

Legislative Division of Post Audit
800 SW Jackson Street, Suite 1200
Topeka, Kansas 66612

(785) 296-3792
Website: www.kslpa.org

Table of Contents

Question 1: Do substantial conflicts of interest remain for CDDOs that have their own service providers, and how could those conflicts be resolved?

The Structure of the State's Developmental Disabilities System Creates an Inherent Conflict of Interest for CDDOs 13

Although CDDOs Have Made Efforts to Mitigate the Inherent Conflict of Interest, Stakeholders Still Cite Unfair Advantages 14

For the Areas We Were Able to Assess, We Did Not Find Direct Evidence That CDDOs Have Taken Advantage of the Inherent Conflict of Interest 17

The Kansas Department for Aging and Disability Services Provides Weak Oversight for CDDOs in Several Areas 23

A Bill Proposed During the 2013 Legislative Session Would Prohibit CDDOs from Providing Direct Services, Which Could Eliminate the Inherent Conflict of Interest 26

KanCare Has Added an Additional Layer to the Current Developmental Disability System, but on Its Own Will Not Address the Inherent Conflict of Interest Issue 28

Conclusion 31
Recommendations 31

Question 2: How could the community services system be changed to maximize the amount of funding available to provide services for individuals with developmental disabilities?

In FY 2014, CDDO Regions Will Receive About $360 Million to Provide Services to About 8,700 Individuals with Developmental Disabilities 33

Consolidating CDDOs Could Reduce Administrative Costs By About $500,000 to $800,000 a Year 34

Kansas Could Increase Federal Revenues By Up to $6.5 Million a Year by Redirecting $5 Million in State Aid 37

We Identified Other Potential Cost Savings Options To Help Maximize Funding Available for Developmental Disability Services 39

Several CDDOs We Reviewed Spent Funds On Lobbying Activities, Which Appears to Violate Federal and Contractual Requirements 40

KDADS Does Little to Monitor CDDOs' Administrative Expenditures for the Developmental Disability Waiver 43

Conclusion 43
Recommendations 43

List of Figures

Figure OV-1: Structure of the Developmental Disability System 6
Figure OV-2: Summary of the Number of Individuals Receiving Each Developmental Disability Service (Calendar Year 2013) 8
Figure OV-3: Number of Individuals Receiving or Waiting for Developmental Disability Waiver Services as of December 2013 10
Figure 1-1: Stakeholders' Opinions About the Peer Review Process 16
Figure 1-2: Summary of Potential Conflicts of Interest, and Evidence 19
Figure 1-3: Stakeholders' Opinions About the Complaint Resolution Process 22
Figure 1-4: Stakeholders' Opinions About the Quality Assurance Process 24
Figure 1-5: How the Powers and Duties of CDDOs Would Likely Change if 2013 Senate Substitute for House Bill 2155 Became Law 27
Figure 1-6: How the Developmental Disability System Structure Will Change When KanCare is Implemented and Managed Care Organizations Are Included 29
Figure 2-1: Current Regions for Community Developmental Disability Organizations (CDDOs) and Current Regions for Aging and Disability Resource Centers (ADRCs) 36
Figure 2-2: Summary of Lobbying-Related Expenditures for Five Sampled CDDOs 42

List of Appendices

Appendix A: Scope Statement 45
Appendix B: CDDO Regions and the Number of Community Service Providers Within each CDDO Region 47
Appendix C: Total Aid to Community Development Disability Organizations (CDDOs) Regions 49
Appendix D: Agency Responses 51

Complete CDDO responses are available in a supplemental report (R-14-006 –Supplemental)

CDDOs: Reviewing Issues Related to Community Services Provided for Individuals with Developmental Disabilities

As of December 2013, Kansas had a network of 27 Community Developmental Disability Organizations (CDDO) and about 480 service providers that served individuals with developmental disabilities in the community. CDDOs are the single point of entry, eligibility determination, and referral for anyone seeking developmental disability services. Those services include residential, day, employment, targeted case management, and family supports on behalf of individuals. CDDOs may have their own service provider and contract with community service providers in their area. As of July 2012, oversight of CDDOs was transferred from the Department for Children and Families to the Department for Aging and Disability Services (KDADS).

Legislators have expressed concerns that the current structure which allows CDDOs to provide direct services creates an inherent conflict of interest, as well as other concerns about the level of oversight provided for home and community based services and whether CDDOs and service providers are maximizing funding for those services.

This performance audit answers the following questions:

1. **Do substantial conflicts of interest remain for CDDOs that have their own service providers, and how could those conflicts be resolved?**

2. **How could the community services system be changed to maximize the amount of funding available to provide services for individuals with developmental disabilities?**

A copy of the scope statement for this audit approved by the Legislative Post Audit Committee is included in ***Appendix A*** on page 45. For reporting purposes, we combined Question One and Question Three into one question. Question Two remained the same.

To answer Question One, we performed a variety of tasks. We reviewed KDADS' program policies, recently proposed legislation, legislative testimony, state statutes and regulations, and previous audits. We also reviewed KDADS' provider licensing information and individuals' service data to determine the current service providers, as well as to determine individual tier scores, and the number of individuals receiving services. In addition, we interviewed officials from KDADS and a number of CDDOs and

service providers. We also reviewed medical records for selected individuals qualifying for extraordinary funding, as well as CDDO peer review reports and quality assurance reports. We attended a KanCare educational meeting and a developmental disabilities national speaker event coordinated by KDADS. We also visited a community service provider to better understand the services available to individuals with developmental disabilities. Finally, we examined certain internal controls including approving extraordinary funding requests and conducting peer reviews.

Our work also included surveying about 1,000 guardians of individuals with developmental disabilities, about 300 case managers, all 27 CDDOs, and about 240 community service provider officials. The response rates among the survey groups ranged from 24% to 75%. More detail is provided in the relevant figures and sections of the report.

To answer Question Two, we reviewed KDADS' contracts with CDDOs, financial records of five CDDOs and their own community service provider, if applicable. We reviewed state statutes and regulations, as well as applicable federal requirements. We also reviewed recent revenue and expenditure data that all CDDOs submit to KDADS. We reviewed recent audits and studies of other states' Medicaid and developmental disability waiver programs and reviewed information from the National Conference of State Legislatures (NCSL). In addition, we interviewed officials from the Center for Medicare and Medicaid Services, KDADS, the Kansas Department of Health and Environment, the Attorney General's office, CDDOs, and service providers. We also interviewed officials from the Kansas Council for Developmental Disabilities, Interhab, and the Disabilities Rights Center of Kansas. Finally, we examined certain internal controls related to reporting and tracking CDDO expenditures including reporting administrative funding and non-allowable expenditures.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. As part of the standards, the U.S. Government Accountability Office requires us to assess the sufficiency and appropriateness of computer-processed data. To comply with this standard, we performed data reliability work on the BASIS database and provider information received from KDADS, as well as the data received from the CDDOs included in our sample. We found minor errors and

inconsistencies in some data but we do not believe these issues significantly affected our audit findings.

We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Our findings begin on page 13, following a brief overview of the developmental disability waiver.

In General, Most Individuals With Developmental Disabilities Receive Services in the Community Through the Medicaid Home and Community Based Services Waiver

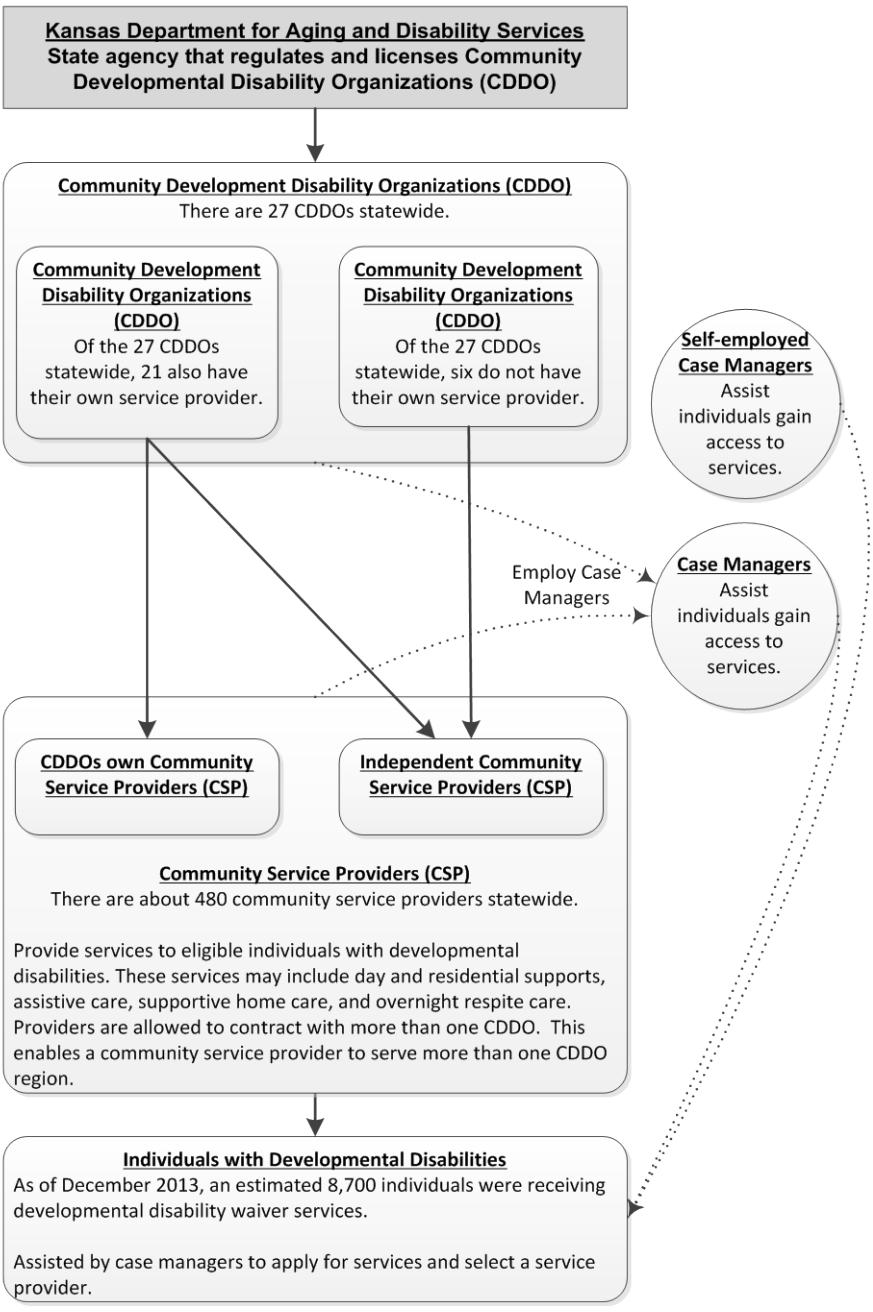
Individuals with developmental disabilities include those who have low intellectual functioning and require special protection and services, as well as other disabilities that include epilepsy, cerebral palsy, and autism. Prior to 1995, the state relied heavily on state institutions to provide services to individuals with developmental disabilities In 1995, the Legislature passed the Developmental Disabilities Reform Act which was designed to provide individuals with developmental disabilities access to appropriate services and supports in a community setting. The act established Community Developmental Disability Organizations (CDDOs) as the single point of entry, eligibility determination, and referral for any individual seeking developmental disability waiver services.

Medicaid waiver funding pays for services for individuals with developmental disabilities living in the community. In the past, Medicaid funds could only be used for pay for long-term care provided in skilled nursing facilities. However, the Centers for Medicare and Medicaid Services (CMS) allows states to apply for a waiver in order to use Medicaid funding to provide community supports and services through the Home and Community Based Services Waiver (HCBS). The program allows individuals to choose to receive services in the community rather than an institutional setting. As of December 2013, about 8,700 individuals received developmental disability waiver services in the community and as of June 2013, only about 150 individuals received services in private intermediate care facilities.

Community Developmental Disability Organizations (CDDOs) determine whether individuals are eligible for waiver funded services. In most cases, an individual and guardian will visit their area CDDO and apply to receive developmentally disabled services. Once an individual is determined eligible to receive services, the CDDO administers an assessment to the individual, known as BASIS, to determine if the individual is eligible for waiver funded services. The assessment consists of a series of questions to determine an individual's ability to perform certain daily tasks, and other ability-based benchmarks.

Upon the completion of the BASIS assessment, CDDO officials enter the results into a database that calculates a score to determine the individual's funding level. Funding levels are based on payment tiers ranging from tier one to tier five. Tier one individuals are considered the most severely disabled, while those

Figure OV-1
Structure of the Developmentally Disability System



Source: LPA summary of developmental disability system.

placed in tier five are considered the least severely disabled. There is also another group, referred to as tier zero, for individuals whose disability is not so severe that they would be eligible for Medicaid waiver funding, but who are eligible for state and federal moneys outside the HCBS Medicaid waiver.

CDDOs maintain a network of community-based service providers within their region to deliver those services. The framework of Kansas' developmental disability system is shown in ***Figure OV-1*** on page 6. As the figure shows, KDADS contracts with each of the 27 CDDOs. In turn, CDDOs may have their own service provider and contract with independent community service providers. While all 27 CDDOs contract with independent service providers, 21 CDDOs also have their own service provider. In total, there are about 480 licensed community service providers and each provider may choose to operate in more than one CDDO region. The figure also shows that each individual is provided the opportunity to choose a targeted case manager who may be employed by the CDDO, the service provider, or be self-employed.

As "gatekeepers" of their regions, CDDOs are also responsible for overseeing and monitoring the activities of their contracted community service providers. CDDOs monitor the services provided to each individual, and conduct quality assurance reviews to ensure that service providers are meeting the contract requirements. A map of each CDDO region and the number of licensed community service providers in that region is shown in **Appendix *B*** on page 47.

The CDDO is responsible for informing individuals and their guardians or families of all available service providers in the CDDO region. An individual then selects a service provider when funding becomes available for them to receive services.

Of the 13 different services available, there are three main services used by individuals with developmental disabilities. The 13 services available are summarized in ***Figure OV-2*** on page 8. As the figure shows, the most common services are targeted case management, day supports, and residential supports. Other services include overnight respite care, supportive home care, wellness monitoring, and sleep cycle support. Of those services, targeted case management is available to all individuals.

Figure OV-2
Summary of the Number of Individuals Receiving Each Developmental Disability Service
Calendar Year 2013 (a)

Type of Service	Description/Examples	Number of individuals receiving service
Most Common Services		
Targeted Case Management (b)	Case managers assist individuals by assessing their needs, helping them and their families or guardians select and obtain services and supports, and acting as an advocate for the individual. All individuals may choose case management services, including those who are currently on the waiting list.	11,642
Day Supports	Designed to assist individuals in maintaining or increasing their adaptive capabilities, productivity, independence, and participation in the community. Examples include employment, job training workshops, and recreational activities.	6,205
Residential Supports	Individuals receiving residential supports do not live with a family member. Assists individuals with daily living activities in a wide array of living arrangements–from group homes to individual homes to apartments. It is designed to help individuals develop skills and provide supports in daily living activities. Examples include personal grooming, bed making, household chores, preparing and eating food, and help developing social and adaptive skills.	5,166
Other Services		
Financial Management Services	Assists the individual and family members or guardian to fulfill all applicable tax requirements, human resources documentation, and develop and maintain an internal quality assurance program.	2,802
Personal Assistant Services	Provides one-to-one assistance to individuals in the community and home. This service assists the individual with daily living activities. Examples include bathing, grooming, toileting, feeding, and exercises, among others.	2,778
Wellness Monitoring	A registered nurse evaluates an individual's health status. Examples include checking and monitoring skin characteristics, personal hygiene, and blood pressure, among others.	1,032
Supportive Home Care	Similar to residential supports, this service is provided to individuals who live with family members. It provides direct assistance to individuals to complete daily activities such as bathing, shopping, meal preparation, clean-up, etc. Individuals who receive supportive home care services are ineligible to receive residential support services.	484
Sleep Cycle Support (formerly called Night Support)	Provides overnight assistance to individuals in emergency situations. The sleep cycle support attendant is available to call a doctor or hospital, or reposition the individual.	87
Medical Alert Rental	A medical alert device that enables the individual to notify a medical responder when necessary. Medical needs that might require this service include quadriplegia, severe heart conditions, and head injury, among others.	50
Overnight Respite Care	Allows for a caregiver to spend the night with the individual and give unpaid family members a relief from taking care of the individual.	39
Specialized Medical Care	Provides long-term nursing support for medically fragile and technology dependent individuals. An RN or LPN is required to be the provider, and individuals receiving this service require a level of care that is ongoing and daily. If not for this service, the individual would live in a hospital or intermediate care facility.	33
Supported Employment	Assists the individual in developing job skills and with acquiring and maintaining employment. Ongoing monitoring of the individual's job performance and continued on the job training.	33
Assistive Services	Supports or items designed to meet an individual's need by improving and promoting the individual's health, independence, and integration into the community. Examples include wheelchair modifications, ramps, lifts, modifications to bathroom and kitchens, and assistive technology.	3

(a) An individual may receive more than one type of service.
(b) Targeted case management is not a medicaid waiver funded service and is provided to individuals that don't qualify for the DD waiver (such as Tier 0).
Source: Kansas Department for Aging and Disability Services (unaudited)

In Fiscal Year 2014, About $360 Million in Federal, State, and Local Moneys will be Used to Fund Developmental Disability Services in the Community

For fiscal year 2014, CDDO regions throughout Kansas will receive a total of about $360 million in funding to provide developmental disability services. In general, CDDO regions receive four types of funding:

- Home and Community Based Services (HCBS) waiver funding
- Administrative funding
- State aid
- Local mill levy funding

We describe each funding type in the sections that follow.

Most funding ($328 million) is for direct services to individuals with developmental disabilities and includes state funding matched with federal Medicaid funding. A summary of all funding provided to each of the 27 CDDO regions is shown in ***Appendix C*** on page 49. For fiscal year 2014, the CDDO regions will receive a total of slightly more than $328 million to provide direct services. This funding is commonly called waiver funding and is used to fund direct services, such as day and residential supports for individuals with developmental disabilities living in each CDDO region. ***Figure OV-2*** on page 8 includes a summary of the developmental disability waiver services provided. Community service providers are paid on a fee-for-service basis for these types of direct services.

In fiscal year 2014, CDDOs will receive about $30 million in federal, state, and local funding to cover administrative expenses and other costs. As mentioned earlier, CDDOs provide gatekeeping services and other administrative duties for the developmental disability system. In its contracts with each CDDO, KDADS agrees to pay a certain amount of funding to offset those administrative expenses. We discuss this and other funding below.

- **CDDOs receive about $9 million annually to cover administrative costs, of which about half is state funding and half is federal.** Each year these funds are distributed to all 27 CDDOs based on the number of individuals served the previous year and the funds are used to cover operating expenses and infrastructure associated with the gatekeeping role. Gatekeeping includes assessing an individual's eligibility for developmental disability waiver services and providing information and referral services.

- **CDDOs receive about $5 million in state general fund money, most of which is used to provide non-Medicaid eligible services to individuals.** Annually, CDDOs receive about $5 million in state aid, and the money is distributed based on the number of individuals

with disabilities served. Most funds are used to provide services to individuals who are disabled but who do not qualify for Medicaid waiver services. This includes individuals commonly referred to as tier zero and children less than five years old. The remaining state aid is used on non-Medicaid related expenses, such as transportation and infrastructure.

- **Finally, CDDO regions also receive about $17 million in local mill levy funding, which is spent at the discretion of each CDDO board.** Nearly all CDDO regions receive some local mill levy funding, but the amount varies between CDDOs because it is based on whatever amount each county commission approves. For example, in fiscal year 2012 (the latest information available), the Johnson County Developmental Supports region received about $6 million and the Brown County Developmental Services region received about $60,000. Each CDDO has an oversight board that decides how this funding is spent.

In December 2013, about 8,700 individuals with developmental disabilities were receiving the services they requested, and about 3,250 individuals were eligible but waiting for services. ***Figure OV-3*** summarizes the number of individuals receiving or waiting for services. The total includes individuals who are not eligible for waiver services, but who received some services funded by the state aid grants. As mentioned earlier, these types of services are often referred to as tier zero. As the figure shows, of the 8,700 individuals receiving services, about 1,750 individuals were considered "underserved" because they were receiving some, but not all of the services they requested. Finally, because there was not enough waiver funding, another 3,250 individuals were determined to be eligible for services but had not received any of the waiver services requested. These individuals are considered "unserved."

Figure OV-3
Number of Individuals Receiving or Waiting for Developmental Disability Waiver Services as of December 2013

Receiving or Waiting for Services	Number of Individuals
Receiving services	**8,722**
-- Fully served	6,978
-- Underserved - waiting for additional services (a)	1,744
Unserved - waiting for services	**3,246**
Total (b)	**11,968**

(a) To avoid double counting, this line (underserved individuals) is not included when calculating the total shown because they were included in the first category "receiving services."
(b) Includes only individuals receiving HCBS waiver services. For example, excludes those receiving tier 0 services.
Source: LPA summary of information provided by KDADS.

The Developmental Disability Waiver Moved to the State's New Managed Care System (KanCare) in February 2014

Currently, the Kansas Department of Health and Environment (KDHE) and KDADS administer Kansas' Medicaid programs. In general, KDHE oversees financial management of the overall program and KDADS administers all of the Medicaid waiver programs including disability services, mental health and substance abuse services. KDADS also operates the state hospitals and institutions. In an effort to control Medicaid costs, the Governor implemented a managed care system called KanCare in January 2013.

Under KanCare, managed care organizations (MCOs) are responsible for coordinating health care and ensuring all individuals receive the care they need. In return, the MCOs are paid a flat monthly rate per individual. If they can keep the cost of care less than the monthly rate, the MCOs earn profits. On the other hand, if the cost of care exceeds the monthly rate, the MCOs must absorb the loss.

In January 2013, Kansas moved the administration of almost all Medicaid programs to KanCare. In general, Medicaid includes two major services: medical care and long-term care. In January 2013, Kansas began contracting with managed care organizations (MCOs) to coordinate care for individuals receiving medical services and waiver services. With the exception of the developmental disability waiver, all community-based services were moved to KanCare at that time, including the frail elderly, physical disability, technology assisted, traumatic brain injury, and autism waivers.

A legislative proviso delayed implementing KanCare for the developmental disability waiver until January 1, 2014. In response to stakeholders' concerns, a 2012 legislative proviso delayed implementing KanCare until January 1, 2014 for individuals receiving developmental disability waiver services. However, a pilot project including about 500 individuals receiving developmental disability waiver services was completed during the second half of calendar year 2013. According to KDADS, the purpose of the pilot was to help build a relationship between the MCOs and the current developmental disability system, to define how services would be delivered, and to develop and test the provider billing process.

Centers for Medicare and Medicaid Services (CMS), KDHE, and KDADS mutually agreed to further delay the transition of the developmental disability waiver to KanCare until February 2014. As mentioned earlier, the developmental disability waiver was supposed to be included in KanCare starting January 1, 2014. However, in December 2013, the implementation was delayed to allow additional time for CMS and the state to consider public comments and to ensure a corrective action plan was approved to eliminate the waiting list of underserved individuals. In addition, CMS asked KDHE, which is Kansas' designated Medicaid agency, to better explain the role of the managed care organizations in providing services within Kansas' developmental disability system. On January 29, 2014, CMS approved Kansas' plan and KanCare was implemented for the developmental disability waiver on February 1, 2014.

Question 1: Do Substantial Conflicts of Interest Remain for CDDOs That Have Their Own Service Providers, and How Could Those Conflicts Be Resolved?

The structure of the state's developmental disabilities system creates an inherent conflict of interest for CDDOs (p.13). Although CDDOs have made efforts to mitigate the inherent conflict of interest, stakeholders still cite unfair advantages (p. 14). For the areas we were able to assess, we did not find direct evidence that CDDOs have taken advantage of the inherent conflict of interest (p.17). We did find that the Kansas Department for Aging and Disability Services provides weak oversight for CDDOs in several areas (p.23). Additionally, a bill proposed during the 2013 legislative session would prohibit CDDOs from providing direct services, which could eliminate the inherent conflict of interest (p. 26). Finally, the newly implemented KanCare system has added an additional layer to the current developmental disability system, but on its own will not address the inherent conflict of interest (p.28).

The Structure of the State's Developmental Disabilities System Creates an Inherent Conflict of Interest for CDDOs

A CDDO serves as the single point of entry, eligibility determination, and referral for any individuals seeking waiver services. Each CDDO also is responsible for oversight of all contracted community service providers in its region. In addition to this oversight role, 21 of 27 CDDOS also provide direct services through their own community service provider. This puts the CDDO in a position to favor their own provider over independent providers.

CDDOs provide referrals to and oversight of all service providers, which put them in a unique position to take advantage of the system. We identified four ways a CDDO could favor its own service provider over others, as described more fully below.

- **In their gatekeeping role, CDDOs are in a position to steer individuals toward or away from their own service providers, whichever is more advantageous.** CDDOs are the single point of entry for individuals seeking waiver services and the only entities that determine whether an individual is eligible to receive waiver services. As gatekeepers, CDDOs provide information about service provider options. This puts them in a position to steer individuals to specific service providers. Moreover, CDDOs may have a financial incentive to refer less costly individuals to their own service provider or direct costlier individuals to other service providers.

- **CDDOs are in a position to approve or deny requests for extraordinary funding for both their own service provider and from independent service providers**. Community service providers can apply for additional funds for individuals who need an extraordinary level of services. To receive the additional funding for an individual, the community service provider must document the cost of providing care for these individuals. The CDDO then determines whether the documentation supports that the individual qualifies for extraordinary funding. Because CDDOs initially approve all extraordinary funding requests, they are in a position to favor requests from their own service provider over requests from other service providers.

- **CDDOs oversee the complaint process in their region, putting them in a position to ignore complaints against their own service provider.** KDADS officials told us that CDDOs are responsible for resolving complaints made against the CDDO or community service providers in the region. However, because CDDOs oversee the complaint process, it inherently creates a system where individuals or providers might be reluctant to file a complaint against the same CDDO that will investigate the complaint. It also puts CDDOs in a position to ignore or be more lenient on complaints made against their own community service provider.

- **CDDOs are in a position to ignore deficiencies of their own service provider during quality assurance reviews.** By law, CDDOs are responsible for developing and using a quality assurance process for their region. In this process, CDDOs assess each service provider in their area on an annual basis. The quality assurance process ensures the needs of individuals are being met, and that any issues related to the abuse and neglect of individuals are being resolved. CDDOs that have their own service provider are in a position to overlook deficiencies of their own service provider and be more critical of other service providers.

Although the current structure creates an inherent conflict of interest, CDDOs are not necessarily using it to their advantage. We identified several ways the inherent conflict of interest could be used to benefit the CDDOs own service provider; however, it cannot be assumed that CDDOs are taking advantage of them. As discussed in later sections, after looking at controls in place and the available evidence, we found no direct instances that CDDOs are taking advantage of the inherent conflict of interest.

Although CDDOs Have Made Efforts to Mitigate the Inherent Conflict of Interest, Stakeholders Still Cite Unfair Advantages

To determine what efforts CDDOs have made to mitigate this inherent conflict of interest, we interviewed CDDO officials, reviewed policies and procedures of selected CDDOs, and surveyed stakeholders. In general, we found that CDDOs have instituted some processes to mitigate the inherent conflict of interest. However, survey responses indicate that some stakeholders do not think that CDDOs have done enough to

mitigate potential conflicts of interest, and an unfair advantage still exists.

CDDOs appear to inform individuals about all service providers in their region, and parents and guardians we surveyed generally agreed. One of the CDDO's roles is to help an individual select a service provider. The CDDO is supposed to present all possible service providers to the individual, provide information about service providers, and let the individual choose a provider.

Overall, CDDO officials told us that they have implemented several policies and procedures to ensure that individuals are aware of all service provider options in the region. These include such things as:

- directories and brochures listing all service providers in the regions that CDDOs provide to individuals and their guardians
- provider choice forms that an individual and their guardian sign acknowledging they had a choice in selecting a service provider

In general, parents and guardians who responded to the survey were satisfied with how their case manager provided them options in selecting a service provider. Of the 219 parent and guardian survey respondents, 82% stated that their current case manager provided them with an adequate amount of information to select a service provider. Similarly, of the 220 parent and guardian survey respondents, 87% stated their current case manager did not try to inappropriately influence their decision.

KDADS and the CDDOs have also instituted a peer review process to help ensure that they do not refer individuals to their own service provider inappropriately. The purpose of the peer review process is for a third party to evaluate whether CDDOs are providing information on all service providers, not just their own. This allows individuals and their family members or guardians to make informed choices when selecting a service provider. In general, staff from KDADS, other CDDOs, and community service providers conduct the peer reviews on site and look for provider lists, individual choice forms, and policies and procedures. The peer review team identifies any deficiencies that need to be addressed. Each CDDO is evaluated at least once every five years. Our findings related to the peer review process are summarized below.

- **The most recent peer reviews for the 26 CDDOs we reviewed identified very few problems**. Of the 26 CDDOs, 20 met all of the outcomes evaluated in the peer review process. In one CDDO

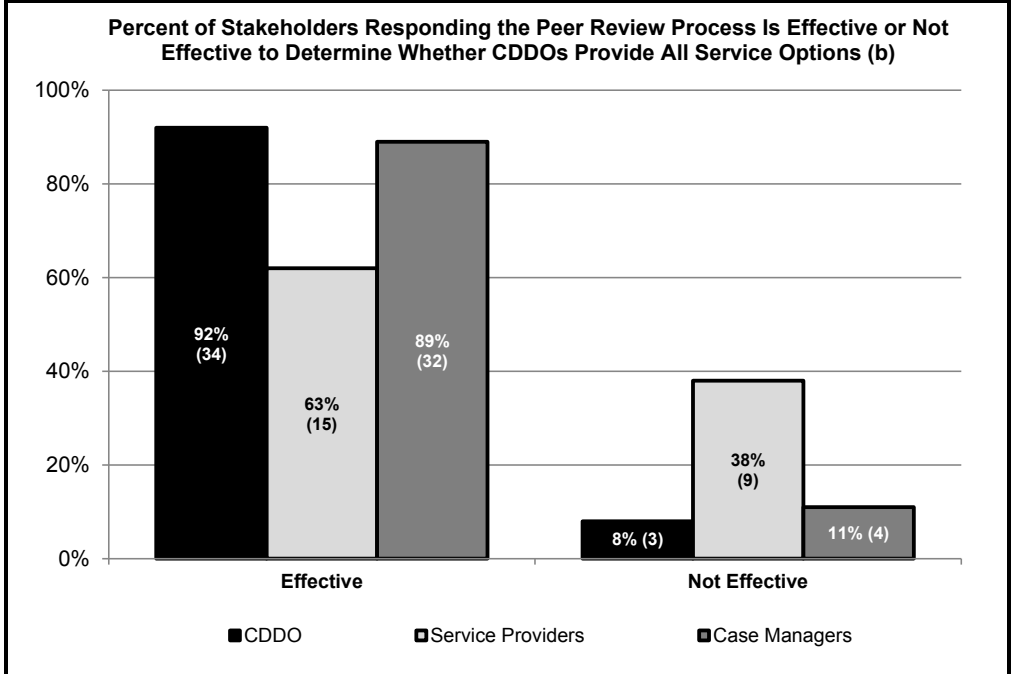
region, KDADS officials and CDDO officials were unable to provide a copy of the most recent peer review. In cases where the CDDO did not meet all of the outcomes, it was generally because of policies and procedures that needed to be updated. The overall finding was that CDDOs were providing choices to individuals and their family members and guardians when selecting a service provider.

- **Although a majority of stakeholders aware of the peer review process stated it is effective in mitigating the inherent conflict of interest, a significant percentage of community service provider officials disagree.** We surveyed case managers, CDDO officials, and community service provider officials to learn whether they thought the peer review process was effective in determining whether a CDDO was informing individuals and their guardians of all service provider options. Their survey responses are shown in ***Figure 1-1*** below. As the figure shows, a majority of all three stakeholder groups responded that the peer review is effective in making sure provider options are being offered.

- **However, nearly 40% of community service provider officials do not think the peer review is effective**.

Some independent community service providers surveyed still think that CDDOs with their own service provider have an unfair advantage. As stated on page 7, CDDOs have the ability to operate their own community service provider and contract with independent service providers. We surveyed community service

Figure 1-1
Stakeholders' Opinions About the Peer Review Process (a)



(a) The number of respondents for each answer is indicated in parentheses below the percentage.
(b) Percentages may not add due to rounding.
Source: LPA survey of CDDO officials, community service provider officials, and case managers.

provider officials to determine whether the current system creates problems and unfair advantages. Below is a summary of responses from independent community service provider officials, and selected comments:

- **About 60% of the independent service providers that responded stated it is a problem if a CDDO both assesses and provides services to individuals**.
  - "*There exists an inherent conflict of interest when the gatekeeper for services in a CDDO area is also both a provider and responsible for the oversight of competing firms."*
  - *"The organization has a vested/financial interest in the consumer they are assessing."*
- **About 75% of the independent service providers that responded think that a CDDO with its own service provider has an unfair advantage over other service providers**.
  - *"A person entering the system will feel more comfortable with those who have helped them get into the system, therefore will want to stay with that agency for supports."*
  - *"The ability to "cherry pick" or simply not inform someone seeking services of all potential options is not only possible but we have experienced it on many occasions."*
- **About 52% of independent service providers that responded do not think CDDO officials have taken appropriate actions to mitigate the conflicts of interest**.
  - *"SEPARATION of CDDO and CSP [community service provider] is the only way to accomplish this feat."*
  - *"Give up either their CDDO or their CSP status."*
- **About 65% of independent service providers that responded do not think KDADS officials have taken appropriate actions to mitigate the conflicts of interest.**

For the Areas We Were Able to Assess, We Did Not Find Direct Evidence That CDDOs Have Taken Advantage of the Inherent Conflict of Interest

Figure 1-2 on page 19 summarizes the four main areas that we reviewed to determine if CDDOs that also have their own service provider are taking advantage of the conflicts of interest. We cannot be part of conversations between CDDOs, individuals, and their guardians, so we had to rely on any evidence we could find pointing to a conflict of interest. As the figure shows, we did not find direct evidence of the inherent conflict of interest manifesting itself. Our findings for each area are discussed more fully in the following sections.

Although independent service providers tend to serve a larger proportion of high-needs individuals than the CDDO's own service provider, this appears to be the result of providers' specialization rather than CDDOs steering individuals in the referral process. As stated on page 13, CDDOs are in a position to refer individuals toward or away from their own service provider, whichever is more beneficial. If this type of steering was happening, one way it might manifest itself would be in the proportion of individuals from different tier levels served by CDDO providers and independent providers.

To assess whether CDDOs appear to be steering individuals toward or away from their own service providers, we examined the disability (tier) scores for the clients at a sample of eight CDDO regions. For each region in the sample, we compared the percentage of tier one individuals (most severe) served by the CDDO's own service provider to the percentage served by the largest independent provider in that region. We found that independent service providers served a disproportionately large share of tier one individuals in the region. For example:

- In one CDDO region, 67% of the individuals receiving day supports at the independent service provider were tier one, whereas only 9% of individuals at the CDDO's own service provider were tier one.

- In another CDDO region, 75% of the individuals receiving residential supports at the independent service provider were tier one, whereas only 21% of individuals at the CDDO's own service provider were tier one.

We also analyzed a sample of four CDDO regions that do not have their own service provider and saw a similar trend of one provider serving a higher proportion of tier one individuals. For example, in one region 49% of the largest provider's individuals were tier one in day supports, while the next largest provider had 10% of their individuals in tier one. Independent community service provider officials provided mixed responses on whether this disparity is a problem or not. Most community service provider officials told us it is not a problem because they specialize in serving high needs individuals. However, one community service provider official told us the disparity is a problem. The official stated it hurts the provider's business operations because it is unable to diversify its' caseload. This official feels that the CDDO is intentionally referring tier one individuals to this specific provider, though we were unable to verify this.

Figure 1-2
Summary of Potential Conflicts of Interest and Evidence

Potential Conflict of Interest	CDDO Efforts to Mitigate Conflict of Interest	LPA find Evidence of Conflict of Interest	Summary of Findings
CDDOs are in a position to steer individuals toward or away from their own service providers, whichever is more advantageous.	CDDOs provide directories to individuals listing all available service providers. In addition, some CDDOs have individuals or their guardian sign a form acknowledging that they have been informed of all available service providers. The peer review process is designed to ensure that CDDOs are providing opportunities to individuals and their guardians are making informed choices when selecting a provider and that potential conflicts of interest are mitigated and eliminated.	No	We observed independent service providers tend to serve a larger proportion of high-needs individuals than the CDDO's own service provider. Community service provider officials we talked to provided mixed responses on whether this is a problem. (page 18) Overall, parents and guardians responding to the survey reported that they have been provided adequate information and have not been inappropriately influenced when selecting a service provider. (page 15) However, community service provider officials still see this as an unfair advantage. (page 17)
CDDOs are in a position to approve or deny requests for extraordinary funding for both their own service provider and from independent service providers.	None	No	Of the 10 cases we reviewed, all met the minimum threshold and were correctly awarded extraordinary funding. This sample is small and cannot be projected to all extraordinary funding requests. (page 20) CDDO, community service provider officials, and case managers are generally satisfied with the extraordinary funding process, but we did hear a few concerns. (page 20)
CDDOs oversee the complaint process in their service area, putting them in a position to ignore complaints against their own service provider.	None	Unable to determine	We were unable to determine whether this was occurring because complaints are not being tracked. (page 20) Although CDDO officials responded that the complaint process is fair and impartial, community service provider officials have concerns. Even though very few complaints have been filed in the last 12 months by guardians, a few responded that they were dissatisfied with how the complaint was resolved. (page 21)
CDDOs are in a position to ignore deficiencies of their own service provider during quality assurance reviews.	None	No	We did not see evidence of CDDOs favoring their own service provider over other service providers in the quality assurance process. (page 21) Most CDDO and community service provider officials responding to the survey stated that the quality assurance process is fair and impartial. (page 24)

Source: LPA analysis of audited BASIS database, discussions with CDDO and provider officials, and review of documentation provided by CDDOs.

CDDOs appropriately approved extraordinary funding in all 10 cases we reviewed, including some individuals served by CDDOs and others served by independent providers. KDADS allocates about $8.4 million a year to CDDOs, which they use to assist individuals who have extraordinary needs. The extraordinary funding process consists of the community service provider submitting documents to the CDDO showing the cost of care for that individual is more than 50% of the difference between the extraordinary funding rate and the regular tier rate.

CDDOs are charged with reviewing the documents and making an initial determination on whether the individual qualifies to receive extraordinary funding. If approved, the community service provider will receive a higher reimbursement rate to serve the needs of the individual. The conflict of interest exists because a CDDO may be lenient when approving requests for their own service provider or deny requests from independent service providers.

To determine whether CDDOs were appropriately recommending extraordinary funding, we reviewed the supporting documentation of ten individuals who receive services from both independent service providers and CDDOs own service providers to ensure that they met the cost threshold. We did not find any examples of CDDOs inappropriately awarding extraordinary funding requests. However, this sample is small and cannot be projected to all extraordinary funding requests.

Still, 17% of CDDO officials, 31% of community service provider officials, and 15% of case managers responded in the survey that CDDOs are less critical when evaluating extraordinary funding requests from their own service provider. One survey respondent said:

- "*The organization that is doing the assessment and providing the service is going to be less critical in evaluating the super-tier application so they are able to get more money for the individual."*

Because complaints are not tracked by CDDOs or KDADS, we were unable to evaluate the dispute resolution process, though many independent providers do not think the process is fair. Kansas regulations require that each CDDO implement a dispute resolution process available to all individuals receiving services from a CDDO or community service provider in its area. CDDO officials we talked to told us they do not track the number of complaints or disputes, nor does KDADS require CDDOs to submit any information regarding the number of complaints received.

There was no information available related to complaints, but ***Figure 1-3*** on page 22 summarizes survey respondents' opinions on the complaint process. As the figure shows, a majority of case managers and CDDO officials responded that the complaint resolution process used by CDDOs adequately addresses complaints and is fair and impartial. However, several community service provider officials responded with concerns about the complaint resolution process. These concerns include:

- *"…the CDDO that has ties to another community service provider do not treat other community service providers the same. As a community service provider I feel as if trying to resolve issues with the CDDO and the community service provider that they are associated which is akin to beating a dead horse."*

- *"Some agencies can do anything; others are called in for minor infractions."*

Finally, parent and guardian survey respondents stated that they have filed very few complaints in the last 12 months. Of those who did file a complaint, there were mixed responses on how the complaint was resolved.

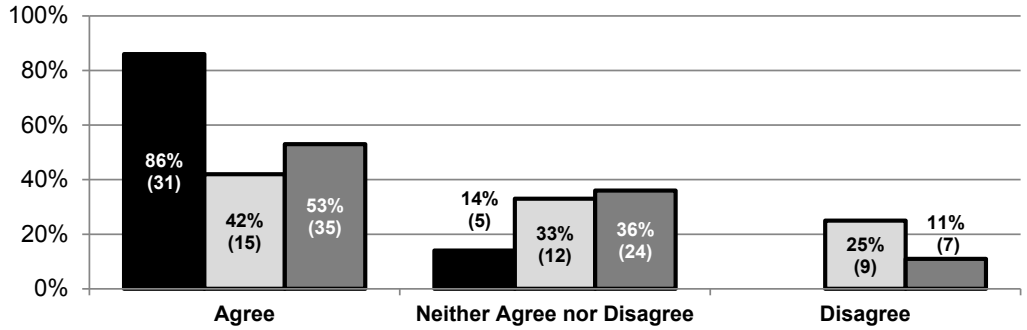
We did not find direct evidence of CDDOs favoring their own service provider when performing quality assurance reviews. Kansas regulations require that each CDDO establish a quality assurance process to ensure that individuals are receiving quality services from their provider. Specifically, the quality assurance reviews performed by CDDOs are to make sure that services are being delivered, individuals' rights are protected, and any issues related to abuse, neglect, or exploitation have been identified and resolved. The risk in the quality assurance process is that CDDOs will favor their own service provider over other service providers in the region.

To determine whether CDDOs were favoring their own service provider, we reviewed a sample of 34 quality assurance reviews completed by five selected CDDOs. Our findings related to the quality assurance process are summarized below.

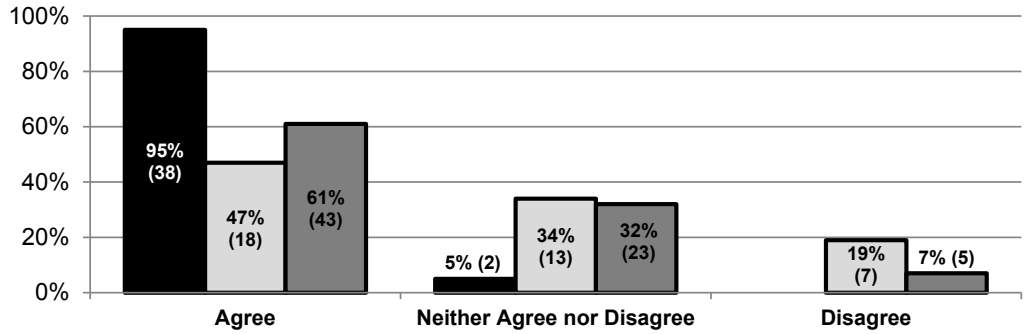
- **Of the 34 quality assurance reviews, the same review process was used for independent service providers and the CDDO's own service provider within each of the five CDDO regions.** We did not identify any instances of CDDOs favoring certain service providers and we found that CDDOs identified deficiencies equally among independent service providers and their own service provider.

Figure 1-3
Stakeholders' Opinions About the Complaint Resolution Process (a)

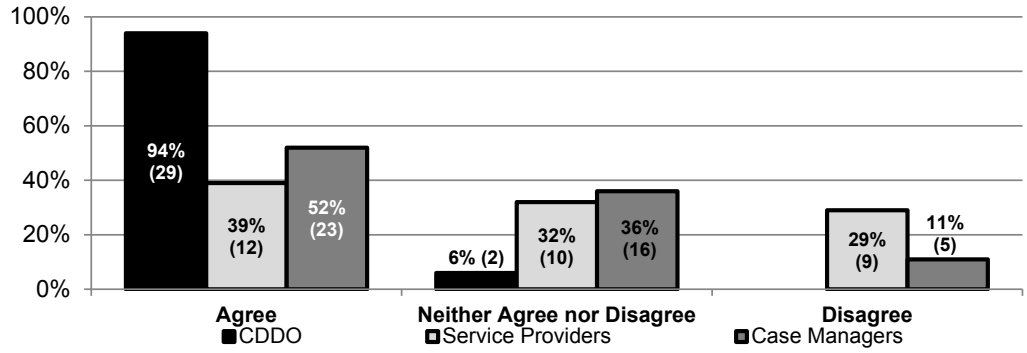
Complaints filed by individuals with developmental disabilities, their guardians, and other stakeholders are adequately addressed.



The complaint resolution process is designed to be fair and impartial to all stakeholders.



My experiences with the complaint resolution process have shown fairness and impartiality to all stakeholders. (b)



(a) The number of respondents for each answer is indicated in parentheses below the percentage.
(b) Percentages may not add due to rounding.
Source: LPA survey of CDDO officials, community service provider officials, and case managers.

- **Community service provider officials were supportive of the quality assurance process and stated it was fair and impartial.** Because the quality assurance review evaluates community service providers, it is important to understand their opinions. As ***Figure 1-4*** on page 24 shows, 80% of community service provider officials stated the quality assurance review is based on appropriate outcomes, while 86% of provider officials responded it is fair and impartial.

The Kansas Department for Aging and Disability Services Provides Weak Oversight for CDDOs in Several Areas

The Kansas Department for Aging and Disability Services (KDADS) is responsible for overseeing the developmental disability waiver system. In February 2012, the Governor signed Executive Order 41, moving oversight of the developmental disability waiver system from the Department of Social and Rehabilitation Services to the Department for Aging and Disability Services. Those oversight responsibilities require KDADS to:

- Administer state funding to CDDOs
- Provide staff to participate in the CDDO peer review process
- Regulate CDDOs
- License community service providers
- Ability to audit and review CDDO funds

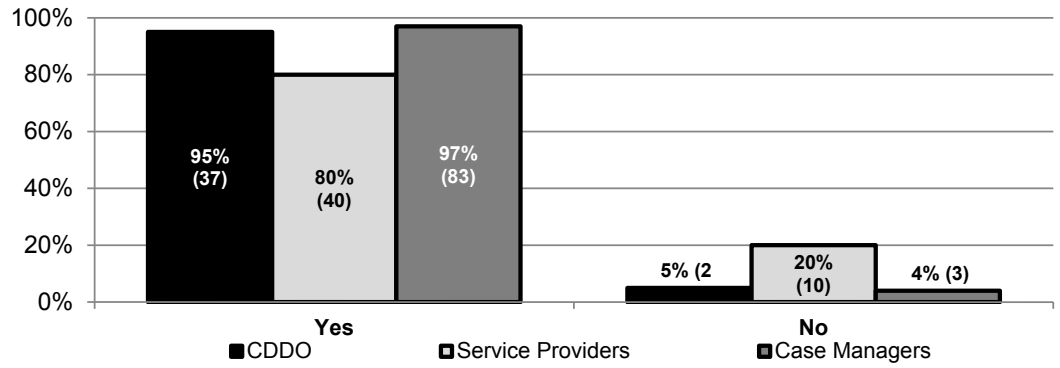
KDADS does little to oversee or provide guidance to CDDOs and community service providers. KDADS contracts with CDDOs, who are responsible for gatekeeping functions and oversight of service providers. However, KDADS is still responsible for administering and overseeing the developmental disability system as a whole, so it is important that KDADS staff have adequate controls and guidance in place. We identified four areas where improved KDADS oversight of CDDOs could mitigate the inherent conflicts of interest within the developmental disability waiver system. Each of these areas are described below.

- **KDADS has not reviewed or approved extraordinary funding requests from CDDOs.** The extraordinary funding process consists of a community service provider submitting documentation to a CDDO. This documentation shows the daily costs of caring for the individual. The CDDO reviews the documentation, and conducts interviews of family members, guardians, and direct care staff to ensure that the documentation accurately reflects the individual's needs. If CDDO officials approve the request, they submit a notification form to KDADS officials stating that extraordinary funding is warranted.

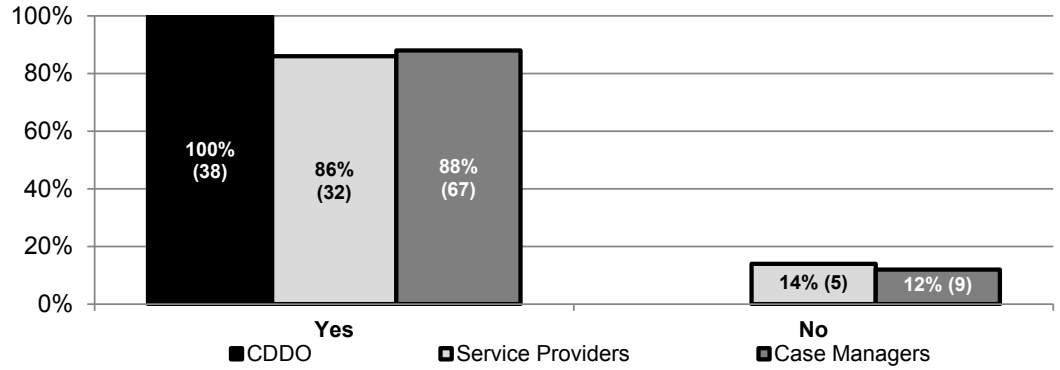
  KDADS officials told us that in the past, CDDOs have simply notified the department that extraordinary funding was granted and KDADS staff "rubberstamped" the decision. In a recent change, CDDOs are now required to submit all supporting documentation to KDADS officials to verify the individual qualifies for extraordinary funding.

Figure 1-4
Stakeholders' Opinions About the Quality Assurance Process (a)

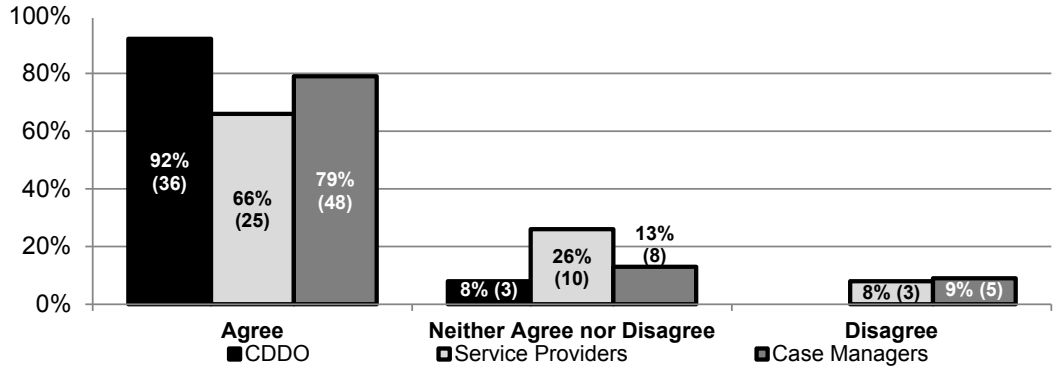
Does the quality assurance review process evaluate community service providers based on appropriate outcomes?



Is the quality assurance process fair and impartial?



If community service providers do not agree with the results of the quality assurance review, there is an adequate process to appeal the review and resolve the disagreement. (b)



(a) The number of respondents for each answer is indicated in parentheses below the percentage.
(b) Percentages may not add due to rounding.
Source: LPA survey of CDDO officials, community service provider officials, and case managers.

- **Although the peer review process is viewed as effective by many stakeholders, it lacks consistent review teams and a process to follow up on identified deficiencies**. As mentioned earlier in ***Figure 1-1***, 63% of community service provider officials and 92% of CDDO officials who responded to the survey told us that the peer review process is effective in making sure that individuals and guardians are informed of all service provider options. However, survey respondents and KDADS officials told us there is room for improvement. These improvements include:

    - Conduct peer reviews more frequently than once every three to five years.

    - Have at least one consistent individual on the peer review team.

    - Allow more than half a day for peer review teams to conduct their work on site.

    - Develop formal policies and procedures on how to report and follow up with deficiencies identified during the peer review process.

- **Neither KDADS nor CDDOs have a formal complaint tracking system.** Because complaints are not tracked, it is impossible to know whether they are being adequately addressed. KDADS officials told us that it is the responsibility of each CDDO to develop its own complaint resolution process. However, the risk is that CDDOs may not follow up on complaints that are against them or their own community service provider.

- **KDADS does not verify whether the BASIS assessment is accurate.** As stated in the overview, CDDOs administer a BASIS assessment to all individuals interested in receiving developmental disability services. The assessment results are entered into a database that calculates an individual's tier score. This tier score determines an individual's fee-for-service reimbursement rate. KDADS officials do not observe CDDO officials entering assessment responses into the database. KDADS staff reported that they may review a few cases but do not consistently verify that the BASIS assessment answers are accurate.

KDADS officials told us that strengthening their oversight of CDDOs is hindered by a cumbersome and ambiguous contracting process. KDADS negotiates a new contract with each of the state's 27 CDDOs each year. According to KDADS officials 50 to 70 representatives from the CDDOs and the community service providers attend and actively participate in the negotiations. This is in sharp contrast to its negotiations with Aging and Disability Resource Centers (ADRCs) and Community Mental Health Centers (CMHCs), which rely on a small contingent of individuals to negotiate. Officials told us the number of parties involved in the CDDO negotiations makes the process

cumbersome, and it is difficult to add new oversight or monitoring controls to the contracts because the parties cannot agree.

KDADS officials also told us the statute that governs the CDDO contracting process does not clearly lay out what would happen if the parties are unable to reach an agreement. The statute does direct the parties to seek mediation when they are at an impasse, but officials told us they are unclear what happens if mediation fails. Our reading of the statute suggests the process is not necessarily clear, but it appears if mediation fails the CDDOs and service providers would continue to operate under the existing or a temporary contract.

A Bill Proposed During the 2013 Legislative Session Would Prohibit CDDOs from Providing Direct Services, Which Could Eliminate the Inherent Conflict of Interest

As part of our work for this audit, we were asked to determine the potential effect on the developmental disability system if Senate Substitute for House Bill 2155 were passed.

2013 Senate Substitute for House Bill 2155 would prohibit CDDOs from both determining an individual's eligibility and providing services through their own service provider. As discussed throughout this question, the conflict of interest is inherent in Kansas' developmental disability system because CDDOs not only serve as gatekeepers—the single point of entry for eligibility determination and referral for services—but they can also provide direct services through their own service provider. Of 27 CDDOs, 21 also have their own service provider.

During the 2013 Legislative session, Senate Substitute for House Bill 2155 was introduced. If passed, the 21 CDDOS would have to decide whether to keep the CDDO function or the service provider function, since the bill would prohibit them from doing both. The bill would also limit current CDDO services in other ways. In ***Figure 1-5*** on page 27, we summarize how the powers and duties of CDDOs would change if the bill were passed. As shown in the figure, if passed, the bill would:

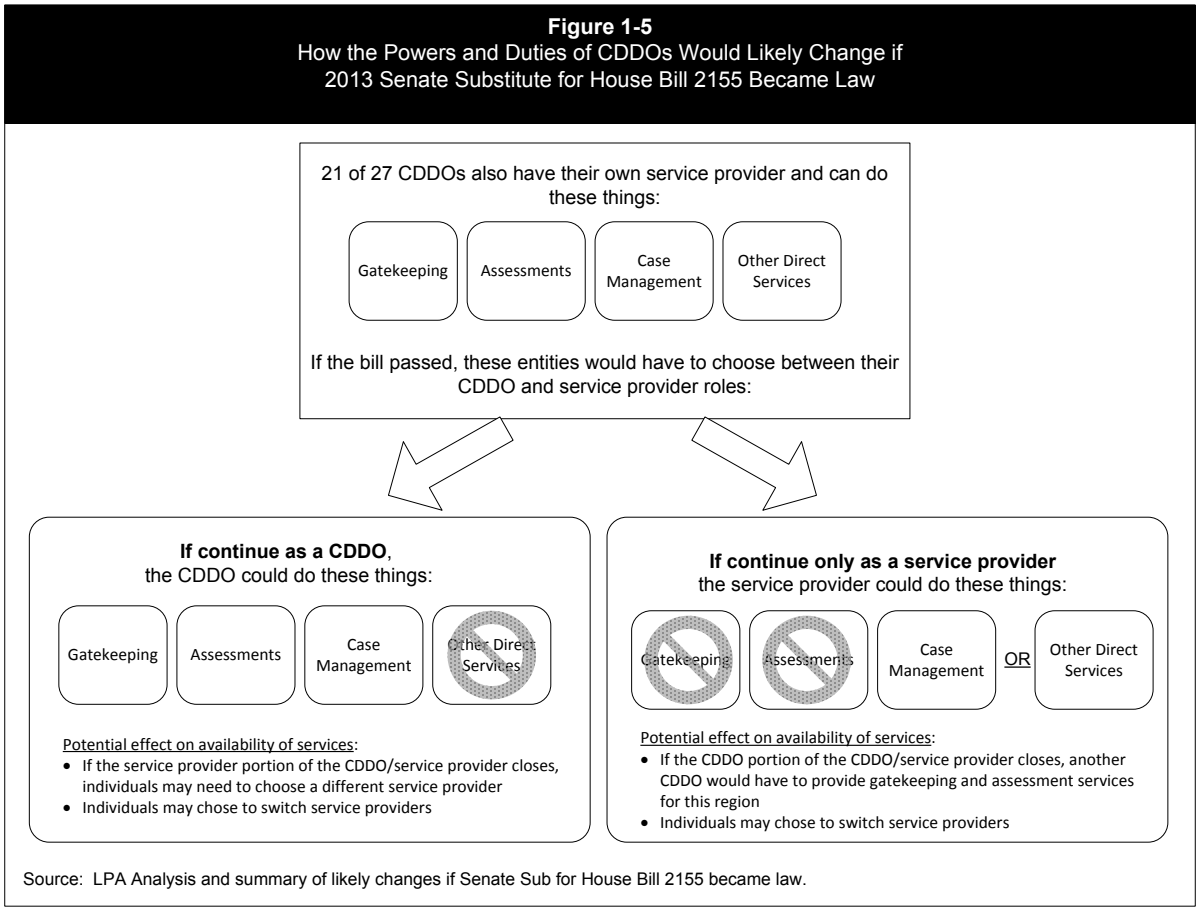
- Prohibit CDDOs from determining eligibility and providing services to developmentally disabled individuals
- Prohibit CDDOs from conducting a needs assessment and providing services
- Prohibit a case manager from working for a service provider

The effectiveness of the bill in addressing the inherent conflict of interest would depend on whether CDDOs completely separate from their own community service provider. For CDDOs that have their own community service provider, it is difficult to distinguish between the two entities. For example, of the 21 CDDOs that currently provide gatekeeping and direct services, several claim they are separate from their service provider. However, they are difficult to tell apart because they often:

- share the same working space
- share the same name
- share the same board

If Senate Substitute for House Bill 2155 was passed, KDADS may need to develop policies or regulations describing how to separate gatekeeping from providing services. As written, the bill does not specify what constitutes separation between a CDDO and its service provider. Without clear guidance and oversight from KDADS, it could be difficult to know whether a CDDO truly separates itself from its service provider or just creates some administrative separation, i.e. "separated on paper."

Figure 1-5
How the Powers and Duties of CDDOs Would Likely Change if 2013 Senate Substitute for House Bill 2155 Became Law



Source: LPA Analysis and summary of likely changes if Senate Sub for House Bill 2155 became law.

KanCare Has Added an Additional Layer to the Current Developmental Disability System, but on Its Own Will Not Address the Inherent Conflict of Interest Issue

In an effort to slow the growth of Medicaid costs, KanCare was implemented in January 2013. Under KanCare, Kansas has contracted with three managed care organizations (MCOs) to coordinate the health care for nearly all individuals receiving Medicaid. Medicaid includes two major services: medical care and long-term care. KanCare was implemented for regular medical services and all long-term-care waivers except for the developmental disability waiver in January 2013.

The developmental disability waiver was added to KanCare on February 1, 2014. With the exception of individuals receiving developmental disability waiver services, KanCare was implemented for all other individuals receiving HCBS waiver services on January 1, 2013. In response to stakeholders' concerns, a 2012 legislative proviso delayed implementing KanCare until January 1, 2014, for individuals with developmental disabilities receiving waiver services. However in December 2013, the Centers for Medicare and Medicaid Services (CMS) further delayed the transition of that waiver to KanCare.

In January 2014, CMS's concerns were addressed and as of February 1, 2014, individuals with developmental disabilities receive coordinated care from one of the three MCOs. For each individual, the MCOs are paid between $3,600 and $4,700 per month to coordinate care. ***Figure 1-6*** on page 29 shows how the developmental disability system structure looks now that MCOs are included. As shown in the figure, MCOs do not provide direct services and are essentially an additional layer between KDADS and service providers.

M**anaged Care Organizations (MCOs) add an additional layer of review to the system but do not address the conflict of interest issue.** KDADS officials told us the same service providers are in place now, as compared to before KanCare was implemented. This means CDDOs that also have their own service provider will continue to provide the same types of services as other service providers. Adding MCOs to the structure does not address this inherent conflict of interest. However, with KanCare, other aspects of the developmental disability system have changed:

- **Rather than paying service providers directly, KDADS will pay the MCOs a capitated rate and the MCOs will pay the service providers on a fee-for-service basis.** As shown in the ***Figure 1-6***, KDADS no longer pays service providers directly. Instead, the service providers directly bill the MCOs for any services provided and the MCOs authorize payment based on the current tier rates already in place.

Figure 1-6
How the Developmental Disability System Structure Will Change When KanCare is Implemented and Managed Care Organizations Are Included

(a) KDADS does not pay the community service providers directly. Service providers bill Medicaid and the state's contracted fiscal agent, HP Enterprise Services, pays the provider.
(b) Under KanCare, KDADS has agreed to CMS that the underserved waiting list will be eliminated in 2014

Source: LPA summary of developmental disability system before and after KanCare.

- **In addition to the plan of care that is currently developed, the MCO staff will create an "integrated service plan" that will be used to determine what developmental disability services the individual will receive.** Under KanCare, this additional plan of care is developed and MCOs essentially add an additional layer of review if that plan includes a reduction in service. According to KDADS officials, all such reductions then have to be submitted to KDADS for approval.

  CDDO officials had additional concerns if Senate Substitute for House Bill 2155 were passed after KanCare has been implemented. Officials with the five sampled CDDOs explained that with KanCare implemented, MCOs are reviewing individuals' plans of care with the goal of reducing overall Medicaid waiver costs. If the bill were passed, MCOs would also be allowed to provide targeted case management. Officials said that determining which services will or will not be provided conflicts with a targeted case manager's role of ensuring that individuals receive all services needed.

It is difficult to predict how the developmental disability system would change if Senate Substitute for House Bill 2155 were passed now that KanCare has been implemented. As discussed earlier, Senate Substitute for House Bill 2155 could potentially eliminate the inherent conflict of interest because it would prohibit CDDOs from both determining an individual's eligibility and providing services. However, all three CDDOs we asked (Tri-Valley, Developmental Services of Northwest Kansas, and Johnson County) said without consulting their boards or county commissioners, they could not determine whether they would continue only to provide gatekeeping or choose only to provide direct services. Therefore, it is difficult to know how the system would look if the bill were passed now that KanCare is implemented.

Conclusion

Potential conflicts of interest will continue to be present in the developmental disability waiver system as long as CDDOs are able to establish their own service providers. We did not find direct evidence that CDDOs are taking advantage of the inherent conflict of interest but the structure of CDDOS having their own service provider causes some stakeholders to distrust the system. While the Managed Care Organizations under KanCare will provide an additional layer of review and management, only separating the gatekeeping and service providing functions would fully eliminate potential conflicts of interest.

Recommendations for Executive Action

1. To address the problems related to the lack of oversight by the Department for Aging and Disability Services (KDADS) in approving extraordinary funding, KDADS should develop and implement a system that allows KDADS officials to screen and thoroughly review extraordinary funding applications before funding is approved (page 23-25).

2. To address the issues of the peer review process, KDADS should (page 25):

    a. Develop process and procedures to ensure consistency of peer review teams.

    b. Develop and implement policies and procedures that provide guidance on how to follow up with CDDOs that have deficiencies identified in the peer review. Items to consider including are follow-up deadlines, penalties that will be incurred if a deficiency is not resolved, and a system to track whether the deficiency has been resolved.

    c. Consider increasing the amount of time the peer review team has to conduct file reviews and other on-site work.

    d. Consider conducting peer reviews on a more frequent basis.

3. To address the issue of KDADS or CDDO officials not tracking complaints, KDADS officials should work with CDDOs to develop and implement a complaint tracking system that (page 25):

    a. Requires CDDOs to log and track the status of all complaints to know whether they have been resolved.

b. Requires CDDOs to submit periodic reports to KDADS on the status of all complaints. Consider including such things as the nature of the most common complaints and whether the complaints have been adequately resolved in a timely manner.

4. To address the issue of KDADS having no role in the BASIS assessment process and providing no oversight in the eligibility process, KDADS officials should develop and implement policies and procedures to ensure BASIS assessments are accurate and consistent. Two potential options exist to address this recommendation (page 25-26):
    a. KDADS staff review a sample of BASIS assessment tests and supporting documentation to ensure individuals are in the appropriate tier.

    b. KDADS staff develop and conduct their own assessment to verify the validity of the BASIS assessment test results.

5. If legislation is passed that prohibits CDDOs from serving as both a gatekeeper and service provider, KDADS should develop a process for approving all reorganizations (pages 26-28).

Recommendations for Legislative Action	None

Question 2: How Could the Community Services System Be Changed to Maximize the Amount of Funding Available to Provide Services for Individuals With Developmental Disabilities?

For FY 2014, CDDO regions will receive about $360 million to provide services to about 8,700 individuals with developmental disabilities (p.33). Consolidating CDDOs could reduce administrative costs by about $500,000 to $800,000 a year (p.34). Furthermore, Kansas could increase federal revenues by up to $6.5 million a year by redirecting $5 million in state aid (p.37). We also identified other potential cost savings options to help maximize funding available for developmental disability services, including using more bundled payments and adopting more preventative controls to reduce the risk of Medicaid fraud (p.39).

We also found that several CDDOs we reviewed spend funds on lobbying-related activities, which appears to violate federal and contractual requirements (p.40). Finally, we found that KDADS does little to monitor CDDOs' administrative expenditures for the developmental disability waiver (p.43).

In FY 2014, CDDO Regions Will Receive About $360 Million to Provide Services to About 8,700 Individuals with Developmental Disabilities

As noted in the Overview, CDDO regions receive four types of funding:

- Home and Community Based Services (HCBS) Waiver Funding: $328 million to provide direct services to individuals with disabilities, of which 43% is state funding and 57% is federal
- Administrative Funding: $9 million to cover administrative costs, of which half is state funding and half is federal
- State Aid: $5 million in state general fund money to provide services to individuals who do not qualify for the HCBS waiver
- Local Mill Levy: $17 million in local mill levy funding which CDDOs use for various purposes

Each of these funding types is discussed in more detail in the overview on beginning on page 9.

Most funding is used to provide direct services to individuals with developmental disabilities. As of December 2013, about 8,700 individuals were receiving developmental disability waiver services. However, the waiver currently does not have enough funding to serve all those who qualify. Of the 8,700 individuals receiving waiver services, about 1,750 individuals were "underserved" meaning they were receiving some but not all

needed services. Further, about another 3,250 individuals were "unserved" and had not received any services. Current information of individuals receiving tier zero services was not readily available.

As part of our work for this audit, we were asked to identify ways the developmental disability system could maximize funding available to provide services to individuals with developmental disabilities. In the sections that follow, we discuss the options we identified for maximizing the funding available to provide services to individuals with developmental disabilities who qualify for waiver services.

Consolidating CDDOs Could Reduce Administrative Costs By About $500,000 to $800,000 a Year

We estimated cost savings based on consolidating the state's 27 CDDOs. These cost estimates serve as a guide, but we did not conduct detailed analysis to determine the exact consolidation model and resulting savings.

With 27 CDDOs, Kansas has significantly more administrative entities for the developmental disability waiver than it does for the physical disability or frail elderly waivers. In addition to the developmental disabilities waiver, Kansas has six other home and community based services (HCBS) waiver programs, including the frail elderly and physical disability waivers. Beginning January 2013, Aging and Disability Resource Centers (ADRCs) became the single point of entry for individuals applying for most waivers except the developmental disability waiver. Currently, there are 11 ADRCs located throughout the state. For calendar year 2013, these 11 ADRCs provided assessment and eligibility services for about 13,000 individuals for the frail elderly, physical disability, and traumatic brain injury waivers. Conversely, the state has 27 CDDOs that provide similar gatekeeping and administrative services for 8,700 individuals receiving services through the developmental disability waiver.

Reducing the number of CDDOs could save an estimated $500,000 to $800,000 each year in administrative costs. We calculated average administrative cost per individual for each CDDO and saw a wide range from about $790 to $1,900. In general, CDDOs serving the largest numbers of individuals with developmental disabilities had lower administrative costs per individual. That is because the administrative costs are often fixed costs that decrease on a per-person basis when they can be allocated across more individuals. The Sedgwick County Developmental Disability Organization served the most individuals and had administrative expenses of about $900 per individual. On the other hand, the Nemaha County Training Center provided

gatekeeping services to the fewest individuals and had administrative expenses of about $1,900 per individual.

Without a detailed study, it is difficult to know how much actual savings could result from consolidating CDDOs. Such an analysis is beyond the scope of this audit. However, we calculated a rough savings estimate by using CDDOs' current administrative costs per individual and estimated economies of scale that would result from consolidating CDDOs. In fiscal year 2013, the median administrative cost per individual for all CDDOs was $1,140. Using this median and a range of about plus or minus 20%, we estimated that consolidated CDDOs would spend about $500,000 and $800,000 less on total administrative costs annually. Any reduction in administrative costs could potentially be applied toward serving more individuals on the waiver.

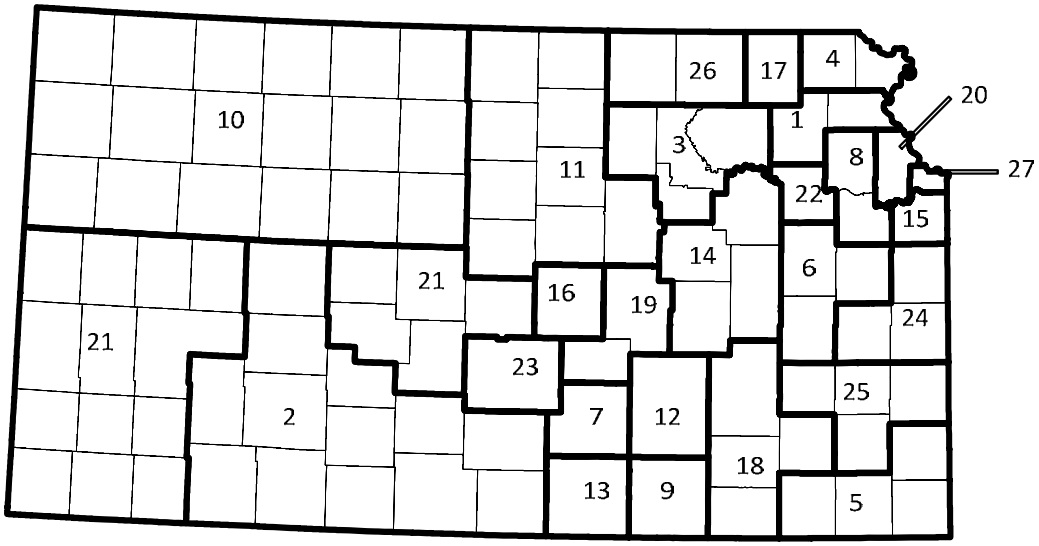
There could be some off-setting costs to our savings estimates. For example, consolidated CDDOs may have to cover a larger geographic area, which could result in increased staff travel time and expenses. In addition, some counties may choose to not continue providing mill levy funding to a newly consolidated CDDO region if they are unsure of how the funding will benefit their county. We did not try to estimate how much our savings estimates would be affected by either of these factors.

The 11 Aging and Disability Resource Centers (ADRCs) across the state could be used as a model for consolidating CDDO regions. ***Figure 2-1*** on page 36 shows the current regions for ADRCs and CDDOs. As shown in the figure, there are 11 ADRC regions, which is less than half the number of CDDO regions used to provide gatekeeping services for the developmental disability waiver. As stated earlier, among other things, ADRCs (which were formerly the Area Agencies on Aging) conduct functional assessments for the frail elderly, physical disability and traumatic brain injury waivers. This assessment function appears to be similar to what CDDOs do for the developmental disability waiver and KDADS officials generally agreed.

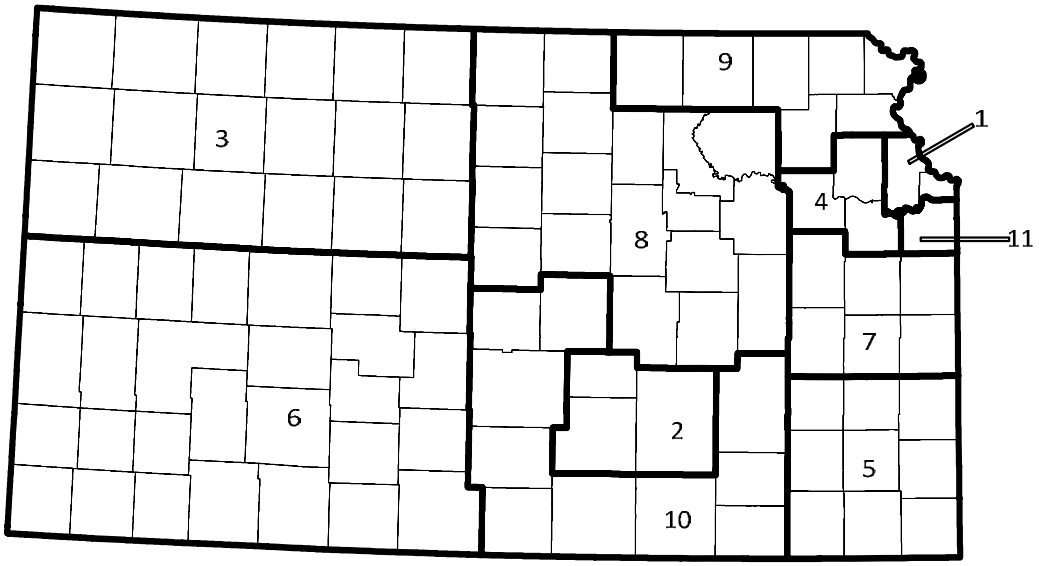
KDADS provides considerably more administrative funding to CDDOs than it does ADRCs. For fiscal year 2014, KDADs will provide about $9 million in administrative funding to the 27 CDDOs who provide gatekeeping services to 8,700 individuals with developmental disabilities.

Figure 2-1:
Current Regions for Community Developmental Disability Organizations (CDDOs) and Current Regions for Aging and Disability Resource Centers (ADRCs)

27 CDDO Regions



11 ADRC Regions



Source: LPA generated map from data provided by Kansas Department for Aging and Disability Services officials.

In comparison, KDADS will provide about $4 million in administrative funding to 11 ADRCs who provide assessment services to about 13,000 individuals accessing the physical disability, frail elderly, and traumatic brain injury waivers.

To further reduce overall administrative costs, the Kansas Legislature could consider combining the CDDOs with the ADRCs. Now that all waivers and mental health services are within one agency, KDADS officials told us they are considering how to better coordinate services so that individuals' needs are better met. Combining CDDOs and ADRCs is something the Legislature could at least consider for several reasons. First, combining CDDOs and ADRCs could potentially realize additional savings in administrative costs, such as buildings and human resource functions. Second, both CDDOs and ADRCs have similar duties by serving as gatekeepers for Medicaid waiver programs. Third, as shown in ***Figure 2-1*** on page 36, ADRCs have locations and regions throughout the state, so gatekeeping services would continue to be available in all geographic areas. Finally, KDADS already has oversight responsibilities for both CDDOs and ADRCs. We did not try to estimate the potential savings or any offsetting costs from combining CDDOs and ADRCs.

Kansas Could Increase Federal Revenues By Up to $6.5 Million a Year by Redirecting $5 Million in State Aid

State law requires KDADS to match state funds with federal funds whenever possible. The majority of state aid appropriated to the developmental disability waiver is matched with federal funding. However, the Legislature has a longstanding appropriation of about $5 million to CDDOs as an additional state grant. This additional state-aid grant is not eligible for federal matching funds.

KDADS distributes $5 million in state aid to CDDOs and this money is used to provide non-Medicaid services that are not matched with federal funding. Matching federal funds are only available for money spent on Medicaid services. Most of this state aid is spent on tier zero individuals and children less than five years old, who were identified as needing some services but were not eligible for Medicaid developmental disability waiver services. Additionally, CDDOs spend a portion of the state aid on non-Medicaid costs including infrastructure, transportation, and administrative expenses. Because these expenditures are not Medicaid related, they cannot be used to draw down federal matching funds. A KDADS official told us using the state aid to provide these non-Medicaid eligible services seems to be the original intent of the appropriation.

Using the $5 million in state aid for Medicaid-eligible waiver services instead would generate an additional $6.5 million in federal matching funds. The Legislature would have to re-appropriate the funds for Medicaid-eligible waiver purposes to draw down federal matching funds. The current federal match rate is 43% state and 57% federal. If all $5 million were re-appropriated, they could draw down about $6.5 million in federal matching funds for a total of $11.6 million for services.

During the 2013 legislative session, an amendment to the appropriations bill was proposed to redirect $3 million in state aid to provide services to Medicaid-eligible waiver individuals with developmental disabilities. The amendment did not pass. If it had, it would have drawn down about $4 million in federal matching funds. KDADS officials estimated this would provide enough funding to provide services to 165 individuals on the waiting list.

Taking this action would help some individuals with developmental disabilities but could potentially cause others to lose services. Specifically:

- **If funding was redirected to Medicaid-eligible waiver services, it could be used to fund services for some of the individuals waiting for developmental disability services.** When funding is not available to provide services to individuals with developmental disabilities, they are placed on a waiting list. As of December 2013, about 3,250 individuals had not received any of the services requested and were waiting for services. At the current match rate, the state aid funds combined with federal matching funds could be used to provide services for about 280 individuals on the waiting list.

- **However, redirecting state aid funding to Medicaid-eligible waiver expenditures would mean that non-Medicaid-eligible individuals currently receiving services would likely lose those services.** As mentioned above, the majority of this state aid funding is currently spent on individuals who were identified as needing some services but were not eligible for Medicaid developmental disability waiver services. Information about the number of individuals served with this funding was not readily available.

Redirecting these funds is a policy choice the Legislature would have to make. If the state aid continues to be used to fund services for individuals who are not eligible for waiver services, it will be used to provide services to more individuals with less severe developmental disabilities but who are in need of some services. If the funding is redirected to fund Medicaid-eligible waiver expenditures (individuals receiving waiver services) then the funding will provide services to overall fewer individuals who may have more severe developmental disabilities that are on the waiting list.

We Identified Other Potential Cost Savings Options To Help Maximize Funding Available for Developmental Disability Services

As part of our effort to identify ways the developmental disability system could maximize funding available to provide services to individuals, we reviewed best practices and information from other states. Generally, cost savings ideas focused on Medicaid payment reform and preventing Medicaid fraud. We briefly reviewed Kansas' current efforts in these areas and summarized our findings below.

Kansas could further reduce its costs associated with paying service providers by using fewer fee-for-service payments. It is unlikely that all fee-for-service payments could be eliminated, but using fewer where possible could result in some savings. Currently, community service providers within the developmental disability system are generally paid a fee for each service provided. For example, providers are paid a fee for each 15 minutes of day service provided. In contrast, payment reform could include paying a single negotiated fee (sometimes called a bundled payment) for all services provided over a defined time period rather than a payment for each individual service.

According to information from the National Conference of State Legislatures, single fee payments or bundled payments are commonly used for acute services such as hospitalization, but they are also used for services associated with managing chronic health conditions (which many developmentally disabled individuals have). Because the provider receives a set payment, any costs above that must be absorbed by the provider. Likewise, the provider keeps the savings if costs are lower.

Now that KanCare is implemented for the developmental disability waiver, KDADS pays the managed care organizations (MCOs) a set rate per individual per month. The MCOs then pay service providers on a fee-for-service basis. KDADS officials told us moving away from a fee-for-service payment system would require renegotiating the contract with CDDOs and changing from the BASIS assessment and current tier payment system.

Kansas could adopt more preventative controls to reduce the risk of inappropriate Medicaid waiver payments and fraud. Our review of information from other states showed that Medicaid fraud detection efforts are typically one of two types: preventative or "pay and chase." Officials from both KDADS and the Attorney General's Medicaid Fraud and Abuse Division told us that Kansas generally has a "pay and chase" approach. KDHE officials told us Kansas does not have a solely pay and chase model, but agrees there is room for improvement.

Preventative controls mean establishing steps to ensure that inappropriate, inaccurate, or fraudulent claims are not paid. Good preventative approaches include conducting background checks on service providers before allowing them to participate in the waiver programs and establishing automatic edits or "red flags" in the claims payment system to prevent inappropriate claims from being paid. In contrast, a pay and chase approach generally means Medicaid claims are paid as they come in. Then, if it is later discovered the claim was fraudulent, efforts are made to recover the funding. The preventative approach is more effective because recovering improperly paid claims is time consuming and difficult. Attorney General officials said that although Kansas has some preventative steps in place, they are not as effective as they could be and that Kansas does not have the administrative capacity to implement a more effective approach.

OTHER FINDINGS

Several CDDOs We Reviewed Spent Funds On Lobbying Activities Which Appears to Violate Federal and Contractual Requirements

As part of our work, we reviewed CDDO expenditures to determine whether state and federal funds were spent for allowable purposes. We reviewed the past two fiscal or calendar years' worth of expenditures for five of the 27 CDDOs' and compared those expenditures to what is allowed. We worked with the sample CDDOs to review documentation to determine which identified expenses were allowable.

Federal requirements and CDDOs' contracts with KDADS prohibit CDDOs from using certain funds to pay for lobbying activities. Although state law does not include any specific restrictions, KDADS' contracts with CDDOs have clauses that prohibit the CDDO from using contract funds to influence or attempt to influence an officer or employee of any agency in the awarding, renewal or modification of any government contract or grant. Specifically the contract states, "No part of the funds provided through this contract shall be used to influence or attempt to influence an officer or employee of any State of Kansas agency or a member of the Legislature regarding any pending legislation, or the awarding, extension, continuation, renewal, amendment or modification of any government contract, grant, loan or cooperative agreement."

In addition, the federal Office of Management and Budget (OMB) has issued two circulars (A-87 for government agencies and A-122 for non-profits) which have similar provisions against lobbying-related activities. The federal circulars include prohibitions against using federal funds to cover the cost of influencing activities associated with obtaining grants or contracts. A-122 specifies that

the costs associated with "legislative liaison activities, including attendance at legislative sessions or committee hearings" are also unallowable.

Three of five CDDOs we reviewed spent a total of about $104,000 on membership dues to Interhab during the past two years. Interhab is an association that represents 21 of the state's 27 CDDOs and is a registered lobbying group. According to Interhab officials, the organization provides CDDOs a variety of services, including lobbying, training, technical assistance, and professional networking opportunities. Some of the services (such as training and networking) can be paid for with federal and state funds. Other activities cannot be paid for with certain funds. The payment of dues allows members to access these InterHab services.

The funds used to pay these membership dues included both restricted and unrestricted funds. Because the funds were comingled and cannot be separated, the restrictions against lobbying-related activities then apply to all of the funds used.

This is not to say that CDDOs cannot be members of InterHab and cannot pay for lobbying-related activities. Rather, because certain CDDO funding sources have restrictions on what they can be spent on, any spending on lobbying needs to come from clearly designated funds that do not carry these restrictions. Further, we noted that KDADS has routinely disallowed membership dues paid to InterHab from state administrative funding.

Figure 2-2 on page 42 shows the CDDOs included in our review and the amount each paid in dues to Interhab. As shown in the figure, three CDDOs we reviewed paid dues to Interhab. However, these CDDOs could not verify the sources of funds used to pay these costs. These results cannot be projected to all CDDOs because of the way we selected the sample.

Four of the five CDDOs paid Interhab an additional $38,000 for various services. Because CDDO's accounting records did not include detail about the purpose of each expenditure or the source of funding, we were not able to determine which of these expenditures were allowable. However, a review of CDDO records showed that some expenditures appeared to be legislative liaison activities such as attending legislative meetings and analyzing the effect of managed care. The A-122 federal OMB circular specifics these activities cannot be paid for with federal funds. Other expenditures appeared to be for contract planning meetings

between CDDOs and Interhab, but records were not detailed enough for us to determine if the expenditures were allowable.

Interhab officials told us all the expenditures were allowable. InterHab officials disagreed that the role InterHab plays in CDDOs' contract negotiations is lobbying. InterHab legal counsel stated that CDDO expenses for legal representation related to contract negotiations are allowable based on federal guidelines for non-profit organizations. However, none of the expenditures we questioned were for legal expenses.

Figure 2-2
Summary of Lobbying-Related Expenditures for Five Sampled CDDOs (a)

Selected CDDO/Community Service Provider (CSP) (b)	Membership dues-related expenditures Identified	Other expenditures Identified
Johnson County Developmental Services (CDDO/CSP)	$41,231	$23,965
Developmental Services of Northwest Kansas (CDDO/CSP)	$37,938	$5,801
Tri-Valley Developmental Services (CDDO/CSP)	$24,479	$5,295
Sedgwick County Developmental Disability Organization (CDDO)	$0	$3,285
Southwest Developmental Services, Inc. (CDDO)	$0	$0
Total	**$103,648**	**$38,346**

(a) Included a review of the past two calendar or fiscal years of expenditures for each CDDO.
(b) SDSI and Sedgwick County are CDDOs only, and do not have their own service provider.
Source: LPA analysis of five CDDOs' expenditure information.

Finally, two CDDOs claimed the lobbying-related expenditures were allowable because they were made by their service provider, but we found those claims not compelling. The CDDOs claimed that most of the lobbying-related expenses we identified as unallowable were not incurred by them, but were incurred by their service provider. Such a claim does not seem compelling because:

- **Many of the lobbying-related expenditures were related to the CDDOs' contract with KDADS, and service providers are not a party to those contracts.** Every year, KDADS signs contracts with each of the 27 CDDOs but does not contract with each of the hundreds of service providers. (CDDOs contract with service providers.) Therefore, the lobbying expenditures related to discussing KDADS contracts were likely incurred by the CDDO and not the service provider.

- **The same board oversees both the CDDO and the service provider, and in some instances the funding was co-mingled**. For each of the three CDDOs that have their own service provider (Tri-Valley, Johnson County, and DSNWK), the same board oversees both the CDDO and the service provider. In some instances, funding was co-mingled between the CDDO and its service provider, which makes it impossible to know which funding was used to pay for which expenses.

KDADS Does Little to Monitor CDDOs' Administrative Expenditures for the Developmental Disability Waiver

Although there are restrictions on how CDDOs can spend administrative funding, KDADS does little to monitor how these funds are spent. KDADS requires CDDOs to submit quarterly reports on how administrative funding and state aid is spent, but officials told us they have not reviewed these reports in detail and typically they only check the reports for self-reported lobbying-related expenditures. Agency officials reported a few instances where the CDDO was required to remove expenditures from the quarterly report that were self-reported as lobbying-related payments by the CDDO. Overall, KDADS officials told us the agency does not have a process for thoroughly monitoring how CDDOs spend administrative funding or state aid. Further, KDADS officials said this is a shortcoming that they are currently trying to address.

Conclusion

For about 15 years, the Department of Social and Rehabilitation Services and the Department on Aging divided the responsibility for oversight of state's Medicaid long-term care waivers. In 2012 the Governor reorganized and renamed both agencies, and since that reorganization, all of the state's long-term care waivers have been managed by the Department for Aging and Disability Services (KDADS). The findings in this question show there are steps that can be taken to make the developmental disability system more efficient, and having all of the waivers within one agency provides the best opportunity for Kansas to make many of those changes.

Recommendations for Executive Action

1. To address the issue of reducing the costs associated with paying service providers on a fee-for-service basis, KDADS and KDHE should consider implementing more cost effective payment reform options such as bundled or capitated payments to community services providers (page 39).

2. To address the issue of reducing the risk of inappropriate Medicaid payments and fraud through effective prevention efforts, KDHE, the Attorney General, and KDADS should collaborate and develop a plan for implementing additional preventative efforts such as conducting background checks of services providers before contracting and reviewing claims for suspicious patterns before paying them (pages 39-40).

3. To address the issue of CDDOs inappropriately spending funds on lobbying-related activities, KDADS should develop a process to more actively monitor expenditures, which could include sampling and reviewing actual expenditure records or requiring independent audits to review and report on such expenditures (pages 40-43).

4. To address the issue of CDDOs in appropriately spending funds on lobbying-related activities, the four sampled CDDOs that had non-allowable expenditures identified should take the steps necessary to ensure the funding is not state or federal funding (for example, eliminate co-mingling by separating and tracking different funding sources) (pages 40-43)

Recommendations for Legislative Action

1. To address the issue of reducing administrative costs within the developmental disability system, the Legislative Post Audit Committee should consider introducing legislation to reduce the number of CDDO regions (pages 34-37).

2. To address the issue of not matching all available state funds with federal matching funds, the Legislative Post Audit Committee should consider introducing a bill to redirect all or a portion of the $5 million in state aid to provide Medicaid-eligible services. Doing so would allow these state aid funds to be matched with federal funds (pages 37-38).

APPENDIX A
Scope Statement

This appendix contains the scope statement approved by the Legislative Post Audit Committee for this audit on July 23, 2013. The audit was requested by Senator Bruce.

CDDOs: Reviewing Issues Related to Community Services Provided for Individuals with Disabilities

As of December 2011, Kansas had a network of 27 Community Developmental Disability Organizations (CDDO) and about 200 service providers that served individuals with developmental disabilities in the community. CDDOs are the single point of entry, eligibility determination, and referral for anyone seeking developmental disability services. Those services include direct care, work opportunities, and medical services on behalf of individuals. CDDOs may provide some or all services themselves, or they may contract with other community service providers in their area. As of July 2012, oversight of CDDOs was transferred from the Department for Children and Families to the Department for Aging and Disability Services.

Our 1999 and 2003 audits identified a number of problems created by the developmental disability community service structure. Most importantly, those audits found conflicts of interest problems related to client referrals, contract terms, funding distributions, and quality assurance reviews. Those conflicts of interest exist because many CDDOs—which act as the gatekeeper to disability services—also provide services that are sometimes in direct competition with the service providers they contract with.

Over the years, the Legislature has considered bills that would address some of these inherent conflicts of interest. Most recently, the Senate Public Health and Welfare Committee passed Senate Substitute for House Bill 2155. Among other things, that bill would prohibit CDDOs from providing services and also conducting eligibility determinations or needs assessments. During the 2013 legislative session, the bill was passed over by the Committee of the Whole but retained on the calendar.

Legislators have expressed concerns about these potential conflicts of interest, as well as other issues including the level of oversight provided for home and community services and whether CDDOs and service providers are maximizing funding for those services.

A performance audit in this area would address the following questions:

1. **Do substantial conflicts of interest remain for CDDOs that both provide and contract for services, and how could those conflicts be resolved?** To answer this question, we would review past State policy, actions, and audits to determine what prior efforts have been taken to mitigate conflicts of interest in the system and whether they have been successful. We would also work with officials from the Department for Disability and Aging Services, CDDOs, and service providers to understand the current community-based system for individuals with disabilities. As part of that work, we would talk with officials from other states and the Centers for Medicare and Medicaid Services (CMS) to identify ways in which these conflicts of interest can or have been

resolved. Further, we would perform work to evaluate the potential effect of conflicts of interest in areas such as client eligibility, client referral, case management, fund distribution, contract negotiations, and quality assurance reviews. As necessary, we would survey and interview CDDO staff, service providers, and some guardians to determine whether they thought service providers' interests were adequately represented and that client referrals were unbiased. As needed, we would also analyze available data to determine whether certain funds were equitably distributed by CDDOs and would identify relevant patterns in service provision (e.g. which CDDOs and providers serve the most costly individuals). Finally, we would determine whether sufficient controls exist to ensure that individuals are placed into appropriate tier levels when they enter the system. We would perform additional work in this area as necessary.

2. **How could the community services system be changed to maximize the amount of funding available to provide services for individuals with disabilities?** To answer this question, we would review the funding structure for CDDOs to identify all of their revenue sources and the factors that influence funding levels. Further, we would review state law and work with CDDO and Department on Aging and Disability Services officials to identify any limitations or requirements regarding how that funding can or should be spent. For a sample of CDDOs, we would compare previous year's expenditures to relevant limitations or requirements we identified to ensure those funds were spent for allowable purposes. We would work with various stakeholders to identify ways to maximize those funds. Potential alternatives we would examine would include opportunities to increase the drawdown of federal funds and the possible consolidation of some CDDOs. For feasible options we identified, we would attempt to estimate how much new money or savings those actions might generate that could be used to provide services to individuals currently on the Home and Community Based Services waiver (HCBS) waiting list. Finally, we would determine whether the current funding structure includes incentives for CDDOs or service providers to keep individuals on the HCBS waiting list and if so, what could be done to remove them. We would perform additional work in this area as necessary.

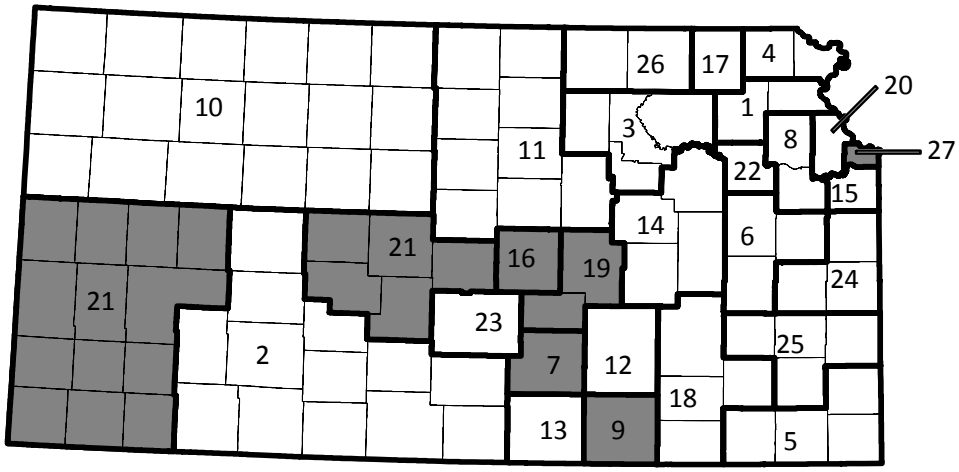
3. **What would be the potential effect of implementing the provisions of Senate Substitute for House Bill 2155 on the community based service system?** To answer this question, we would review the provisions of Senate Substitute for House Bill 2155 to determine what changes would be made to the current community based service system if the bill was passed. We would interview stakeholders to determine the potential advantages and disadvantages related to this type of change. Moreover, we would determine how many individuals are currently served by CDDOs and what types of services they receive. By working with CDDO and service provider staff, we would estimate how those individuals and services might be affected if Senate Substitute for House Bill 2155 was passed. Specifically, we would determine whether service providers currently have enough capacity to serve CDDO clients and how long that transition might take. We would perform additional work in this area as necessary.

Estimated Resources: 3 LPA staff
Estimated Time: 6 months (a)

(a) *From the audit start date to our best estimate of when it would be ready for the committee.*

APPENDIX B
CDDO Regions and the Number of Community Service Providers Within each CDDO Region

This appendix contains a map of the CDDO regions and the number of community service providers in each region.



CDDO Region	CDDO Name	# of Community Service Providers
1	Achievement	11
2	Arrowhead West, Inc.	4
3	Big Lakes Development Center	10
4	Brown County Developmental Center	6
5	CDDO of Southeast Kansas (CLASS)	25
6	COF Training Center	12
7	Sedgwick County CDDO (CDDO Only)	38
8	Cottonwood, Inc.	30
9	Cowley County CDDO (CDDO Only)	12
10	Developmental Services of Northwest Kansas, Inc. (DSNWK)	16
11	Disability Planning Organization of Kansas (DPOK)	10
12	Butler County CDDO	14
13	Futures Unlimited	9
14	Hetlinger Developmental Services, Inc.	17
15	Johnson County Developmental Supports	74
16	McPherson County Developmental Services (CDDO Only)	18
17	Nemaha County Training Center	3
18	New Beginnings Enterprises	8
19	Harvey-Marion County CDDO (CDDO Only)	16
20	Riverside Resources, Inc.	11
21	Southwest Developmental Services, Inc. (SDSI) (CDDO Only)	32
22	Shawnee County CDDO	45
23	Reno County CDDO	8
24	Tri-Ko, Inc.	11
25	Tri-Valley Developmental Service, Inc.	12
26	Twin Valley Developmental Services	4
27	Wyandotte County CDDO (CDDO Only)	25
	TOTAL	**481**

Source: KDADS' list of CDDOs and community service providers.

APPENDIX C
Total Aid to Community Developmental Disability Organizations (CDDOs) Regions

This appendix shows the amount of funding by source for the 27 CDDO regions for fiscal year 2014.

Appendix C
Total Aid to Community Developmental Disability Organizations (CDDO) Regions
Fiscal Year 2014

CDDO	State and Federal funding							Local Mill Levy Funding (e)	Total All Funding
	HCBS MRDD Waiver Allocation (a)		CDDO Admin (b)		State Aid (c)	Other (d)	Subtotal State and Federal Funding		
	State Funding	Federal Funding	State Funding	Federal Funding					
Achievement Services of Northeast Kansas	$1,239,603	$1,630,513	$42,564	$42,547	$26,201	$0	$2,981,428	$73,000	**$3,054,428**
Arrowhead West Inc.	$2,676,055	$3,519,951	$118,546	$118,498	$285,588	$0	$6,718,638	$495,308	**$7,213,946**
Big Lakes Development Center	$2,857,811	$3,759,025	$95,681	$95,642	$228,795	$0	$7,036,954	$481,644	**$7,518,598**
Brown County Developmental Services, Inc.	$1,032,067	$1,357,531	$28,141	$28,130	$19,615	$0	$2,465,484	$58,052	**$2,523,536**
CDDO of Southeast Kansas	$10,423,323	$13,710,326	$267,162	$251,061	$156,013	$0	$24,807,885	$516,597	**$25,324,482**
COF Training Services, Inc	$3,556,969	$4,678,662	$115,380	$115,334	$103,376	$0	$8,569,721	$286,500	**$8,856,221**
Sedgwick County Developmental Disability Organization	$19,250,380	$25,321,002	$856,202	$855,859	$1,121,807	$45,866	$47,451,116	$2,569,368	**$50,020,484**
Cottonwood Inc.	$6,924,917	$9,108,696	$223,724	$223,635	$119,674	$0	$16,600,646	$729,400	**$17,330,046**
Cowley County CDDO	$6,047,178	$7,954,161	$96,384	$96,346	$50,428	$0	$14,244,497	$90,000	**$14,334,497**
Disability Planning Organization of Kansas (DPOK)	$7,968,068	$10,480,804	$242,368	$242,271	$203,207	$0	$19,136,718	$0	**$19,136,718**
Developmental Services of Northwest Kansas (DSNWK)	$5,703,193	$7,501,700	$162,165	$162,100	$395,253	$0	$13,924,411	$884,616	**$14,809,027**
Butler County CDDO	$2,795,909	$3,677,601	$94,274	$94,236	$101,402	$0	$6,763,422	$200,000	**$6,963,422**
Futures Unlimited	$1,201,500	$1,580,394	$39,750	$39,734	$53,653	$0	$2,915,031	$168,983	**$3,084,014**
Harvey-Marion County CDDO	$2,339,002	$3,076,608	$82,665	$82,632	$162,793	$0	$5,743,700	$164,500	**$5,908,200**
Hetlinger Developmental Services, Inc.	$3,016,344	$3,967,551	$95,681	$95,642	$55,630	$0	$7,230,848	$46,000	**$7,276,848**
Johnson County Developmental Supports (JCDS)	$17,363,319	$22,838,856	$648,307	$648,048	$384,408	$0	$41,882,938	$6,045,292	**$47,928,230**
McPherson County Developmental Services (MCDS)	$3,625,668	$4,769,026	$86,183	$86,149	$130,126	$0	$8,697,152	$116,434	**$8,813,586**
Nemaha County Training Center	$637,555	$838,608	$23,920	$23,911	$29,765	$0	$1,553,759	$80,000	**$1,633,759**
New Beginnings Enterprises	$767,583	$1,009,641	$30,604	$30,592	$16,057	$0	$1,854,477	$91,000	**$1,945,477**
Riverside Resources, Inc.	$898,040	$1,181,237	$46,433	$46,415	$136,912	$0	$2,309,037	$97,100	**$2,406,137**
Southwest Developmental Services, Inc. (SDSI)	$11,092,586	$14,590,642	$390,462	$390,306	$351,636	$0	$26,815,632	$746,617	**$27,562,249**
Shawnee County CDDO	$12,972,420	$17,063,282	$376,743	$376,592	$259,588	$48,158	$31,096,783	$1,025,539	**$32,122,322**
Reno County CDDO	$3,707,544	$4,876,720	$116,083	$116,037	$175,252	$0	$8,991,636	$540,000	**$9,531,636**
Tri-Ko, Inc.	$4,003,269	$5,265,704	$86,183	$86,149	$117,058	$45,866	$9,604,229	$247,025	**$9,851,254**
Tri-Valley Developmental Services, Inc.	$3,023,297	$3,976,697	$91,811	$91,775	$102,985	$0	$7,286,565	$195,787	**$7,482,352**
Twin Valley Developmental Services	$1,538,809	$2,024,074	$41,860	$41,844	$65,588	$0	$3,712,175	$103,000	**$3,815,175**
Wyandotte County CDDO	$5,020,529	$6,603,756	$182,567	$182,494	$155,472	$0	$12,144,818	$564,279	**$12,709,097**
TOTALS	**$141,682,938**	**$186,362,768**	**$4,681,843**	**$4,663,979**	**$5,008,282**	**$139,890**	**$342,539,700**	**$16,616,041**	**$359,155,741**
	$328,045,706		**$9,345,822**						

(a) HCBS MRDD Waiver Allocation as shown in KDADS Fiscal Year 2014 initial contracts with CDDOs. This is the bulk of funding used to provide direct services to individuals with disabilities. This funding also includes state funding matched with federal funding. Mid-year, with the implementation of KanCare, KDADS amended its contracts with CDDOs and this funding is no longer included as part of those contracts.
(b) CDDO Administrative funding is provided to all 27 CDDOs to cover administrative costs. About one-half the funding is state funding and the other half is federal.
(c) State Aid is state general fund money used to provide services to individuals who do not qualify for the HCBS waiver. These are commonly referred to as "tier 0" services.
(d) Other funding is state general funding provided to three CDDOs to support residential services for children with intellectual and developmental disabilities.
(e) Funding is for Fiscal Year 2012, the latest information available.
Source: LPA summary of information from KDADS' FY2014 contracts with CDDOs.

APPENDIX D
Agency Responses

On February 18, 2014 we provided copies of the full draft audit report to the Department for Aging and Disability Services (KDADS), the 27 Community Developmental Disability Organizations (CDDOs), and Interhab, an association that represents most CDDOs. We also provided selected report sections and recommendations to Kansas Department of Health and Environment (KDHE) and the Kansas Attorney General. The CDDO responses are included in a supplemental report. This appendix includes the responses from KDADS, KDHE, Attorney General, and Interhab. It also includes brief summaries of several CDDO responses.

Kansas Department for Aging and Disability Services [Pages 53 to 60]

The agency generally concurred with the report's findings, conclusions, and recommendations. However, agency officials disagreed that membership dues paid by CDDOs to Interhab were not allowable under the state's contract. We reviewed the contract and believe that Interhab's direct participation in the contracting meetings is a non-allowable lobbying expense, if paid for with contracted funds. We also made minor corrections and clarifications to the final report as a result of feedback received from the Kansas Department for Aging and Disability Services that did not affect any of our findings or conclusions.

Office of the Attorney General [Pages 61 to 62]

The agency generally concurred with the report's findings, conclusions, and recommendations.

Kansas Department of Health and Environment [Pages 63 to 64]

The agency generally concurred with the report's findings, conclusions, and recommendations. We made minor corrections and clarifications to the final report as a result of feedback received from the Kansas Department of Health and Environment that did not affect any of our findings or conclusions.

Interhab [Pages 65 to 70]

Organization officials disagreed that membership dues paid by CDDOs to Interhab were not allowable under the state's contract. We reviewed the contract and believe that Interhab's direct participation in the contracting meetings is a non-allowable lobbying expense, if paid for with contracted funds. Officials also said the report findings included Interhab services such as training and technical support in non-allowable costs. We worked with CDDOs to ensure that allowable expenditures such as training were excluded from the finding. Finally, officials disagreed with a number of other statements or assertions in the draft report. After carefully reviewing the response, our documentation, we think our findings, conclusions, and recommendations are appropriate. However, we made minor corrections and clarifications to the final report as a result of feedback received from Interhab that did not affect any of our findings or conclusion.

Community Developmental Disability Organizations with Recommendations [Pages 70]

Four CDDOs included in our audit work had recommendations related to using restricted funds for non-allowable lobbying expenses. Of the four CDDOs, three disagreed with the audit's finding that the CDDO's use of state and federal funds to pay for Interhab membership dues was lobbying-related and therefore unallowable. CDDO officials responded that they do not believe Interhab's involvement in contract negotiations is lobbying and disagree with the audit's findings that the CDDOs' co-mingled funds. We reviewed the contract and believe that Interhab's direct participation in the contracting meetings is a non-allowable lobbying expense, if paid for with contracted funds. Additionally, upon further discussion with the CDDOs we believe that these CDDOs co-mingle funds from different revenue sources or comingle funds between the CDDO and their own service provider.

All Community Developmental Disability Organizations [Pages 71 to 77]

We invited all CDDO's to provide a brief response to be included in this appendix and complete responses to be included in a supplemental report. Of the 27 CDDOs, 14 provided complete responses and seven provided brief responses.

In their responses, several CDDO officials disagreed with a number of finding and conclusions. CDDOs raised disagreements with our findings related to consolidation of CDDOs, lobbying-related expenses, and several other findings. After carefully reviewing the CDDOs' responses, any supporting documents they provided, as well as our original documentation, we think our findings, conclusions, and recommendations are appropriate. We made minor corrections and clarifications to the final report as a result of feedback received from CDDO's that did not affect any of our findings or conclusion. Copies of CDDOs' complete responses and more detail about the disagreements raised are included in the supplemental report (R-14-006-Supplemental).

Office of the Secretary
New England Building
503 South Kansas Avenue
Topeka, KS 66603-3404

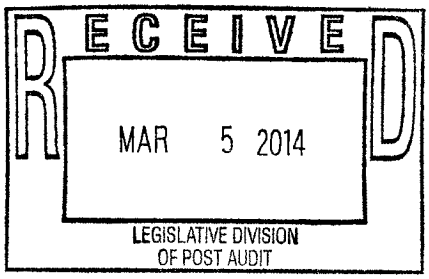
Kansas
Department for Aging
and Disability Services

Phone: (785) 296-4986
Fax: (785) 296-0256
wwwmail@kdads.ks.gov
www.kdads.ks.gov

Shawn Sullivan, Secretary

Sam Brownback, Governor

March 5, 2013



Mr. Scott Frank, Auditor
Legislative Division of Post Audit
800 Southwest Jackson Street, Suite 1200
Topeka, Kansas 66612-2212

Dear Mr. Frank:

Thank you for the opportunity to review and comment on the draft copy of your performance audit: *CDDOs: Reviewing Issues Related to Community Services Provided for Individuals with Disabilities.* The administration and oversight of the State's Intellectual and Developmental Disability (I/DD) program is a responsibility we take seriously. It is critical that the long-term services and supports provided to the individuals served are of high quality and that there is proper oversight of this $360 million dollar program.

The first question asked in the audit of "Do substantial conflict of interest remain for CDDOs that have their own service providers, and how could those conflicts be resolved" is a question that has now been asked in three separate LPA audits. We agree with the LPA report that the structure of the State's I/DD system creates an inherent conflict of interest for CDDOs. We found a similar structure with an inherent conflict of interest in the State's Physical Disability, Frail Elderly and Traumatic Brain Injury Home and Community Based Services (HCBS) programs. As a result, in November of 2012 we separated gatekeeping from the service provision and contracted with a separate entity to serve as the gatekeeper for these programs. The entity serving in this capacity is known as the Aging and Disability Resource Centers (ADRCs) and they are not allowed by contract to provide direct services for these HCBS programs.

From our reading of the draft LPA CDDO audit it still seems unclear as to whether there is direct evidence that CDDOs have taken advantage of the inherent conflict of interest. It is concerning that 60% of independent service providers responding to the LPA survey stated that it is a problem if a CDDO both assesses and provides services to individuals. The survey also pointed out that 75% of independent service providers responding think that a CDDO with its own service provider has an unfair advantage over other service providers and that 52% did not think that CDDO officials have taken appropriate actions to mitigate the conflict of interest.

KDADS does acknowledge and support the findings of the audit that there was no direct evidence that CDDOs took advantage of the inherent conflict of interest as it relates to extraordinary funding reviews and in quality assurance reviews. We also support the finding that independent service providers tend to serve a larger proportion of high-needs individuals than the CDDO's own service provider and that this may be a result of providers' specialization rather than CDDOs steering individuals in the referral process. This area does appear that it may warrant further study to determine why such a large percentage of the independent service providers surveyed by LPA believe that the CDDO has an unfair advantage in this respect.

KDADS would suggest that an additional area to be studied to determine if there is any direct evidence that CDDOs have taken advantage of the inherent conflict of interest is whether the level of services authorized in the plans of

care for CDDOs that provide case management and direct services is higher as compared to the CDDOs that do not provide direct services.

It is concerning that 65% of independent service providers responding did not think that KDADS has taken appropriate actions to mitigate the conflicts of interest and also that LPA determined there is weak oversight for CDDOs in several areas including extraordinary funding requests, peer review process, complaint tracking and BASIS assessments. In January 2014 our agency began a new process for extraordinary funding requests that enhances the oversight of the process. We will continue to work with CDDO and the Managed Care Organizations (MCOs) to fine-tune this process.

The agency does perform quality review for BASIS assessments, which is the functional eligibility tool that CDDOs complete. KDADS quality assurance staff conducts a review of BASIS assessments during their quality review process by applying the Kansas Lifestyle Outcomes (KLO) quality survey. The KLO reviews consumer intake and eligibility determinations, including BASIS assessments, to ensure processes are understandable, user-friendly and identifies each individual's need and eligibility for HCBS. The KDADS quality management specialists also review the eligibility determinations for timeliness and proper notification. Additionally, in October 2013, KDADS quality management specialists began administering the National Core Indicators (NCI) survey, which provides a standardized national tool for quality assurance and measurements. The CDDOs and KDADS also agreed to a new contract provision that started July 1, 2013 where the CDDOs work in cooperation with KDADS to provide ongoing training to all BASIS assessment staff.

The CDDOs and the State also agreed to new contractual measures last year with the CDDO peer review process. These measures are related to the development of an adequate statewide pool of trained reviewers, coordination and planning for each CDDO, and information to be provided prior to the peer review completed at each CDDO.

Despite these enhancements made by CDDOs and the State over the last year, we agree that measures need to be taken to enhance oversight. The CDDOs represented by Interhab and KDADS have had several discussions over the last few weeks on this subject and have agreed to make improvements to the peer review process, formal complaint tracking process and BASIS eligibility assessment system.

In order to continue improvement of the CDDO peer review process, KDADS will work with the CDDO's, one of our university contractors and our KDADS I/DD Friends and Family Advisory Team to review and update our policies and procedures related to the peer review process in order to create more consistency, a better tracking system, and to determine the proper frequency and length of each peer review.

In order to improve the system's complaint tracking, KDADS will work with the CDDO's, one of our university contractors and our KDADS I/DD Friends and Family Advisory Team to update policies and procedures around complaint tracking. This work will explore the logging, tracking and documenting of the initial complaints and their resolution.

To continue improvement of the BASIS eligibility assessment system, KDADS will work with the CDDO's and one of our university contractors to develop policies and procedures for regular sampling of the BASIS assessments for quality assurance purposes. KDADS and the CDDO's will also work with one of our university contractors to update validity testing plans and procedures for the BASIS assessment.

The agency also believes that the inclusion of the I/DD HCBS program greatly enhances the oversight of the system. Each of the 8,600 individuals served on the program are assigned a Care Coordinator from the MCO they are a member of. The Care Coordinator works in tandem with the Community Targeted Case Manager to create the integrated service place for each person. In the former system the CDDO would complete the BASIS eligibility assessment and then the Targeted Case Manager who often works for the same organization would complete the care plan and the same organization would often provide direct services. In KanCare, the Care Coordinator brings balance to the process as the MCO is authorizing the integrated service plan that is developed for the person.

The second question asked in the audit of "How could the community service system be changed to maximize the amount of funding available to provide services for individuals with developmental disabilities" is an important question to ask as Kansas spends 20% more per capita than the national average and 37% more than our border states on our I/DD HCBS program and yet we still have more than 3,000 individuals on the unserved waiting list.

We do agree with the LPA finding that Kansas could increase federal revenues by up to $6.5 million by redirecting $5 million in state aid to the HCBS I/DD program. We also agree that taking this action would help some individuals on the unserved waiting list access services but could potentially cause others to lose services. The CDDOs and KDADS agreed to new contract language in 2013 to increase the oversight, accountability and targeted use of I/DD State Aid funding. As per the contract, KDADS required State Aid funding to be used in three main service areas of transportation, children's services and direct services. In addition, KDADS revised the quarterly reporting of State Aid funding to include expenditures, persons served and units provided from each CDDO by service category and provider. We will report back to the Legislature on the findings and our additional dialogue with CDDOs on this topic.

We are supportive of alternative payments models such as the bundling of payments and fewer fee-for-service payments recommended by LPA. KDADS and KDHE along with a broad group of stakeholders are developing a Health Home model to be launched in July 2014, for members with serious mental illness or defined chronic conditions. Additionally, KanCare MCOs may contract with providers on other than a fee-for-service basis if agreed by the provider and approved by the State.

It is also worth noting that the State has a number of preventative controls in place to reduce the risk of inappropriate Medicaid payments and fraud. The preventative controls related to provider enrollment, the MMIS system, prior authorization and KanCare. KDADS will work with KDHE and the Attorney General's office to explore if additional fraud preventative measures are necessary, including the possibility of requiring background checks for our community service providers. Additionally, KDADS will explore if additional measures are necessary to review suspicious claims.

Finally, to the LPA recommendation related to CDDO lobbying-related activities, KDADS is in the process of reviewing audit and financial reporting policies to ensure appropriate oversight of agency funding that is allocated to CDDOs. This includes, but is not limited to, independent audit requirements, KDADS audit processes and CDDO Administrative funding reporting. We do believe that CDDOs paying membership dues to Interhab for the purpose of contract negotiation with KDADS or for training, technical assistance, and professional networking opportunities is an allowable expense and does not meet the definition of lobbying found in provision 13 of the DA-146a attachment to the KDADS contract. The agency believes that further study is warranted to determine whether other activities noted by LPA are allowable expenses through the same contract provision.

The agency's response to the all LPA recommendations for executive action is included in the attached matrix. We appreciate the opportunity to evaluate this audit report and its recommendations.

Sincerely,

Shawn Sullivan
Secretary
Kansas Department for Aging and Disability Services

Itemized Response to LPA Recommendations

Audit Title: LPA 13-006 – CDDOs: Reviewing Issues Related to Community Services Provided for Individuals with Disabilities

Agency: KDADS

	LPA Recommendation	Agency Action Plan
Question 1		
1.	KDADS should develop and implement a system that allows their officials to screen and thoroughly review extraordinary funding applications before funding is approved.	KDADS HCBS staff have already implemented a plan of enhanced oversight for extraordinary funding requests. Additionally, KDADS staff will work with the CDDO's and MCO's over the next several months to propose new policy and procedures that address how these requests will be addressed moving forward.
2.	To address the issues of the peer review process, KDADS should:	
	a. Develop process and procedures to ensure consistency of peer review teams.	KDADS has will work with the CDDO's, one of our university contractors and our KDADS I/DD Friends and Family Advisory Team to review and update our policies and procedures related to the peer review process and as part of this work, will determine the best course for assuring consistency in the reviews.
	b. Develop and implement policies and procedures that provide guidance on how to follow up with CDDOs that have deficiencies identified in the peer review. Items to consider including are follow-up deadlines, penalties that will be incurred if a deficiency is not resolved, and a system to track whether the deficiency has been resolved.	KDADS will work with the CDDO's, one of our university contractors and our KDADS I/DD Friends and Family Advisory Team to update policies and procedures around the peer review process. This work will consider what follow up will occur when deficiencies are noted, whether penalties should be incurred, and a tracking system for assuring deficient issues are resolved.
	c. Consider increasing the amount of time the peer review team has to conduct file reviews and other on-site work.	KDADS will work with the CDDO's, one of our university contractors and our KDADS I/DD Friends and Family Advisory Team to update polices and procedures around the peer review process. We will also take into consideration whether we should increase the amount of time we spend on this process as a whole, if adequate time exists to review files and whether more on-sight work is warranted.
	d. Consider conducting peer reviews on a more frequent basis.	KDADS will work with the CDDO's, one of our university contractors and our KDADS I/DD Friends and Family Advisory Team to update the policy and procedures around the peer review process and will take into consideration whether more frequent reviews should occur.
3.	To address the issue of KDADS or CDDO officials not tracking complaints, KDADS officials should work with CDDOs to develop and implement a complaint tracking system that:	

Itemized Response to LPA Recommendations

Audit Title: LPA 13-006 – CDDOs: Reviewing Issues Related to Community Services Provided for Individuals with Disabilities

Agency: KDADS

	LPA Recommendation	Agency Action Plan
Question 1		
	a. Requires CDDOs to log and track the status of all complaints to know whether they have been resolved.	KDADS will work with the CDDO's, one of our university contractors and our KDADS I/DD Friends and Family Advisory Team to update policies and procedures around complaint tracking. This work will explore the logging, tracking and documenting of the initial complaints and their resolution.
	b. Requires CDDOs to submit periodic reports to KDADS on the status of all complaints. Consider including such things as the nature of the most common complaints and whether the complaints have been adequately resolved in a timely manner.	The policies developed in conjunction with the CDDO's, our university contractor and our KDADS I/DD Friends and Family Advisory Team will require submission of agreed upon elements to KDADS for on-going review.
4.	To address the issue of KDADS having no role in the BASIS assessment process and providing no oversight in the eligibility process, KDADS officials should develop and implement policies and procedures to ensure BASIS assessments are accurate and consistent. Two potential options exist to address this recommendation:	
	a. KDADS staff review a sample of BASIS assessment tests and supporting documentation to ensure individuals are in the appropriate tier.	The agency does perform quality review for BASIS assessments. KDADS quality assurance staff conducts a review of BASIS assessments during their quality review process by applying the Kansas Lifestyle Outcomes (KLO) quality survey. The KLO reviews consumer intake and eligibility determinations, including BASIS assessments, to ensure processes are understandable, user-friendly and identifies each individual's need and eligibility for HCBS. The KDADS quality management specialists also review the eligibility determinations for timeliness and proper notification. Additionally, in October 2013, KDADS quality management specialists began administering the National Core Indicators (NCI) survey, which provides a standardized national tool for quality assurance and measurements. The CDDOs and KDADS also agreed to a new contract provision that started July 1, 2013 where the CDDOs work in cooperation with KDADS to provide ongoing training to all BASIS assessment staff. KDADS will work with the CDDO's and one of our university contractors to develop policies and procedures for regular sampling of the BASIS assessments for quality assurance purposes.
	b. KDADS staff develop and conduct their own assessment to verify the validity of the BASIS assessment test results.	KDADS and the CDDO's will also work with one of our university contractors to update validity testing plans and procedures for the BASIS assessment.

Itemized Response to LPA Recommendations

Audit Title: LPA 13-006 – CDDOs: Reviewing Issues Related to Community Services Provided for Individuals with Disabilities

Agency: KDADS

	LPA Recommendation	Agency Action Plan
Question 1		
5.	If legislation is passed that prohibits CDDOs from serving as both a gatekeeper and service provider, KDADS should develop a process for approving all reorganizations.	No action plan is needed. There has not been legislation passed to prohibit CDDOs from serving as both a gatekeeper and a service provider.
Question 2		
1.	To address the issue of reducing the costs associated with paying service providers on a fee-for-service basis, KDADS and KDHE should consider implementing more cost effective payment reform options such as bundled or capitated payments to community services providers	We are supportive of alternative payments models such as the bundling of payments and fewer fee-for-service payments recommended by LPA. KDADS and KDHE along with a broad group of stakeholders are developing a Health Home model to be launched in July 2014, for members with serious mental illness or defined chronic conditions. Additionally, KanCare MCOs may contract with providers on other than a fee-for-service basis if agreed by the provider and approved by the State.

Itemized Response to LPA Recommendations

Audit Title: LPA 13-006 – CDDOs: Reviewing Issues Related to Community Services Provided for Individuals with Disabilities

Agency: KDADS

	LPA Recommendation	Agency Action Plan
Question 1		
2.	To address the issue of reducing the risk of inappropriate Medicaid payments and fraud through effective prevention efforts, KDHE, the Attorney General, and KDADS should collaborate and develop a plan for implementing additional preventative efforts such as conducting background checks of services providers before contracting and reviewing claims for suspicious patterns before paying them.	There are numerous preventive activities are already in place to prevent inappropriate payment of claims, including: • Provider enrollment. The enrollment process includes a number of verifications used to ensure the provider has an active license to practice (as applicable) and the provider, owners or managing employees are not excluded from participation in government programs. This is verified by accessing the Federal Exclusion list. Exclusion verifications are conducted monthly on an ongoing basis as long as the providers remain enrolled. The enrollment staff also checks the Social Security Death Master File for the person requesting the enrollment and all included on the Disclosure of Ownership form. Additional monthly matches are performed against the KDHE's vital statistics information. • MMIS. The State's claims processing system, the MMIS, has a number of edits designed to prevent potentially fraudulent claims from being paid. Examples include verification of eligibility, verification that the service provider is the provider listed on the plan of care, and prevention of payment of claims above authorized limits. • Prior Authorization. Additionally, certain services must be prior authorized. Examples include durable medical equipment (DME), defined medications, and home health. • KanCare MCOs. The three KanCare MCOs also have comparable processes in place in their systems. KDADS will work with KDHE and the AG's office to explore if additional fraud preventative measures are necessary, including the possibility of requiring background checks for our community service providers. Additionally, KDADS will explore if additional measures are necessary to review suspicious claims.

Itemized Response to LPA Recommendations

Audit Title: LPA 13-006 – CDDOs: Reviewing Issues Related to Community Services Provided for Individuals with Disabilities

Agency: KDADS

	LPA Recommendation	Agency Action Plan
Question 1		
3.	To address the issue of CDDOs inappropriately spending funds on lobbying-related activities, KDADS should develop a process to more actively monitor expenditures, which could include sampling and reviewing actual expenditure records or requiring independent audits to review and report on such expenditures.	KDADS is in the process of reviewing audit and financial reporting policies to ensure appropriate oversight of agency funding that is allocated to CDDOs. This includes, but is not limited to, independent audit requirements, KDADS audit processes and CDDO Administrative funding reporting. We do believe that CDDOs paying membership dues to Interhab for the purpose of contract negotiation with KDADS or for training, technical assistance, and professional networking opportunities is an allowable expense and does not meet the definition of lobbying found in provision 13 of the DA-146a attachment to the KDADS contract. The agency believes that further study is warranted to determine whether other activities noted by LPA are allowable expenses through the same contract provision.

STATE OF KANSAS
OFFICE OF THE ATTORNEY GENERAL

DEREK SCHMIDT
ATTORNEY GENERAL

MEMORIAL HALL
120 SW 10TH AVE., 2ND FLOOR
TOPEKA, KS 66612-1597
(785) 296-2215 • FAX (785) 296-6296

RECEIVED
MAR 3 2014
LEGISLATIVE DIVISION
OF POST AUDIT

March 3, 2014

Scott Frank
Legislative Post Auditor
800 SW Jackson Street
Suite 1200
Topeka, KS 66613

Dear Scott:

Thank you for this opportunity to provide information in response to the performance audit *CDDOs: Reviewing Issues Related to Community Services Provided for Individuals with Disabilities*.

The Office of the Attorney General strongly supports efforts to reduce fraud and inappropriate payments within the Kansas Medicaid program. The audit's recommendation for additional collaboration among the paying agencies and the Office of the Attorney General is reasonable, and we would be happy to participate.

In addition, we would recommend that Kansas consider taking advantage of new changes in federal law that allow Medicaid Fraud Control Units (MFCU), such as the one housed in our office, to begin the use of data analysis to identify suspect payment patterns and focus enforcement on data-driven priorities. This change, which has been federally approved only in the past year, is potentially monumental in allowing a more efficient and effective focus on identifying Medicaid fraud.

This new data-driven approach would need to be led by the Office of the Attorney General because we house the MFCU. It would require close collaboration with the agencies that administer the Kansas Medicaid program, including access to their data. It also would require the retention on contract of analytical firms specializing in these data-review operations.

Thank you for considering our response.

Sincerely,

Derek Schmidt

Derek Schmidt
Kansas Attorney General

Itemized Response to LPA Recommendations

Audit Title: **LPA 13-006 – CDDOs: Reviewing Issues Related to Community Services Provided for Individuals with Disabilities**

Agency: **Attorney General**

LPA Recommendation		Agency Action Plan
Question 2		
2.	To address the issue of reducing the risk of inappropriate Medicaid payments and fraud through effective prevention efforts, KDHE, the Attorney General, and KDADS should collaborate and develop a plan for implementing additional preventative efforts such as conducting background checks of services providers before contracting and reviewing claims for suspicious patterns before paying them.	The Office of Attorney General would be happy to participate in these discussions regarding administration of the Medicaid program if they are initiated by the agencies that administer the Medicaid program.

Kansas
Department of Health and Environment

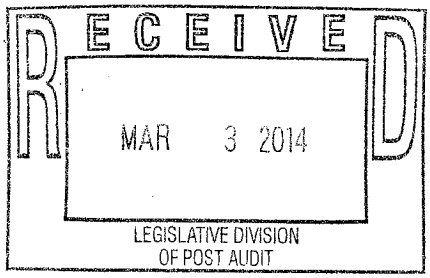
Landon State Office Building
900 SW Jackson Street, Room 900-N
Topeka, KS 66612

Phone: 785-296-3981
Fax: 785-296-4813
www.kdheks.gov/hcf/

Robert Moser, MD, Secretary

Sam Brownback, Governor

March 3, 2014



Mr. Scott Frank
Legislative Post Auditor
800 SW Jackson Street, Suite 1200
Topeka, KS 66612-2212

Dear Mr. Frank:

The Division of Health Care Finance (DHCF) has reviewed select recommendations related to the Kansas Department of Health and Environment (KDHE) presented in the Legislative Division of Post Audit's (LPA) report titled, *CDDOs: Reviewing Issues Related to Community Services Provided for Individuals with Disabilities*. DHCF reviewed two LPA recommendations and the LPA responses to two questions.

The KDHE response to the two LPA recommendations is included in the attached matrix. Additionally, KDHE would like to clarify that the reasons cited for delaying the transition of long term services and supports for members with intellectual or developmental disabilities into KanCare from January 2014 to February 2014 were: 1) to allow additional time for the Centers for Medicare & Medicaid Services (CMS) and Kansas to consider public comments; 2) to ensure a corrective action plan had been approved to eliminate the list of individuals receiving some but not all requested I/DD waiver services (commonly known as the "underserved list").

We appreciate the opportunity to evaluate portions of this audit report and two of its recommendations.

Sincerely,

Robert Moser, MD
Secretary
Kansas Department of Health and Environment

Itemized Response to LPA Recommendations

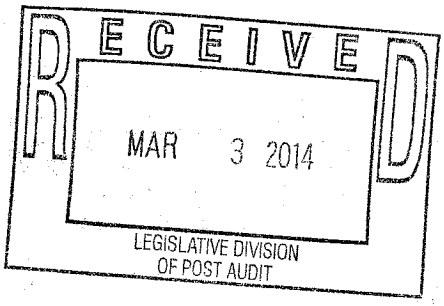
Audit Title: **LPA 13-006 – CDDOs: Reviewing Issues Related to Community Services Provided for Individuals with Disabilities**

Agency: **KDHE**

	LPA Recommendation	Agency Action Plan
Question 2		
1.	To address the issue of reducing the costs associated with paying service providers on a fee-for-service basis, KDADS and KDHE should consider implementing more cost effective payment reform options such as bundled or capitated payments to community services providers.	KDHE is committed to continuous program improvement, including in care and payment models. For example, KDHE is working with a broad group of stakeholders on development of the Health Home model, scheduled to launch in July 2014, for members with serious mental illness or defined chronic conditions. Additionally, KanCare MCOs may contract with providers on other than a fee-for-service basis if agreed by the provider and approved by the State.
2.	To address the issue of reducing the risk of inappropriate Medicaid payments and fraud through effective prevention efforts, KDHE, the Attorney General, and KDADS should collaborate and develop a plan for implementing additional preventative efforts such as conducting background checks of services providers before contracting and reviewing claims for suspicious patterns before paying them.	KDHE points out that numerous preventive activities are already in place to prevent inappropriate payment of claims, including: • Provider enrollment. The enrollment process includes a number of verifications used to ensure the provider has an active license to practice (as applicable) and the provider, owners or managing employees are not excluded from participation in government programs. This is verified by accessing the Federal Exclusion list. Exclusion verifications are conducted monthly on an ongoing basis as long as the providers remain enrolled. The enrollment staff also checks the Social Security Death Master File for the person requesting the enrollment and all included on the Disclosure of Ownership form. Additional monthly matches are performed against the KDHE's vital statistics information. • MMIS. The State's claims processing system, the MMIS, has a number of edits designed to prevent potentially fraudulent claims from being paid. Examples include verification of eligibility, verification that the service provider is the provider listed on the plan of care, and prevention of payment of claims above authorized limits. • Prior Authorization. Additionally, certain services must be prior authorized. Examples include durable medical equipment (DME), defined medications, and home health. • KanCare MCOs. The three KanCare MCOs also have comparable processes in place in their systems.

INDEPENDENCE
INCLUSION
INNOVATION

INTERHAB



March 3, 2014

InterHab response to the findings of the Legislative Post Audit study regarding the operation and financing of the intellectual/developmental disability (I/DD) community service network.

1. We concur with the principal findings of this report that:

a. There is no evidence of community developmental disability organizations (CDDOs) unfairly managing requests from CSPs for extraordinary funding requests;

b. There is no evidence of CDDOs exploiting the statutory design of the system to create advantages for community service providers (CSPs) that operate under the same organizational umbrella as the CDDO;

c. There is no evidence of CDDOs unfairly overseeing quality assurance activities;

If however it is deemed important to increase administrative activities (and related costs) to further oversee the system on the above points, we would work closely with the State to evaluate and improve the management of extraordinary funding requests, quality assurance but most especially those matters which assure the rights of and the quality of services for persons with I/DD.

2. We concur with the finding that a review of the current peer-reviewed evaluation of the CDDO system may be helpful, and we would participate with the State and other stakeholders to strengthen the process.

We would also recommend that LPA and KDADS staff provide the committee with details that illustrate the comprehensive nature of the current peer review process, and the results thus far, which give high marks to the CDDO system. We are disappointed so little mention was made of the highly positive evaluation results.

Finally, it should be noted that CDDO staff and CSP staff who currently assist in the peer review process are reimbursed for their travel expenses, but the work is a *pro bono* contribution of their employing organizations; therefore, it would be appropriate to recognize the unreimbursed costs incurred by CSPs and CDDOs, and to estimate the additional costs to be incurred should the system become more time consuming for State and Community officials. Costs such as those should be covered by the State.

700 SW JACKSON ST., SUITE 803 TOPEKA, KANSAS 66603 |P|785.235.5103 |F|785.235.0020 WWW.INTERHAB.ORG

3. We concur with the finding that a uniform statewide approach to track formal complaints does not exist that would enable the State to more efficiently review the nature of formal complaints and the means by which formal complaints are resolved. We would gladly assist the State in designing such a system.

4. We concur with the finding that no formal State review process exists to evaluate BASIS assessments, as had previously been the case in prior administrations, and CDDOs would cooperate as in the past with any State effort to renew procedures to routinely sample and analyze BASIS assessments.

5. We concur with the LPA analysis that a shift of State Aid SGF to the waiver would result in loss or reduction of services to an aggregated number of persons far greater than the number of persons who would benefit. For that reason, among others, we do not recommend such a funding shift.

We would also like to register our comments on the following points, where we disagree, or where we believe additional information would make for a more accurate report.

1. The report briefly describes the history (beginning on page 4) of the creation of CDDOs. However, it should be known that the Kansas system did not suddenly appear as a result of the DD Reform Act. The system began forming years before that, matured, and evolved in ways which were then formalized in statute via the DDRA. The following historical perspective may be helpful in understanding the structure of today's network:

Community service organizations slowly emerged and became active in dozens of communities to meet the expressed needs of persons needing services and their families who did not want their sons and daughters placed in out of town institutional care. This activity began before most of the eventual State and Federal policy formation on community based services.

In the 1970s as the community movement grew, State and Federal policy emerged to promote community-based services for persons with I/DD. At that point the Legislature directed every county to singly or jointly designate county government, or local private not-for-profit organizations, to be service centers for persons and their families facing the challenges of developmental disabilities. These county-run or private not for profit organizations were chosen by counties (with State approval) to be Community Mental Retardation Centers (CMRCs)

In 1995, because the system had worked well and to the increasing satisfaction of affected parties, and because far more persons were being served in community based settings than in institutions, the Legislature refined and formalized statutory assignments in the Developmental Disability Reform Act, and handed off more administrative functions to the community, which lessened the administrative overhead of the State. The new name for the CMRC role became Community Developmental Disability Organization (CDDO).

It is especially important to understand that before these organizations accepted the roles and responsibilities incumbent upon CMRCs (subsequently expanded as CDDOs) the vast majority of these organizations were direct service organizations, and most remain so today.

The current structure has sustained a strong service network, a strong collaborative relationship with State and Community officials, and multiple positive programmatic outcomes for the State. All of this occurred without requiring the creation of a new set of administrative offices, which would have certainly increased the administrative costs of the system.

2. On page 5, it is noted that CDDOs are responsible for informing individuals or families of all CSPs in the system. It should also be noted that the targeted case manager (TCM) chosen by that person or family assists in the choice-making process. TCMs are rarely employed by CDDOs.

3. It is important to examine CDDO administration (as discussed on page 6) as a percentage of the total waiver program. $9 million which is expended for administration in the $328 million program, represents a 2.74% administrative cost allocation. We would challenge any State sponsored program or State agency to match the CDDO administrative efficiency.

4. Regarding the discussion of the uses of State aid on pages 6 and 7 it is important also to note that the population of persons not eligible for the HCBS I/DD waiver also includes the families of children with I/DD who are ineligible for waiver services simply because of their age.

5. Regarding the discussion on page 9, the study implies that CDDOs are solely responsible for the choices made by persons, families and guardians in terms of what entity will provide services for the consumer, which is not accurate. CDDOs are responsible for making sure all CSP options are known to the family. Consumers, families and guardians then choose their case manager from among all case managers in the area, and it is the case managers that assist the person/family/guardian who then is solely responsible for choosing service providers.

6. Also regarding discussions on pages 9 and 10 as to the authority CDDOs may exert over CSPs, the report overstates CDDO authority by ignoring the reality that CSPs do not operate under the authority of the CDDO but under the licensure authority of the State. All CSPs have equal rights, including the right to administrative appeal of any decision of the CDDO.

7. Throughout the study there is little mention of the stakeholders who have and continue to collaborate to assure that system management is properly undertaken. The State agency, community service providers, and consumers and families have worked and continue to work with CDDOs to design and refine systems that have withstood a high degree of scrutiny. The IDD system has been designed and overseen employing more stakeholder collaboration than any other programs the State runs or sponsors.

8. Reference is made on pages 13 and 14 regarding areas of the State in which persons with high-need diagnostic profiles seem to be concentrated with few providers. The area in question

was not cited, but the Cowley and Butler County region is certainly one such region, if not the only one. During the closure of Winfield State Hospital and Training Center (WSHTC), the State actively supported the creation of a new specialized service provider and shepherded persons formerly living at WSHTC to that service provider. The resulting concentration of persons with that provider occurred not because of CDDO activity, but because the State wanted that to be the outcome. The CDDO was not involved due to State intervention.

9. We disagree with the assertion attributed to the State agency that contract talks are too cumbersome to enable them to successfully discuss stronger oversight activities. We believe that is not the case, and the evidence of many years of collaborative state and community negotiations would also refute that assertion.

10. We appreciate LPA staff acknowledgement that more information should be reviewed before judgments are made regarding a reconfiguration of the community I/DD network. However, we would note the mention made regarding the comparability of the Aging and Disability Resource Centers (ADRCs) to CDDOs in their scope of work. The scope of work of CDDOs is vastly more complex and varied than the work assigned to ADRCs, and such comparisons are not applicable.

11. The report is correct in pointing out on page 28 that moving State Aid dollars to the waiver would result in a loss of services to a number of persons, but failed to point out that the shift of state aid, which currently benefits all regions of the State would result in a geographic shift of most dollars from rural areas to urban areas (where the HCBS waiting list is the longest); thus, the aggregate loss of service resources would be most felt in rural counties.

12. On page 29, the reference to the manner in which funding is paid out does not take note that most rates paid to the community for HCBS services are already currently bundled into two services (day services and residential services). Further, the suggestion that the CDDO contract does not allow for payment restructuring is not accurate. Reimbursement rates are not, and have never been, subject to contract negotiations unless the State has expressed a desire to do so. In any event, CDDOs are not paid in this manner; CSPs are the parties that receive the reimbursement for services performed.

13. Regarding the discussion about tiers and BASIS assessments, the network (CSPs and CDDOs) have for years been engaged with the State on both topics, neither of which is governed as a contract item. The contracts chiefly establish the "how-to" protocols of State policies.

14. On page 30, the report calls out lobbying and asserts such actions have been undertaken with CDDO funds, making mention only of the amounts paid to InterHab, the state association representing 24 of the 27 CDDOs, and identifying contract negotiations as "lobbying", asserting that such expenditures violate the terms of the CDDO agreements with the State. After reviewing this, both with legal counsel and the State Ethics Commission, we are confident that this aspect of the report is in error. The report mentions the dollars spent and appears to have counted all dollars paid to InterHab (this amount includes training, association meetings, the

organization of technical support and professional resource networks, and the pooling of resources for legal advice and representation, and so on). We are unaware of prohibitions for CDDOs to pay dues to an association, to incur costs for attending association meetings, to receive training and technical assistance, to engage in statutorily required contract negotiations with the State, as well as the numerous non-lobbying activities that constitute the majority of the association's activities.

Summary:
The Kansas system of services and supports for persons with intellectual/developmental disabilities in the past 18 years of its current configuration has:

- widely expanded consumer choice;
- reduced state administrative overhead by assuming numerous administrative roles in the community;
- enabled thousands of families to stay together;
- helped the State close most of its institutional beds (saving taxpayers many tens of millions of dollars) and all its large privately-run institutions (saving many millions more for taxpayers);
- enabled policy makers to make I/DD services (and their economic impact) available in every county of the State (when previously the overwhelmingly biggest per capita share of taxpayer assistance for I/DD services was spent in only the 4 counties where the institutions were located); and,
- accomplished these works in an efficient manner, i.e. Kansas spends less per person today on long term services and supports for persons with I/DD than it did 20 years ago.

The Kansas I/DD system works well, because State and Community stakeholders have endeavored together to make things work well.

Kansas has a strong I/DD foundation in Kansas that should be nurtured and supported.

Years of financial neglect by State officials are the greatest barriers to the future viability of I/DD services, and that fact should receive at least as much concern and consideration as has this discussion about the administrative structure of the system.

Tom Laing, Executive Director
InterHab

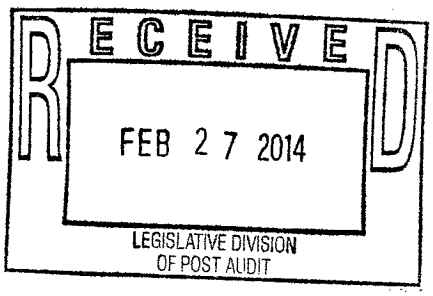
Itemized Response to LPA Recommendation

Audit Title: **LPA 13-006 – CDDOs: Reviewing Issues Related to Community Services Provided for Individuals with Disabilities**

Below are the responses from the four sample CDDOs that we identified in the report as having inappropriately spent funds on lobbying-related activities. Of the four CDDOs, three disagree with the audit's findings and indicate so in their action plan listed below.

Question 2: LPA Recommendation	
3. To address the issue of CDDOs inappropriately spending funds on lobbying-related activities: b. The four sampled CDDOs that had non-allowable expenditures identified should take the steps necessary to ensure the funding is not state or federal funding (for example, eliminate co-mingling by separating and tracking different funding sources).	
CDDO	**Agency Action Plan**
Developmental Services of Northwest Kansas	We disagree with the finding that CDDO state and federal funds were spent on non-allowable expenditures. State and Federal funds received for CDDO administration were deposited in the same bank account as other DSNWK operations for the years reviewed in this report. However, a detailed chart of accounts is maintained and cost centers are used to separate functions within the general ledger. Expenses for CDDO functions have always been tracked in separate cost centers. We can demonstrate that CDDO administration funds received from KDADS were spent in their entirety for CDDO functions and that none of those funds were used for association dues or for lobbying purposes. To demonstrate further accountability, a separate bank account in which to deposit and disburse CDDO administration funds was established as of July 1, 2013.
Johnson County Developmental Supports	JCDS will continue to review the purpose of all spending, as is the current practice. After reviewing the report JCDS, does not believe CDDO funds were inappropriately spent on lobbying. JCDS is an agency within Johnson County government and utilizes the county's financial system. All revenue sources and expenses are tracked and accounted for separately by federal, state, local and grant funding. As is the current practice, JCDS will continue to monitor all revenue sources and expenditures to assure they are tracked appropriately within the county's system.
Sedgwick County CDDO	SCDDO reviewed all identified non-allowable expenditures to ensure that all staff managing allocated funds understand what is and is not considered to be an allowable expense. We have made adjustments to internal practices associated with processing invoices and budgeting. Staff who work with the SCDDO budget or accounts payable have been trained on the adjustments to our practices to ensure compliance with KDADS/CDDO contract.
Tri-Valley Developmental Services, Inc.	The Tri-Valley CDDO disagrees with the audits findings that the CDDO used government funds on lobbying related activities. In order to alleviate this false impression that funds were used towards lobbying, we plan to consult with our independent auditors to determine what changes need to be made to our policies and procedures to ensure that lobbying related activities are not funded by state or federal dollars.

CDDO of Southeast Kansas
Community Developmental Disability Organization
PO Box 266 1200 Merle Evans Drive Columbus, KS 66725
620-429-8985 FAX 620-429-8723



February 27, 2014

Mr. Scott Frank
Kansas Legislative Division of Post Audit
800 SW Jackson Street, Suite 1200
Topeka, Kansas 66609

Dear Mr. Frank,

Thank you for the opportunity to review the draft audit report titled "CDDOs: Reviewing Issues Related to Community Services Provided for Individuals with Developmental Disabilities."

We believe that while the audit identified the *potential* for conflicts of interest in the developmental disability waiver system, it is very important to note that no direct evidence of CDDOs taking advantage of the perceived inherent conflict of interest was found. This conclusion bears repeating, and is in fact called out multiple times within the report, including the following findings:

- There was no direct evidence of CDDOs steering individuals toward or away from their own service providers
- No examples of CDDOs inappropriately awarding extraordinary funding were found
- No direct evidence was found of CDDOs favoring their own or other service providers when performing quality assurance reviews

With regards to the maximization of funding for community services, we are cognizant of the funding challenges which are present at a time when thousands of individuals are either unserved or underserved. We agree that further study would be needed prior to considering consolidation of CDDOs and caution that the calculated rough savings estimate could prove unreliable and should not be the basis for any action at this time.

If you have any questions, please contact our office.

Sincerely,

Scott Thompson
President/CEO
CDDO of Southeast Kansas

Cliff Sperry
Vice President
CDDO of Southeast Kansas

DEVELOPMENTAL SERVICES of NORTHWEST KANSAS, INC.

CDDO

2703 Hall
(785) 625-5678
fax number (785) 625-8204

P.O. Box 1016
Hays, KS 67601
www.cddo.dsnwk.org

RECEIVED
MAR 3 2014
LEGISLATIVE DIVISION
OF POST AUDIT

March 3, 2014

DSNWK / CDDO - Brief Response - Summary response for main LPA

The LPA charged to review CDDOs regarding conflicts of interest is not a new charge. The authors of the DDRA understood the potential, and this led to the establishment of appropriate structure, oversight, safeguards, policies and appropriate involvement of the service network and stakeholders. The leading question in the scope statement, 'Do substantial conflicts of interest remain?" set a tone for LPA reviewers to follow. No evidence was found of conflict of interest, a sharp contrast to the assertion implied. This study should stand as clear and convincing evidence that inherent conflicts of interest have been effectively mitigated within the current CDDO system structure. With no findings to the contrary, implementing changes to the DDRA (the purpose behind SS HB 2155) would be counter-intuitive. The I/DD system has relied upon a strong CDDO system focused on delivering the core functions of the DDRA: Supporting persons with I/DD and engaging them in work and activities that maximize their abilities, independence, integration, inclusion and productivity in the community. The community I/DD system, under KanCare, will need to rely more, not less, on this strength to ensure success.

Gerard L. Michaud
CDDO President

The Designated Community Developmental Disability Organization for Northwest Kansas

Disability Planning Organization of Kansas
A Community Developmental Disability Organization Serving Kansans

RECEIVED
MAR 3 2014
LEGISLATIVE DIVISION
OF POST AUDIT

Scott Frank
Legislative Post Auditor
800 SW Jackson Street, Suite 1200
Topeka, KS 66612-2212

Dear Mr. Frank,

The auditors have been diligent and properly analyzed the scope of work, unfortunately the inquiry misses the conscientiousness with which the DD Service System has been administered since the 1995 DD Reform Law passed. This law was created in partnership with people with I/DD, family members, community service providers, state officials and legislators. It had a solid foundation and was forward thinking in its design.

Together administration personnel and CDDOs have created regulations, policies, contracts, committee practices and communication channels.
QMS field staff relate with CDDOs in all aspects of local operations, Central office consults in funding operations and processes. Affiliating providers have direct access to central office administration and field staff. The I/DD Reform system has respected the rights of people and the fairness of operations throughout its 20 years. KDADS assumed system authority during an extreme state of change in department, personnel, Medicaid system and CMS expectations. It is regrettable that this report criticizes KDADS oversight and persists with complaints that are isolated and calling out system flaws that were perhaps short-sighted when built into its original design.

We are pleased that no evidence of mismanagement of system responsibilities was found. We support strengthening the peer review process and validation of the assessment tools. The LPA Team's collaborative effort to ask questions and allow for corrections is greatly appreciated.

Kansas' definition of people with I/DD is broader than HCBS waiver program. State aid is the only funding left to serve that group of people.

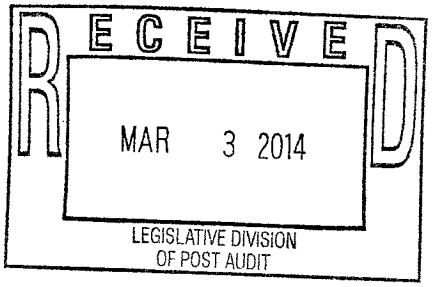
Thank you for your time and consideration.

Sincerely,

Shelia Nelson-Stout
President/CEO

119 W. Iron, 4th Floor | P.O. Box 1067 | Salina, KS 67402-1067
Tel (785) 823-3173 | Toll Free (866) 886-3765 | Fax (785) 823-3299 | www.dpok.com

JOHNSON COUNTY
KANSAS
Developmental Supports



March 3, 2014

Mr. Scott Frank
Legislative Post Auditor
Legislative Division of Post Audit
800 SW Jackson Street, Ste. 1200
Topeka, KS 66612-2212

Dear Mr. Frank,

I would like to thank the members of Legislative Post Audit for the time and effort they put towards the review of the questions included in this audit. Johnson County Developmental Supports (JCDS) is, for the most part, in agreement with the findings.

We are very pleased the audit found no evidence of conflict of interest. The CDDO system has worked effectively since the advent of the Developmental Disabilities Reform Act and CDDOs, regardless of the corporate structure they fall within, take their impartial role seriously.

There are many recommendations in the report we are in agreement with. Any recommendation would need careful consideration on the potential benefits and the potential unintended consequences of implementation.

As one of the agencies reviewed in the audit JCDS does not agree with the audit's definitions of lobbying, the amount cited in the report as lobbying and the assertion of funds being comingled. JCDS does not comingle funds. As a part of county government we utilize our county's financial system where revenue is deposited and then tracked in separate accounts, including the differentiation between the CDDO and CSP as well as federal, state, county and grant funding.

Continual system improvement is critical to providing the highest quality services to individuals with intellectual and developmental disabilities. Thank you for the attention to how supports and services are delivered to our most vulnerable Kansans.

Sincerely,

Chad VonAhnen
Executive Director
Johnson County Developmental Supports

CV/st

Chad VonAhnen
Executive Director

(913) 826-2631 office
(913) 826-2627 fax
jocogov.org

10501 Lackman Road
Lenexa, KS 66219-1223

New Beginnings Enterprises, Inc.

Board of Directors

Jim Hogan,
Chairman
Elk County
Rochelle Chronister,
Secretary/Treasurer
Wilson County
Teressa Kirkpatrick
Elk County
Larry Moore
Greenwood County
Rachel Clasen
Greenwood County
Janet Rash
Elk County
Delbert Lampson
Chautauqua County
Joanie Cain
Greenwood County

President/CEO
Joe O'Rourke

RECEIVED
MAR 3 2014
LEGISLATIVE DIVISION
OF POST AUDIT

March 3, 2014

Legislative Post Audit
800 Southwest Jackson
Topeka, Ks 66612-2212

Dear Legislative Post Audit:

Re: Response Letter

The following letter is a response to the Legislative Post Audit Draft Report dated February 18, 2014 regarding "CDDO's: Reviewing Issues Related to Community Service Providers for Individuals with Disabilities."

I participated on the March 17th call and asked the question regarding the wording of statements used in the questionnaire to guardians as being inaccurate. Your response was that the question was worded that way on purpose. I was very surprised that LPA would use that technique as a way of testing "validity". The guardian that showed me the questionnaire was confused as to the wording, mentioned that case managers do not discuss choice of services with parents/guardians, felt the survey was biased and didn't fill it out. I'm afraid you may have outsmarted yourselves and confused a great number of people along the way. I think simple, straightforward questions would get you the information needed.

Sincerely,

Joe O'Rourke
President/CEO

1001 Wilson St. • PO Box 344 • Neodesha, Kansas 66757
(620) 325-3333 • Fax (620) 325-3899

Southwest Developmental Services, Inc.

"Helping Kansans with developmental disabilities access quality community services"

RECEIVED
FEB 26 2014
LEGISLATIVE DIVISION OF POST AUDIT

To: Legislative Division of Post Audit

Inherent Conflict of Interest

The initial design of the CDDO system, nearly 20 years ago, created an inherent conflict of interest for CDDOs/CSPs which still exists today. The current LPA report identified several areas of conflict however there are other areas of conflict that were not addressed. These areas include the CDDO's ability to control the affiliation process for competing providers and the CDDO's control of county mill funds and State Aid funds. There is also a conflict of interest when CDDOs/CSPs need to work with KDADS in the oversight of services provided in their area. These are important issues that should have been addressed in this LPA.

CDDO Peer Review Process

We believe the current process is not consistently applied and has merely created the appearance of separation of CDDO and service provider. If the process is to be retained, we support the recommendations of the LPA to enhance the CDDO review process.

Maximizing Funding for persons with I/DD

We agree with the LPA report that consolidation of CDDO regions and separation of the CDDO from service provision would result in administrative savings for the I/DD system. However, we do not agree with the comparison of CDDO and ADRC functions. CDDO responsibilities are much broader and more complex than just gatekeeping and assessment.

We agree with the LPA report to redirect state aid to provide additional Medicaid waiver services. This would add approximately $11.5 million to the system.

Mark G. Hinde
President and CEO
Southwest Developmental Services, Inc.

1808 Palace Drive, Suite C
Garden City, KS 67846
(620) 275-7521
800-611-4735
FAX (620) 275-1792

Community Developmental Disability Organization
www.sdsicddo.com

1105 Main Street, Suite D
Great Bend, KS 67530
(620) 793-7604
888-793-7604
FAX (620) 793-7906

TRI-VALLEY DEVELOPMENTAL SERVICES

Administrative Offices
3740 S. Santa Fe
P.O. Box 518
Chanute, KS 66720
Telephone 620.431.7401
Facsimile 620.431.1409

Community Developmental Disability Organization
521 W. Chanute 35 Parkway
P.O. Box 518
Chanute, KS 66720
Telephone 620.431.7401
Facsimile 620.431.4191

Chanute Service Center
3602 Johnson Rd
P.O. Box 518
Chanute, KS 66720
Telephone 620.431.7401
Facsimile 620.431.1520

Ft. Scott Service Center
4305 Campbell Drive
Fort Scott, KS 66701
Telephone 620.223.3990
Facsimile 620.223.3997

Iola Service Center
10 W. Jackson
Iola, KS 66749
Telephone 620.365.3307
Facsimile 620.365.3328

RECEIVED
FEB 27 2014
LEGISLATIVE DIVISION OF POST AUDIT

February 28, 2014

Legislative Post Audit
800 Southwest Jackson, Suite 1200
Topeka, KS 66612-2212

Dear Legislative Post Audit:

RE: Brief Response Letter

The following document is a brief response to the Legislative Post Audit Draft Report dated February 18, 2014 regarding *"CDDO's: Reviewing Issues Related to Community Services Provided for Individuals with Disabilities"* that we would like included in the main report.

"Tri-Valley supports the audits findings that "**For the areas we were able to assess, we did not find direct evidence that CDDO's have taken advantage of the inherent conflict of interest.**" The CDDO's have been proactive in ensuring that conflicts of interest do not exist in the I/DD system. I question the audits assumption of savings and would like to point out the report found that "**without a detailed study, it is difficult to know how much actual savings could result from consolidating CDDO's.**" As noted in the report, the additional funding generated by the use of state aid to draw down more federal funds would only provide services for 280 people on the waiting list versus the 600 who are currently receiving services. **If this action takes place, 320 fewer people will be receiving services.** The last issue I would like to address is in regards to the finding that CDDO's spent funds on lobbying related activities through its state association and also intermingled funds with the community service provider. **We strongly disagree with both claims.** Every year we have an independent audit conducted by a local accounting firm, utilizing accepted accounting practices to ensure that illegal activities do not occur. We utilized account codes and cost centers to track all income and expenses, again utilizing accepted accounting practices to ensure that there is a separation of funds. This is common fund accounting practices. You are not required to have a separate checking account for each funding source."

If you have any further questions, please do not hesitate to contact me at (620)431-8782.

Sincerely,

Tim Cunningham
Executive Director

PERFORMANCE AUDIT REPORT

CDDOs: Reviewing Issues Related to Community Services Provided for Individuals with Developmental Disabilities

[CDDOs' Responses to the Draft Report]

A Report to the Legislative Post Audit Committee
By the Legislative Division of Post Audit
State of Kansas
March 2014

R-14-006b

Legislative Division of Post Audit

The **Legislative Division of Post Audit** is the audit arm of the Kansas Legislature. Created in 1971, the division's mission is to conduct audits that provide the Legislature with accurate, unbiased information on the performance of state and local government. The division's audits typically examine whether agencies and programs are effective in carrying out their duties, efficient with their resources, or in compliance with relevant laws, regulations and other requirements.

The division's audits are performed at the direction of the **Legislative Post Audit Committee**, a bipartisan committee comprising five senators and five representatives. By law, individual legislators, legislative committees, or the Governor may request a performance audit, but the Legislative Post Audit Committee determines which audits will be conducted.

Although the Legislative Post Audit Committee determines the areas of government that will be audited, the audits themselves are conducted independently by the division's professional staff. The division's reports are issued without any input from the committee or other legislators. As a result, the findings, conclusions, and recommendations included in the division's audits do not necessarily reflect the views of the Legislative Post Audit Committee or any of its members.

The division conducts its audit work in accordance with applicable government auditing standards set forth by the U.S. Government Accountability Office. These standards pertain to the auditor's professional qualifications, the quality of the audit, and the characteristics of professional and meaningful reports. The standards also have been endorsed by the American Institute of Certified Public Accountants (AICPA) and adopted by the Legislative Post Audit Committee.

LEGISLATIVE POST AUDIT COMMITTEE

Senator Jeff Longbine, Chair
Senator Anthony Hensley
Senator Laura Kelly
Senator Julia Lynn
Senator Michael O'Donnell

Representative John Barker, Vice-Chair
Representative Tom Burroughs
Representative Peggy Mast
Representative Virgil Peck, Jr.
Representative Ed Trimmer

LEGISLATIVE DIVISION OF POST AUDIT

800 SW Jackson
Suite 1200
Topeka, Kansas 66612-2212
Telephone: (785) 296-3792
Fax: (785) 296-4482
Website: **http://www.kslpa.org**

Scott Frank, Legislative Post Auditor

HOW DO I REQUEST AN AUDIT?

By law, individual legislators, legislative committees, or the Governor may request an audit, but any audit work conducted by the division must be directed by the Legislative Post Audit Committee. Any legislator who would like to request an audit should contact the division directly at (785) 296-3792.

The Legislative Division of Post Audit supports full access to the services of state government for all citizens. Upon request, the division can provide its audit reports in an appropriate alternative format to accommodate persons with visual impairments. Persons with hearing or speech disabilities may reach the division through the Kansas Relay Center at 1-800-766-3777. The division's office hours are 8:00 a.m. to 5:00 p.m., Monday through Friday.

LEGISLATURE OF KANSAS

LEGISLATIVE DIVISION OF POST AUDIT

800 SOUTHWEST JACKSON STREET, SUITE 1200
TOPEKA, KANSAS 66612-2212
TELEPHONE (785) 296-3792
FAX (785) 296-4482
WWW.KSLPA.ORG

March 12, 2014

To: Members, Legislative Post Audit Committee

Senator Jeff Longbine, Chair	Representative John Barker, Vice-Chair
Senator Anthony Hensley	Representative Tom Burroughs
Senator Laura Kelly	Representative Peggy Mast
Senator Julia Lynn	Representative Virgil Peck, Jr.
Senator Michael O'Donnell	Representative Ed Trimmer

This supplemental report contains the complete CDDO responses we received from 14 of 27 CDDOs in response to the draft audit report, *CDDOs: Reviewing Issues Related to Community Services Provided for Individuals with Developmental disabilities*. These complete responses were bound separately because of the large number of respondents. Each CDDO also had the opportunity to provide a brief response which was included in ***Appendix D*** on page 51 of the main report.

CDDOs disagreed with a number of finding and conclusions, which are discussed in more detail on the next page. CDDOs also pointed out a number of minor errors in the draft report related to the report's characterization of the developmental disability system and its comparison between CDDOs and Aging and Disability Resource Centers (ADRCs). We corrected those errors in the final report. Those corrections had no effect on our findings or conclusions.

Sincerely,

Scott Frank
Legislative Post Auditor

Table of Contents

Summary of CDDO Responses 1
Big Lakes Developmental Center 2
CDDO of Southeast Kansas 6
Sedgwick County CDDO 8
Cottonwood, Inc. 13
Developmental Services of Northwest Kansas, Inc. (DSNWK) 15
Disability Planning Organization of Kansas (DPOK) 23
Hetlinger Developmental Services, Inc. 24
Johnson County Developmental Supports 26
New Beginnings Enterprises 30
Reno County CDDO 31
Southwest Developmental Services, Inc. (SDSI) 33
Tri-Ko, Inc. 34
Tri-Valley Developmental Service, Inc. 36
Twin Valley Developmental Services 40

CDDOs that did not provide a formal response

Achievement
Arrowhead West, Inc
Brown County Developmental Center
COF Training Center
Cowley County CDDO
Butler County CDDO
Futures Unlimited
McPherson County Developmental Services
Nemaha County Training Center
Harvey-Marion County CDDO
Riverside Resources, Inc.
Shawnee County CDDO
Wyandotte County CDDO

This audit was conducted by Dan Bryan, Laurel Murdie, Brad Hoff, and Michael Shelton. Chris Clarke was the audit manager. If you need any additional information about the audit's findings, please contact Dan Bryan at the Division's offices.

Legislative Division of Post Audit
800 SW Jackson Street, Suite 1200
Topeka, Kansas 66612

(785) 296-3792
Website: www.kslpa.org

Summary of CDDO responses

On February 18, 2014 we provided copies of the full draft audit report to all 27 Community Developmental Disability Organizations (CDDOs). We received 14 responses which are included in this supplemental report.

In their responses, several CDDO officials disagreed with a number of findings and conclusions. After carefully reviewing the CDDOs' responses, any supporting documents they provided, as well as our original documentation, we think our findings, conclusions, and recommendations are appropriate. While we understand these concerns and have made minor corrections in the final report to address several points the CDDOs raised, the substance of our findings and conclusions did not change. Listed below are the findings in the report where CDDOs raised substantive disagreements:

- **CDDO officials disagree with our finding on page 34 that consolidating CDDOs is an option to reduce administrative costs.** CDDO officials do not support a reduction in the number of CDDOs. They brought up concerns regarding decreased access to gatekeeping services and additional costs relating to travel time and expenses. We also acknowledge in the report that without a detailed study it is difficult to know how much actual savings could result from consolidating CDDOs. However, our analysis showed that in general, CDDOs serving the largest numbers of individuals with developmental disabilities had lower administrative costs per individual. Our rough estimate of savings of $500,000 to $800,000 a year could be potentially applied toward serving more individuals on the waiver. Further, several CDDOs objected to our comparison of CDDO functions to ADRC functions. We did not perform a detailed comparison of functions between the two entities but did note that both conduct functional assessments and have some similar duties for their respective Medicaid waiver programs.

- **CDDO officials disagree with our finding on page 39 that Kansas could further reduce its costs associated with paying providers by using more bundled payments and fewer fee-for-service payments.** CDDO officials stated that think day and residential services are already paid with a bundled payment structure. However, we found that community service providers within the developmental disability system are generally paid a fee for each service provided. We added language to the final report to clarify the finding related to bundled payments.

- **CDDO officials disagree with our finding on page 40 that several CDDOs spent restricted funds on lobbying activities which appears to violate federal and contractual requirements.** CDDO officials disagreed that the CDDO's use of state and federal funds to pay for Interhab membership dues was lobbying-related and therefore unallowable. CDDO officials responded that they do not believe Interhab's involvement in contract negotiations is lobbying and disagree with the audit's findings that the CDDOs' comingled funds. We reviewed the contract and believe that Interhab's direct participation in the contracting meetings is a non-allowable lobbying expense, if paid for with contract funds.

big lakes developmental center, inc.

Community Developmental Disability Organization

for Riley, Geary, Clay and Pottawatomie counties of Kansas

1416 Hayes Drive, Manhattan, KS 66502 Voice/TTY: 785-776-9201 Fax: 785-776-9630

RECEIVED
MAR 3 2014
LEGISLATIVE DIVISION OF POST AUDIT

March 3, 2014

Legislative Division of Post Audit
Attn: Scott Frank
800 Southwest Jackson Street, Suite 1200
Topeka, KS 66612-2212

Re: Performance Audit Report
CDDOs: Reviewing Issues Related to Community Services (R-14-006)

Dear Mr. Frank:

Big Lakes Developmental Center, Inc. (BLDC) provides the following response to the findings of the Legislative Post Audit study (R-14-006) to review issues related to the Community Services provided for Individuals with Developmental Disabilities.

Question 1: Do substantial conflicts of interest remain for CDDOs that have their own service providers and how could those conflicts be resolved?

- We agree with the overall LPA findings:
  - "We did not find direct evidence the CDDOs have taken advantage of the inherent conflict of interest;"
  - "There is no evidence of CDDOs unfairly managing requests from CSPs for extraordinary funding requests;"
  - "There is no evidence of CDDOs exploiting the statutory design of the system to create advantages of CSPs that operate under the same organization umbrella as the CDDOs;"
  - "There is no evidence of the CDDOs unfairly overseeing quality assurance activities."

- We agree with the finding that a review of the current peer-reviewed evaluation of the CDDO system may be helpful and would gladly participate in any efforts to strengthen this process
  - Reviews have not been conducted at regular intervals (as was intended with the implementation of this review process) to continually assure law and regulation are being consistently applied. More frequent reviews would assist in assuring conflicts of interest are being mitigated.

- We agree with the finding that a uniform statewide system of tracking formal complaints would be helpful to analyze the effectiveness of the system and BLDC would gladly participate in this effort.

- BLDC already has a formal complaint tracking system and has had one for many years to complement its policies and procedures regarding complaints.
- Only one formal complaint has been made in the BLDC CDDO area in the last 15 years and this complaint successfully tested the policies and procedures in place and approved by the state. The complaint was appealed all the way through the state administrative hearings process and ruled in the CDDOs favor.
- Every instance where even an informal complaint is made, the CDDO ensures the individual or entity making the complaint is informed of the policy and procedures for formalizing such complaint and encouraged to seek resolution through those processes, if necessary.

- We agree with the finding that no formal State review process exists to evaluate the BASIS assessments.
  - While there is an existing certification process administered by the State for all BASIS assessors, BLDC would cooperate with any additional efforts to assure consistency in the application of the assessment tool statewide.

- We agree with the recommendation for KDADS to provide more oversight of the extraordinary funding and this has already been addressed by KDADS in recent months.
  - With the move to KanCare, all extraordinary funding recommendations made by the CDDO are now reviewed and approved by KDADS and the appropriate MCO.

Question 2: How could the community services system be changed to maximize the amount of funding available to provide services for individuals with developmental disabilities?

- We agree with the LPA analysis that a shift in State Aid SGF to the waiver would result in loss of services to individuals that are Medicaid eligible, have an I/DD diagnosis but whose disability does not qualify as "severe" enough for waiver services.
  - In BLDCs service area, the elimination of State Aid SGF would directly result in loss of services (day and residential) for thirteen individuals with developmental disabilities and extreme reductions in our competitive employment services department, reducing services to those who are looking for and maintaining employment in the community. Any effort to reduce with waiting list for services should not be made at the expense of those who need and are already in services.
  - Given the confirmation that some individuals would lose services to benefit others, we are confused as to why, in the final legislative recommendations, the LPA indicates support for the transfer of these funds to serve fewer numbers of people in higher cost Medicaid/HCBS services.

- We disagree with the LPA analysis: "Consolidating CDDOs could reduce administrative costs by about $500,000 to $800,000 a year." We do not support any effort to reduce access points for services for the I/DD population.
  - Savings can only be achieved through reduction in the number of CDDOs (currently 27). Such reduction would result in decreased access to gatekeeping services into the I/DD service system for a population that struggles with access already, due to being poor, transportation challenges (especially in rural areas), and communication and intelligence limitations (majority of population cannot read or write, many are non-verbal).

- The state currently benefits from having a CDDO administrative system that costs less than 3% of the waiver. I would challenge any other service system to achieve such administrative efficiency with the number of legal, regulatory, and contractual requirements placed on CDDOs. Being part of a larger organization, BLDC's CDDO department incurs significantly less costs in administrative overhead for office space, overhead costs, and access to accounting and IT services at minimal cost than it would as a stand-alone CDDO.

- We disagree with the LPA study's assertion that Kansas could further reduce its costs associated with paying service providers by using more bundled payments and fewer fee-for-service payments and additional preventative efforts such as background checks of services providers should be taken.
  - In the study, the LPA admits they briefly looked at this area. If more time had been taken to review specific the specific reimbursement model in place, they would have discovered that day and residential services are paid at a capitated daily rate which is a bundled payment structure and has been paid in this manner for 20 years. All plans of care have restrictions on how and what can be billed.
  - Criminal background checks and federal fraud background checks have been a requirement for all licensed service providers for many years. Each year during licensure review by KDADS, BLDC is reviewed for compliance with this requirement.

Other Findings

We disagree with the finding that CDDOs are using funds to pay for lobbying activities and legal opinions do not support this finding.

- The examples cited in the study are expenses associated with dues paid to a state association with expenses paid by CDDOs in contracting with KDADS as their specific incorrect example of lobbying. Contracting is required by law and expenses associated with contracting are a normal part of doing business. See the letter from Foulsten-Siefken regarding their legal opinion regarding this portion of the LPA audit which should be contained within the finished report.

We disagree with the finding that KDADS does little to monitor CDDOs administrative expenditures for the DD Waiver.

- Detailed expense reports with CDDO administrative costs are filed quarterly with KDADS and have been for years by BLDC and all other CDDOs.
- Annually, BLDC's CDDO administrative costs are audited by an independent accounting firm assuring compliance with GAAP and OMB Circular A-133. The annual audit report is forwarded to KDADS auditing staff.

Other LPA Report Concerns

- The report recommends that legislators consider another round of sweeping changes to the I/DD system (in addition to the changes now being implemented with KanCare) without adequate representation from the individuals and families most directly affected. We find this recommendation confusing given that report's findings of "no evidence" of problems in the CDDO system due to conflict of interest.
- The use of negative pull quotes is disproportionate and injects some unintentional bias into the report. For example, the report states, *"a majority of case managers and CDDO officials*

responded that the complaint resolution process used by CDDOs adequately addresses complaints and is fair and impartial." There are no pull quotes used to elaborate upon this favorable rating offered by some 99 respondents as outlined in Figure 1-3. The report goes on to state, *"However, several community service provider officials responded with concerns about the complaint resolution process. These concerns include: "...the CDDO that has ties to another community service provider do not treat other community service providers the same. As a community service provider I feel as if trying to resolve issues with the CDDO and the community service provider that they are associated which is akin to beating a dead horse."; "Some agencies can do anything; others are called in for minor infractions."* Two negative pull quotes are used to depict this unfavorable rating offered by only 16 respondents as outlined in Figure 1-3.

Thank you for considering the aforementioned responses offered by Big Lakes.

Sincerely,

Lori Feldkamp
President & CEO

CDDO of Southeast Kansas
Community Developmental Disability Organization
PO Box 266 1200 Merle Evans Drive Columbus, KS 66725
620-429-8985 FAX 620-429-8723

RECEIVED
FEB 27 2014
LEGISLATIVE DIVISION
OF POST AUDIT

February 27, 2014

Scott Frank, Legislative Post Auditor
Kansas Legislative Division of Post Audit

Reference: Draft report "CDDOs: Reviewing Issues Related to Community Services Provided for Individuals with Developmental Disabilities"

Via: Email to Brad Hoff @ brad.hoff@lpa.ks.gov

Dear Mr. Frank,

The CDDO of Southeast Kansas has submitted a separate, brief, response to the referenced report and will provide additional comments in this extended response.

Again, we thank the Legislative Post Audit (LPA) Division for the opportunity to review and submit comments on the draft report. Although, we were not one of the five CDDOs selected for review, we were contacted by LPA staff to provide certain information concerning several processes and duties performed by CDDOs. We found LPA staff to be extremely professional and seeking to understand and clarify these processes.

As we pointed out in our separate brief response, the report itself affirmed that there was no evidence of CDDOs that have a service provider component exhibiting a conflict of interest.

We had a telephone conference yesterday, February 26, 2014, with LPA staff to verbally review the draft report and offer comments and suggestions. We do not know which suggestions/comments, if any, will be incorporated in the final report, so we will present our suggestions/comments in this response.

- We suggested that all references to the CDDO "referring" persons to service providers be changed to make it clear that CDDOs "offer choice" of service providers.
- The report's presentation that the CDDOs maintain a network of service providers requires a bit of clarification and history. The report states "In turn, CDDOs may establish their own service provider or contract with independent community service providers." Most current CDDOs were ***already service providers*** prior to the DD Reform Act of 1995 (DDRA), and were known as Community Mental Retardation Centers (CMRC). The CMRCs were the county designated entities to receive county MR/DD mill levy. With the passage of the DDRA, the CMRCs became the CDDOs and were assigned the CDDO responsibilities of the DDRA. The CDDOs are ***required*** to affiliate/contract with any service provider that meets eligibility criteria. If in the case of a licensed service, KDADS performs the eligibility process, including background checks, and issues the license(s).
- In the report's references to local funding (county mill levy), it is important to emphasize that most of these funds are used for direct services, and ***not*** for administrative costs.
- The draft report's discussion on Extraordinary Funding (EF) requires clarification. Although the CDDO facilitates the EF process and makes a determination/approval of EF requests, the process is standardized across the State with agreed on forms and calculations. ***Final approval*** is, and always has been, granted by KDADS.
- The report says that "...CDDOs have the ***authority*** to create their own community service provider and contract with independent services providers." Once again, CDDOs may ***operate*** a service

provider component (see bullet above about CDDOs being CMRCs/service providers prior to the DDRA) and are ***required*** to contract/affiliate with eligible service providers.

- The draft reports states "KDADS does little to oversee or provide guidance to CDDOs and community service providers." We would respectfully disagree with this observation. KDADS has a system of quality assurance (QA) oversight and regional/local quality oversight staff (QMS) that provide oversight and guidance to both CDDOs and service providers. In most areas, KDADS QA staff work closely with CDDOs to ensure quality services.
- We found the report's discussion/recommendations concerning "bundled rates" for services versus "fee-for-service" interesting and asked about this on our conference call. Several years ago SRS implemented a bundled rate for Residential and Day Supports. However, we were informed that CMS did not allow bundled rates for the HCBS I/DD services provided under Kansas' waiver, so those rates were discontinued. We are curious to learn more about current options for such funding.
- The report's discussion on State Aid states: "Additionally, CDDOs spend a portion of the state aid on non-Medicaid related infrastructure and administrative costs such as transportation." Perhaps it's just the sentence structure, but to clarify "transportation" is a service expense, not an administrative cost.

Once again we appreciate the opportunity to review the draft report and offer suggestions and comments. If we can provide additional information or clarification on our response, please advise.

Sincerely,

Scott Thompson, President/CEO
scott.thompson@classltd.org

Cliff Sperry, Vice President for Administration and CDDO Operations
cliff.sperry@cddosek.org

Sedgwick County...
working for you

Developmental Disability Organization

615 N. Main, Wichita, KS 67203 - www.sedgwickcounty.org - TEL: 316-660-7600 - FAX: 316-660-4911

Dee E. Staudt, LMSW, LCAC
Director

RECEIVED
MAR 3 2014
LEGISLATIVE DIVISION
OF POST AUDIT

March 3, 2014

Scott Frank
Legislative Division of Post Audit
800 Southwest Jackson St., Suite 1200
Topeka, Kansas 66612-2212

Re: Performance Audit Report (R-14-006)

Dear Mr. Frank:

I would like to thank you for the opportunity to review the draft report of the Community Developmental Disability Organization (CDDO) audit performed by your office. As one of the five participating CDDO's involved in providing information and data to the team of auditors, the Sedgwick County Community Developmental Disability Organization (SCDDO) is pleased to provide a response to the 2014 Performance Audit, *"CDDO's: Reviewing Issues Related to Community Services Provided for Individuals with Disabilities"*. On February 28, 2014, per Post Audit staff instruction, SCDDO provided feedback regarding technical corrections (errors of fact, omission, clarification, etc.) therefore, this response will focus on the specific findings and recommendations contained in the draft report. The Sedgwick County Developmental Disability Organization is considered an independent CDDO because we do not also operate a community service provider entity. Our responses are based upon the perspective of that CDDO model.

Question 1: Do substantial conflicts of interest remain for CDDO's that have their own service providers, and how could those conflicts be resolved?

- Principle finding: "Although the current structure creates an inherent conflict of interest, CDDO's are not necessarily using it to their advantage."
    - **Peer Review Process:** We concur with the finding that a review of the current process may be warranted. SCDDO is prepared to collaborate with KDADS and other CDDO's to further strengthen the process. We believe that the peer review process can be a good source of feedback for a comprehensive, continuous quality improvement program for CDDO's. We support the recommendations contained in the report and further recommend a more formal selection and training process for those individuals who volunteer to participate as a reviewer. We further believe that costs related to performing these functions should be considered allowable administrative expenses for a CDDO. Consideration should be given to the uncompensated CSP when participating in the role of reviewer.

- **Complaint Tracking:** We concur with the finding that a more formal system for complaint tracking is needed. SCDDO firmly believes in the use of data and trend analysis as a means to inform continuous quality improvement activities. A formal and comprehensive tracking system would most certainly benefit the I/DD service system and ensure both consumer and provider rights are upheld. Furthermore, the system should be transparent to further inspire confidence in the current system of care for individuals with disabilities.

- **Verification of BASIS Assessments:** We concur with the recommendation that KADADS develop and implement policies and procedures to ensure the accuracy of the functional assessments currently known as BASIS. SCDDO supports consistent initial and on-going training for those performing functional assessments to ensure the validity of the selected assessment tool. We further recommend that KADADS works to ensure that the new KAMIS system is performing correctly regarding the scoring of assessments entered. SCDDO staff has been actively engaged with KDADS to ensure a seamless transition to the new KAMIS system and continues to be firmly committed to assisting in the testing and development of policies and procedures to ensure the integrity of the functional assessment process. As with previous Administrations, SCDDO welcomes the involvement of KDADS to re-engage in procedures to routinely review completed assessments.

- **Strengthening KDADS Oversight:** To the extent that the performance audit report recommends increased oversight by the Department of Aging and Disability Services, we support efforts to enhance the confidence that the State has in the services purchased through its' contract with the CDDO's. As in the past, SCDDO stands ready to collaborate in the development of any reasonable policies or procedures deemed necessary to provide these assurances to the Administration and Kansas Legislature.

- **2013 Senate Substitute for House Bill 2155:** While SCDDO is not also a community service provider this bill would have impact on our service system network and directly on persons served in Sedgwick County. The element of the bill which would prohibit a targeted case manager (TCM) from working for a service provider would impact 10 of the 12 agencies currently providing case management services and over 700 persons served. It is unclear what issue this aspect of the bill is intended to address. We would encourage clarification on the specific concern to be addressed through this action and urge thoughtful consideration to potential unintended consequences for persons served. I/DD consumers and their parents/guardians have been given assurances regarding retaining established relationships with targeted case managers. SCDDO is prepared to engage with KDADS and other stakeholders to ensure any action taken which would impact targeted case management minimizes disruption for persons served.

Question 2: How could the community services system be changed to maximize the amount of funding available to provide services for individuals with developmental disabilities?

- Principle finding: Legislative Post Audit staff identified some cost savings options for consideration.

  - **Supporting All I/DD Eligible Persons:** CDDO's are the single point of entry for access to I/DD services. As of May, 2013 there were 13,264 individuals served by the I/DD system of care. This number includes persons receiving HCBS waiver funded services and others receiving services and supports funded through other means such as State Aid and local County Mill Levy funding or are waiting for services and/or funding. CDDO's also assess all individuals who present for services, some of whom are determined not eligible and are referred to other community resources. These individuals who are deemed not eligible are not accounted for in the draft report. We believe it is important to note that the CDDO system serves a broader population that is not limited to those receiving HCBS waiver funding.

- **Consolidation of CDDO's:** The current system of 27 CDDO's serving 105 Kansas counties represents a system designed to meet local community needs through shared resources. If further consolidation is recommended, the SCDDO is prepared to engage with KDADS and other stakeholders to consider the value added benefits of such a strategy. We concur with the cautionary statements within the draft report highlighting off-setting costs to projected savings estimates. SCDDO values the community based, stakeholder approach and the importance of a system of care flexible enough to accommodate the unique needs reflected in each Kansas community. The Developmental Disability Reform Act and current State regulations provides for a robust system of support to ensure quality service delivery and consumer choice. CDDO's perform unique functions not currently provided in the ADRC system. Any movement to further consolidate CDDO's should include a transparent process that remains compliant with current statutes.

- **Re-purposing State Aid Funds:** We concur with the finding that taking State Aid to combine with federal funds to generate additional support for HCBS waiver funded services would benefit some individuals with developmental disabilities but would cause others to lose services. Any effort to cut State Aid from one population and shift funds to support another is simply taking support from one person in need and giving it to another. It does not resolve the issues of underfunding. In Sedgwick County, 37 individuals are receiving day, residential or personal attendant care services funded by State Aid. Another 85-100 individuals/families would lose access to direct financial assistance and/or in-home supports. Services provided through nine State Aid funded programs may be eliminated or access severely reduced should funding be re-purposed. SCDDO believes that the number of persons who may benefit from such a funding shift would be fewer than those currently receiving assistance. It would limit the ability of local communities to assist I/DD service eligible individuals. These funds help keep parents and caregivers working, reduce the likelihood of children coming into State custody and decrease the need of higher levels of care. This is a critical policy decision for the Legislature and we urge caution.

- **Bundled Payments:** SCDDO does not believe that the contracting process between KDADS and the CDDO's interferes in any way with the State or KanCare managed care organizations abilities to consider alternative payment structures to compensate providers for direct services. Community service provider organizations contract directly with each managed care organization for reimbursement for direct service delivery. SCDDO would encourage KDADS and the Legislature to take action on the Governor's 2012 Rate Commission findings which indicated that I/DD providers have not received a rate increase in six years. The commission sited "a need for significant movement on rate increases and the establishment of a revised methodology to establish appropriate rate increases".

- **Preventative Controls:** We concur with the recommendation to approach accurate claims payment proactively. SCDDO operations and quality assurance staff actively engage in efforts to ensure proper background checks are completed by community service providers in accordance with established policies and procedures. Additionally, SCDDO has taken a proactive approach to training and education for all CDDO employees as well as employees of affiliated community service providers by mandating compliance training on fraud, waste and abuse effective in 2014. SCDDO has implemented a compliance hotline (316-660-1115) for our affiliate network to encourage anonymous reporting of concerns related to fraud, waste and abuse and have also secured a web-based application for that purpose as well (www.ourworkplace.com). SCDDO is committed to partnering with KDADS and other stakeholders to strengthen this aspect of the system.

Other findings: Use of Funds for Lobbying-Related Activities and KDADS Oversight of Administrative Expenditures.

- **Use of Funds for Lobbying-Related Activities:** SCDDO has reviewed, in detail, all questionable expenditures identified by Legislative Post Audit staff. We continue to believe that the majority of the expenses identified were allowable. In order to alleviate any future concern, we have made adjustments to internal practices associated with processing invoices and budgeting. Staff that works with the SCDDO budget or accounts payable have been trained on the adjustments to our practices to ensure accurate payment and accounting of administrative funds. We will continue to work closely with our legal department to ensure compliance.

- **KDADS Does Little to Monitor CDDO's Administrative Expenditure:** SCDDO does not agree with this finding. CDDO's submit quarterly financial reports to KDADS staff. KDADS staff has the ability to question those reports at any time and may request additional information or supporting documentation as deemed necessary. Additionally, CDDO's submit an independent financial audit annually for KDADS review. SCDDO remains willing to respond to any and all inquiries regarding specific expenditures.

The Sedgwick County Developmental Disability Organization appreciated the opportunity to participate in this performance audit with members of the Legislative Post Audit team. Thank you, once again, for allowing me the opportunity to review the draft report and provide a response. Please feel free to contact me if you have any questions concerning this response.

Sincerely,

Dee E. Staudt

Dee E. Staudt, LMSW, LCAC
Director, Sedgwick County
Developmental Disability Organization

Itemized Response to LPA Recommendations

Audit Title: LPA 13-006 – CDDOs: Reviewing Issues Related to Community Services
Agency: Sedgwick County CDDO

LPA Recommendation	Agency Action Plan
Question 2	
3. To address the issue of CDDOs inappropriately spending funds on lobbying-related activities:	
b. The four sampled CDDOs that had non-allowable expenditures identified should take the steps necessary to ensure the funding is not state or federal funding (for example, eliminate co-mingling by separating and tracking different funding sources).	SCDDO reviewed all identified non-allowable expenditures to ensure that all staff managing allocated funds understand what is and is not considered to be an allowable expense. We have made adjustments to internal practices associated with processing invoices and budgeting. Staff who work with the SCDDO budget or accounts payable have been trained on the adjustments to our practices to ensure compliance with KDADS/CDDO contract.

Cottonwood CDDO
. . .a division of Cottonwood, Inc.

2801 W. 31st Street • Lawrence, Kansas 66047
785 • 842 • 0550

RECEIVED
MAR 3 2014
LEGISLATIVE DIVISION
OF POST AUDIT

March 3, 2014

RE: LPA Response from Cottonwood CDDO

Thank you for the opportunity to provide a response to the Legislative Post Audit report on CDDOs. While we may have some differences in opinion and/or clarifications to the report, we are pleased with the overall finding that there is no evidence of conflict of interest in our system which supports what we have accomplished as a system to mitigate the inherent conflict of interest.

Overview of the Developmental Disability (DD) Waiver:
Historically, Kansas Statute passed in 1970 established a community system of providers for persons with Intellectual and Developmental Disabilities (I/DD) referred to as Community Mental Retardation Centers (CMRC). This statute also supported the establishment of a strong relationship between CMRCs and counties and preceded the Developmental Disability Reform Act (DDRA) of 1995. With the passage of the DDRA, the state recognized the strength, experience, and stability of CMRCs, thus adding the responsibilities of the CDDO to CMRCs was a logical step. There are no instances of CDDOs establishing their own service provider after the passage of the DDRA. The service provider portion of the organization was already in existence as previously noted. Thank you for clarifying that the waiver funding is not given to CDDOs to distribute. Community service providers bill for waiver services. Appendix C is a projection of funding for FY 2014.

Question 1:
We are in agreement and pleased that there were no findings of CDDOs taking advantage of inherent conflict of interest, no examples of CDDOs inappropriately awarding extraordinary funding requests and no evidence of CDDOs favoring their own service provider when performing quality assurance reviews.

- CDDO Review and other responsibilities: Pages 9-18: As a point of clarification, with the current process the CDDO review team members may also include staff members from community service providers and consumers/families in addition to CDDO and KDADS staff. We would welcome working with KDADS on changes to the CDDO Review process. Additionally, we would welcome aggregate statewide tracking of Dispute Resolution/Formal Complaints. CDDOs are already required to track Dispute Resolution for CDDO Reviews. We welcome KDADS review of the BASIS process as well.

Question 2:

- CDDO Administration: Pages D-25-27: We question the comparison of CDDOs to ADRCs in regards to suggested rough estimates of cost savings. The I/DD community service system encompasses more than just the Medicaid Waiver and related Waiver responsibilities. The ADRCs have a short one step assessment process to determine Waiver eligibility. By contrast,

CDDOs have a two-step eligibility process which includes first determining overall I/DD system eligibility per State requirements and then a second level of eligibility by assessment to determine Waiver eligibility. Unlike ADRCs, the CDDOs also have quality assurance responsibilities for the overall I/DD system. CDDOs maintain a network of service providers and provide monitoring and oversight of the services provided in the community. This includes a Dispute Resolution process, development of a local quality assurance committee, and development of a local Council of Community Members to not only assure quality of services but also stakeholder input into the I/DD system. The CDDOs also have fiscal management responsibilities, not comparable to ADRCs, regarding State Aid funds for individuals who are I/DD system eligible but may not be Medicaid or Waiver eligible, and funding requests for individuals who are in crisis or who have extraordinary support needs.

- State Aid: Pages 27-28: Serving individuals with I/DD using state funds is an efficient way to meet their needs without forcing them to try and become Medicaid eligible. We agree that taking State Aid and using it for Medicaid match is an unacceptable trade off.

Thank you again for the opportunity to respond to the audit.

Sincerely,

Sharon S. Spratt

Sharon S. Spratt
CEO

DEVELOPMENTAL SERVICES of NORTHWEST KANSAS, INC.

CDDO

2703 Hall
(785) 625-5678
fax number (785) 625-8204

P.O. Box 1016
Hays, KS 67601
www.cddo.dsnwk.org

RECEIVED
MAR 3 2014
LEGISLATIVE DIVISION
OF POST AUDIT

March 3, 2014

Legislative Division of Post Audit
Attn: Brad Hoff
800 SW Jackson Street, Suite 1200
Topeka, KS 66612

RE: CDDOs: Reviewing Issues Related to Community Services Provided for Individuals with Disabilities.

Dear Mr. Brad Hoff,

Thank you for the opportunity to respond to the draft Legislative Post Audit Report: CDDOs Reviewing Issues Related to Community Services Provided for individuals with Disabilities. We appreciated the professional approach and respect provided to us by the LPA staff during the audit process.

As a participating CDDO, we found the tone of the scope statement biased and concerning. As evidence, the LPA's first task was to determine, 'Do substantial conflicts of interest remain?' This question assumes 'substantial conflicts exist' and thus directs the LPA reviewers to target a foregone conclusion. To this core, yet pivotal, question regarding CDDO conflicts of interest, the LPA's findings are a definitive 'No.' No evidence was found of conflict of interest, a finding in sharp contrast to the assertion. This LPA study of the "inherent conflict of interest" acts as clear and convincing evidence that inherent conflicts of interest have been effectively mitigated within the current community CDDO system structure. Given this, it is counter-intuitive to also implement changes to the DDRA, the intended purpose behind SS HB 2155. In spite of the fact that this conflict of interest matter was closely scrutinized through the LPA review, the findings yielded no evidence, only perception, of conflict of interest. Although we concur with this core finding, we wish to include additional comments, clarifications and concerns, which are contained in this letter.

The Designated Community Developmental Disability Organization for Northwest Kansas

Question 1: Do Substantial Conflicts of Interest Remain for CDDOs That Have Their Own Service Providers, and How Could Those Conflicts Be Resolved?

Response:
The LPA was charged to review CDDOs on the matter of conflicts of interest. This is not a new matter to our system; the LPA has looked at the CDDO system and the inherent conflict of interest issue several times since 1995. I believe the authors of the DDRA recognized and understood this potential from its inception leading to the establishment of appropriate structure, safeguards, and policies and appropriate involvement of the service network and other stakeholders. This LPA study yielded no evidence of "conflict of interest." The system is operating as intended, with safeguards in place which mitigate the inherent conflict of interest.

This I/DD system, now under KanCare, the managed care model for Kansas, has and will continue to call upon the strength of the CDDOs all across Kansas and the community I/DD system to be successful. The organizations across the state overseeing, serving and supporting persons with I/DD, like those in Northwest Kansas, remain community organizations focused on carrying out the core functions of the DDRA: supporting persons with I/DD, engaging them in work and activities that maximize their abilities, independence, integration, inclusion and productivity in the community.

There is no logic and no basis for implementing drastic changes to the landmark DDRA, as proposed in SS HB 2155. To suggest change to a well established and well functioning community based system, scrutinized closely in this LPA process and yielding no evidence of 'conflict of interest', would be counter-intuitive.

- ***The Structure of the State's Developmental Disabilities System Creates an Inherent Conflict of Interest for CDDOs***

The report identified areas where a CDDO could favor its own service provider over others.

Response: The safeguards built into our system to mitigate inherent conflict of interest are validated by the findings of the LPA review. The report reflects that there was no evidence of conflict of interest of the CDDOs in their role as gatekeepers, addressing extraordinary funding requests, and managing quality assurance processes.

With regard to the finding which relates to the tracking of formal complaints, we concur on the importance of developing a state-wide system to define and track formal complaints for system quality and management. We will collaborate with KDADS to assist in the development of this tracking system.

- ***The Kansas Department for Aging and Disability Services Provides Weak Oversight for CDDOs in Several Areas***

Response:
Peer Review:
The community service system leaders have demonstrated responsibility in fair management of the community system. Enhancement in the peer review process could be further refined to allow for tracking of concerns and resolution. In this review, little was

mentioned of the peer reviews completed on the CDDOs and the positive outcomes of those reviews.

Contract Negotiations:
We disagree with the State's assertion that the contract negotiation process is cumbersome and ambiguous. The DDRA (39-1806) establishes a system of contracting that authorizes open and equitable negotiation between the contracting parties. That process has been in place since the inception of the DDRA. One representative of each of the 27 CDDOs has a seat to negotiate a single agreed upon contract with KDADS.

In the contract negotiation process, particularly when system change is involved, gaining input from stakeholders regarding the impact of such is essential. The value of having community stakeholders present at contract negotiations is important and is imbedded in the DDRA. There may be 50 - 70 people attending the open meeting, however only 27 CDDO representatives negotiate with KDADS.

The KDADS/CDDO contract process as established in the statutes, includes a mediation process, should that be necessary. In the past 18 years, mediation was necessary only a few times and each time led to successful resolution.

- ***A Bill Proposed During the 2013 Legislative Session Would Prohibit CDDOs from Providing Direct Services, Which Could Eliminate the Inherent Conflict of Interest***

Response:
The LPA report demonstrates there is no evidence of a conflict of interest. We believe the system is operating as it was intended, and with the safeguards in place, the inherent conflict of interest is mitigated.

Given the outcome of this report, there is no logical basis for making drastic changes to the landmark DDRA, as proposed in Senate Substitute for House Bill 2155. For this well established and well functioning community based system, suggesting such changes without cause would be ill-advised. This would dismantle the system that has been in place, worked for decades, provides quality services, and is unique to this population. This I/DD system, now under KanCare, has and will continue to call upon the strength of the CDDOs and the community I/DD system all across the state to be successful. The organizations across the state overseeing, serving and supporting persons with I/DD, like those in Northwest Kansas, remain focused on carrying out the core functions of the DDRA in each region.

****

Recommendations for Executive Action:

Response: DSNWK CDDO will work in collaboration with KDADS and other stakeholders to further refine the Peer Review process, to define and track formal complaints, and to continue to work in collaboration with KDADS to improve the current BASIS system.

****

Question 2: How Could the Community Services System Be Changed to Maximize the Amount of Funding Available to Provide Services for Individuals With Developmental Disabilities?

- ***Consolidating CDDOs Could Reduce Administrative Costs By About $500,000 to $800,000 a Year***

  Response:
  The total CDDO Administration expenditures ($9 Million) for this system are less than 3% of the HCBS Waiver total program expenditures ($328 Million). Disrupting an already efficient system, without a full understanding of the entire cost and impact of such a decision, would appear short sighted. As stated in the LPA report, we believe having CDDOs with larger geographic areas would result in additional costs relating to travel time and expense, which would offset any potential savings from consolidation.

  References to ADRCs:
  The distinct functions of the CDDO system and the type and level of oversight and management of services and supports systems for persons with I/DD is distinctly different than the more limited functions of the ADRCs. Although both ADRCs and CDDOs conduct functional assessments, the CDDOs responsibilities are far greater than the initial gatekeeping tasks (i.e. contracting and maintaining an adequate network of I/DD providers, monitoring the quality of the provider network, maintaining a Council of Community Members, and other core components).

- ***Kansas Could Increase Federal Revenues By Up to $6.5 Million a Year by Redirecting $5 Million in State Aid***

  The report notes KDADS distributes $5 million in State Aid to CDDOs and this money is used to provide non-Medicaid services that are not matched with federal funding.

  Response: Repurposing State Aid to be used as matching funds for the HCBS I/DD Waiver would have devastating effects on the community service system. This action would effectively remove vital funding for current services for approximately 600 individuals. Although this would result in additional federal funds, it would provide funding for services to fewer people (approximately 280 individuals). Moving State Aid dollars to the waiver would result in a subsequent negative impact on the 600 individuals' lives who would potentially fall through the cracks. In addition, these state dollars currently benefit all regions of the State, filling gaps that are unmet by other funding. Moving dollars paying for non-Medicaid services to the HCBS waiver would result in a geographic shift of resources from rural areas, like those in northwest Kansas, to urban areas where the vast majority of the people on the HCBS waiting list reside.

- ***We Identified Other Potential Cost Savings Options To Help Maximize Funding Available for Developmental Disability Services***

  The report states that KDADS officials told the auditors they realize that moving away from a fee-for-service payment system would result in cost savings, but doing so would require

renegotiating the contract with CDDOs and changing from the BASIS assessment and current tier payment system.

Response: The current I/DD service system has been chronically underfunded. The State's own rate studies, not referenced in this report, have indicated rates should be increased. There have been no HCBS Waiver rate adjustments since July 1, 2008. We appreciate the attempt to identify ways to cut costs; however, the focus should be on addressing the funding shortfall in the community service system.

OTHER FINDINGS

- ***Several CDDOs We Reviewed Spent Funds On Lobbying-Related Activities, Which Appears to Violate Federal and Contractual Requirements***

  Response: The report identifies contract negotiations as lobbying and states that expenditures in the contracting process violate the prohibition from lobbying. We believe this assertion is in error. The statutory requirement of contract negotiations with the State is outside the definition of lobbying and costs associated with such are not lobbying expenses. In addition, the report appears to consider all dollars paid to the state association, InterHab, as lobbying expenses. The majority of the amount paid to InterHab is for expenses that are clearly outside the definition of lobbying (e.g., association meetings and dues, technical support, resource networks, and group sharing of legal expenses). Finally, prior to the addition of paragraph 13 in the DA-146a (Contractual Provisions Attachment) connected to the KDADS/CDDO contract, representatives of the Administration, KDADS, and counsel confirmed that the scope of this new paragraph was not intended to expand "lobbying" prohibition.

- ***KDADS Does Little to Monitor CDDOs' Administrative Expenditures for the Developmental Disability Waiver***

  The report states "Overall, KDADS officials told us the agency does not have a process for thoroughly monitoring how CDDOs spend administrative funding or state aid. "

  Response: During the contracting process for FY 2014, KDADS and the CDDOs agreed to restrict the use of State Aid funds to specified categories of expenditures and to develop a methodology for refining the reporting of these expenditures to KDADS quarterly. The development of this new reporting process was completed and applied to the first quarter's expenditures for FY 2014.

****

Recommendations for Executive Action:

Recommendation #1: To address the issue of reducing the costs associated with paying service providers on a fee-for-service basis, KDADS and KDHE should consider implementing more cost effective payment reform options such as bundled or capitated payments to community services providers.

Response: In regard to bundling or capitated payments to community service providers, the current I/DD service system has been chronically underfunded. We appreciate the attempt to identify ways to cut costs; however, the focus should be on addressing the funding shortfall in the community service system.

Recommendation #4: To address the issue of CDDOs inappropriately spending funds on lobbying-related activities, the four sampled CDDOs that had non-allowable expenditures identified should take the steps necessary to ensure the funding is not state or federal funding (for example, eliminate co-mingling by separating and tracking different funding sources).

Response: We disagree with the finding that CDDO state and federal funds were spent on non-allowable expenditures. State and Federal funds received for CDDO administration were deposited in the same bank account as other DSNWK operations for the years reviewed in this report. However, a detailed chart of accounts is maintained and cost centers are used to separate functions within the general ledger. Expenses for CDDO functions have always been tracked in separate cost centers. We can demonstrate that CDDO administration funds received from KDADS were spent in their entirety for CDDO functions and that none of those funds were used for association dues or for lobbying purposes. To demonstrate further accountability, a separate bank account in which to deposit and disburse CDDO administration funds was established as of July 1, 2013.

****

Recommendations for Legislative Action:

Recommendation #1: To address the issue of reducing administrative costs within the developmental disability system, the Legislative Post Audit Committee should consider introducing legislation to reduce the number of CDDO regions.

Response: With regard to consolidation of CDDOs, we believe this usurps the involvement with counties, will be disrupting to an already efficient system, and it will result in additional costs which would offset any potential savings from consolidation.

With regard to combining CDDOs with the ADRCs, we believe the CDDO system is distinctly different and should remain separate from the ADRC system.

Recommendation #2: To address the issue of not matching all available state funds with federal matching funds, the Legislative Post Audit Committee should consider introducing a bill to redirect all or a portion of the $5 million in State Aid to provide Medicaid eligible services. Doing so would allow these State Aid funds to be matched with federal funds.

Response: We believe repurposing State Aid to be used as matching funds for the HCBS I/DD Waiver would have devastating effects on the community service system and should not be considered. This action would result in a negative impact to both the 600 individuals losing funding for services and potentially falling through the cracks and the shifting of resources from rural communities to urban areas where the vast majority of the people on the HCBS waiting list reside.

In conclusion, DSNWK/CDDO believes it has performed its roles and functions with fairness and objectivity. The LPA review closely scrutinized the perceived conflict of interest and found no evidence of such. We believe the current CDDO system in Kansas, operating on less than 3% of the I/DD waiver funding, reflects an efficient and effective system where the potential conflict of interest is mitigated by the safeguards and structure already in place.

We believe it would be poor State policy to propose legislative action that would re-purpose, or eliminate, the State Aid funding stream. To take current State Aid dollars, serving approximately 600 persons today, to serve approximately 280 different persons from the I/DD waiting list, would be like throwing one group of persons off of the bus to give fewer persons access into the bus. The core issue at play here is the shortage of funding appropriated to meet the needs of all Kansans' with I/DD, including those not eligible for waiver funding whose services are paid for with State Aid funds. The chronic under-funding of the community I/DD system remains a critical concern, and this significant aspect of the system was not touched in this review.

Finally, to initiate the restructuring of an efficient and effective CDDO system (either by reducing the number of CDDOs or merging functions with the ADRCs), based on this report would appear premature at best. We believe it would be unnecessary and counter-intuitive.

We would like to express our gratitude for the opportunity to provide our input and comments on the report. As system stewards, we strive to maintain an I/DD system in northwest Kansas which is balanced and fair. The I/DD system has relied upon the strength of the CDDO system in Kansas. The community I/DD system, under the new KanCare model, will need to rely more, not less, on this strength to ensure success. The Kansas I/DD system remains focused on delivering the core functions of the DDRA: Supporting persons with I/DD and engaging them in work and activities that maximize their abilities, independence, integration, inclusion and productivity in the community.

Sincerely,

Gerard L. Michaud

Gerard L. Michaud
CDDO President

Itemized Response to LPA Recommendations

Audit Title: LPA 13-006 – CDDOs: Reviewing Issues Related to Community Services
Agency: DSNWK

LPA Recommendation	Agency Action Plan
Question 2	
3. To address the issue of CDDOs inappropriately spending funds on lobbying-related activities:	
b. The four sampled CDDOs that had non-allowable expenditures identified should take the steps necessary to ensure the funding is not state or federal funding (for example, eliminate co-mingling by separating and tracking different funding sources).	We disagree with the finding that CDDO state and federal funds were spent on non-allowable expenditures. State and Federal funds received for CDDO administration were deposited in the same bank account as other DSNWK operations for the years reviewed in this report. However, a detailed chart of accounts is maintained and cost centers are used to separate functions within the general ledger. Expenses for CDDO functions have always been tracked in separate cost centers. We can demonstrate that CDDO administration funds received from KDADS were spent in their entirety for CDDO functions and that none of those funds were used for association dues or for lobbying purposes. To demonstrate further accountability, a separate bank account in which to deposit and disburse CDDO administration funds was established as of July 1, 2013.

Disability Planning Organization of Kansas
A Community Developmental Disability Organization Serving Kansans

RECEIVED
MAR 3 2014
LEGISLATIVE DIVISION
OF POST AUDIT

Scott Frank
Legislative Post Auditor
800 SW Jackson Street, Suite 1200
Topeka, KS 66612-2212

Dear Mr. Frank,

The auditors have been diligent and properly analyzed the scope of work, unfortunately the inquiry misses the conscientiousness with which the DD Service System has been administered since the 1995 DD Reform Law passed. This law was created in partnership with people with I/DD, family members, community service providers, state officials and legislators. It had a solid foundation and was forward thinking in its design.

Together administration personnel and CDDOs have created regulations, policies, contracts, committee practices and communication channels.
QMS field staff relate with CDDOs in all aspects of local operations, Central office consults in funding operations and processes. Affiliating providers have direct access to central office administration and field staff. The I/DD Reform system has respected the rights of people and the fairness of operations throughout its 20 years. KDADS assumed system authority during an extreme state of change in department, personnel, Medicaid system and CMS expectations. It is regrettable that this report criticizes KDADS oversight and persists with complaints that are isolated and calling out system flaws that were perhaps short-sighted when built into its original design.

We are pleased that no evidence of mismanagement of system responsibilities was found. We support strengthening the peer review process and validation of the assessment tools. The LPA Team's collaborative effort to ask questions and allow for corrections is greatly appreciated.

Kansas' definition of people with I/DD is broader than HCBS waiver program. State aid is the only funding left to serve that group of people.

Thank you for your time and consideration.

Sincerely,

Shelia Nelson-Stout
President/CEO

119 W. Iron, 4th Floor | P.O. Box 1067 | Salina, KS 67402-1067
Tel (785) 823-3173 | Toll Free (866) 886-3765 | Fax (785) 823-3299 | www.dpok.com

HETLINGER
Developmental Services, Inc.

Community Service Provider
Community Developmental Disability Organization
Serving Lyon, Chase, Morris and Wabaunsee Counties

707 S. Commercial • P.O. Box 2204
Emporia, KS 66801
620-342-1087 • Fax 620-342-0558

RECEIVED
MAR 3 2014
LEGISLATIVE DIVISION
OF POST AUDIT

March 3, 2014

Kansas Legislative Division of Post Audit
800 SW Jackson, Suite 1200
Topeka, KS 66609

Ladies and Gentlemen:

This letter is in response to the draft of your completed performance audit, *CDDOs: Reviewing Issues Related to Community Services Provided for Individuals with Developmental Disabilities.* We appreciate the opportunity to comment on the performance audit.

Overview of the Developmental Disability Waiver:

We would like to comment on the paragraph beginning "CDDOs maintain a network of community-based service providers within their region to deliver those services". The report states that *21 CDDOs have established their own service provider.* We would like to point out that many CDDOs were already providing community services to persons with intellectual and developmental disabilities as the county designated "community mental retardation center" organized pursuant to K.S.A. 19-4001 through 19-4015 and amendments thereto, prior to the enactment of the Developmental Disabilities Reform Act. These non-profit agencies became CDDOs simply by default, and did not establish their own service provider after the enactment of the Developmental Disabilities Reform Act.

Question 1: Do Substantial Conflicts of Interest Remain for CDDOs That Have Their Own Service Providers, and How Could Those Conflicts Be Resolved?

We agree with the finding that there is no direct evidence that CDDOs have taken advantage of the inherent conflict of interest.

We agree with the finding that the Kansas Department for Aging and Disability Services (KDADS) provides weak oversight for CDDOs in several areas. We would welcome working with KDADS to develop policies and procedures on these areas such as extraordinary funding, the peer review process, tracking complaints, and the eligibility and BASIS assessment process.

Question 2: How Could the Community Services System Be Changed to Maximize the Amount of Funding Available to Provide Services for Individuals With Developmental Disabilities?

Reducing the number of CDDOs could possibly reduce administrative costs, however we would prefer that did not happen. If legislation is passed that prohibits CDDOs from serving as both a gatekeeper and service provider, we would appreciate KDADS developing a process for reorganizations.

We agree that Kansas could increase federal revenues by redirecting state aid, however that would leave many individuals who are not waiver eligible without any services. Not receiving any services could very well result in crisis situations for some of these individuals. Using state aid as it is currently used will provide at least some services to a greater number of individuals.

We agree that adopting more preventive controls to reduce the risk of Medicaid fraud would be a potential cost savings to the system and we would support that.

We would support KDADS developing a process to more actively monitor CDDO administration expenses.

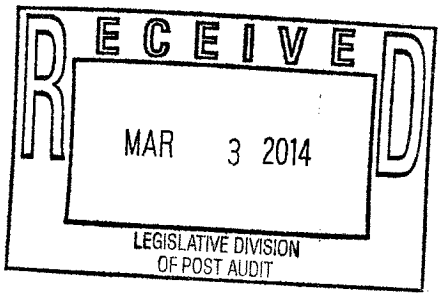
We would strongly advise that further study be completed prior to proceeding with either of the recommendations for legislative action to reduce the number of CDDO regions and/or to redirect all or a portion of the $5 million in state aid.

Respectfully,

Trudy Hutchinson

Trudy Hutchinson
Executive Director

JOHNSON COUNTY
KANSAS
Developmental Supports



March 3, 2014

Mr. Scott Frank
Legislative Post Auditor
Legislative Division of Post Audit
800 SW Jackson Street, Ste. 1200
Topeka, KS 66612-2212

Dear Mr. Frank,

I would like to thank the members of the Legislative Post Audit for the time and effort they put towards the review of the questions included in this audit. Johnson County Developmental Supports (JCDS) is, for the most part, in agreement with the findings.

Responses to Question 1:

We are very pleased the audit found no evidence of conflict of interest. The CDDO system has worked effectively since the advent of the Developmental Disabilities Reform Act and CDDOs, regardless of the corporate structure they fall within, take their impartial role seriously.

The reference to "CDDOs with their own service provider" is inaccurate. In agencies that perform both the CDDO and Community Service Provider (CSP) functions, CDDOs operate independently from the CSP. While the report highlights some concerns listed from those surveyed about conflicts of interest it is encouraging, reassuring and important to note the audit "did not find direct evidence that CDDOs have taken advantage of the "Inherent Conflict of Interest." The importance of no conflict of interest being found in the areas of extraordinary funding determinations and quality assurance reviews cannot be understated.

We are in agreement with the recommendation to track complaints. Historically formal complaints do not happen with a great deal of frequency, but a way to track and monitor makes sense, particularly when systemic questions are being raised.

Historically the CDDOs and the State (SRS or KDADS) have had good working relationships that focus on the best interests of those receiving services. The oversight of the system has been a partnership with the ability and opportunity to raise questions and hold each other accountable as needed. The contracting process is one way this occurs and it has been effective. Since state law requires an "open and equitable negotiation" any changes to the contracting process should be well vetted and agreed upon with the contracting parties and system stakeholders.

In our experience, CDDOs and system stakeholders have welcomed any discussion regarding the improvement in the quality of services for those we serve. If that means enhancing or modifying the peer review process of CDDOs, that discussion should occur. The most significant point is the focus on the partnership. The local-state partnership has been an important component of the intellectual and developmental disability system and we strongly recommend that partnership continues.

Responses to Recommendations for Executive Action on Question 1:

1) JCDS is in agreement with the recommendation and it is important to note that the KDADS review has been implemented and is occurring.
2) JCDS supports an evaluation of the peer review process and focusing on a continuous improvement model.
3) JCDS supports a complaint tracking process in coordination with KDADS.
4) JCDS would be interested in working with KDADS on a review of the BASIS assessment process. Our recommendation would be to address this through the contracting process.
5) JCDS feels the existing structure and functions of the CDDOs are and have been working well and changes in these areas are not required. The audit did not find conflicts of interest which was the assumption for which these types of changes were proposed.

Chad VonAhnen
Executive Director

(913) 826-2631 office
(913) 826-2627 fax
jocogov.org

10501 Lackman Road
Lenexa, KS 66219-1223

Responses to Question 2:

The desire to maximize funding and best utilize resources is important in delivering efficient services. This has been especially important following the loss of State General Funds in KFY 2012.

The concept of consolidating CDDOs needs thoughtful examination. The CDDO structure is rooted in a state-local partnership that, by current regulation, requires a resolution by the Board of County Commissioners to designate the CDDO for their county. Also, the estimated cost savings through consolidation of CDDOs requires further examination, which the report acknowledges. The report suggests an idea of merging Aging and Disability Resource Centers (ADRCs) and CDDOs. While ADRCs do perform assessments, the overall functions of the ADRCs and CDDOs are not remotely the same. CDDOs are required by law to perform certain tasks. The functions of the two entities are outlined in the table below:

	ADRC	CDDO
Functions	Information, Referral and Assistance services	Provide a single point of entry for people seeking services
	Options Counseling	Determine individual eligibility for Home and Community Based Services (HCBS)
	Assessments	Coordinate access to services and supports
		Provide information and referral services
		Maintain a network of affiliate providers
		Develop local oversight committees
		Monitor expenditures
		Participate in statewide systemic quality and financial oversight.

The audit does a nice job of outlining the complexity of drawing down additional federal funds if State Aid were used for the waiver. After the elimination of State General Funds, many CDDOs began to utilize State Aid to provide funding for individuals who were eligible for IDD services but not eligible for the Medicaid waiver. A key issue would be the shifting of funding from one population (those not eligible for the waiver) to those eligible for the waiver. Another key issue would be, as the report identifies, the loss of funding for services for 600 individuals to fund services for 280 individuals from the waiting list.

The concept of bundled payments is already occurring, including many services provided within the day and residential tier rates. Any proposed changes to the payment structure should consider the cost of providing the service and refer to completed rate studies as required by state law.

CDDOs provide an important function by monitoring the system and being good stewards of system funding. It should be noted that background checks are currently conducted as required by state regulation. JCDS would be willing to partner with the state to review and improve preventative controls.

JCDS does not agree with the audit's definitions of lobbying and comingling of funds. Expenses identified in the report include both the CDDO and the CSP and were for a variety of purposes including contract negotiation preparation, direct care staff training and association membership dues. The audit appears to define lobbying based on the vendor rather than the purpose of the expenditure.

JCDS does not comingle funds. As a part of county government we utilize our county's financial system where revenue is deposited and then tracked in separate accounts, including the differentiation between the CDDO and CSP as well as federal, state, county and grant funding. Expenditures are tracked in a similar manner.

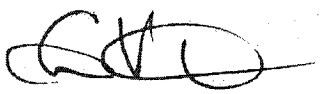
Responses to Recommendations for Executive Action on Question 2:

1) JCDS is of the opinion that bundled payments are currently occurring, particularly for day and residential services.
2) JCDS welcomes any discussion on how to reduce fraud within the system. Background checks are currently completed as required in regulation as part of state licensure, and in state policy.
3) JCDS agrees with the appropriate use of funding. However, we disagree with the definition of lobbying being used in the audit for two reasons. First, we do not agree that participating in contract negotiation discussions is lobbying. Secondly, the audit identifies dollar amounts associated with a vendor rather than an activity (e.g., costs associated with InterHab trainings for direct care staff, conference sponsorships, etc. by the CSP were identified as lobbying expenses).
4) JCDS utilizes Johnson County Government's financial system. We disagree that funds are co-mingled as revenues and expenditures are identified in separate accounts based on the CDDO or the CSP and also by federal, state, county and grant sources.

Responses to Recommendations for Legislative Action on Question 2:

1) The state-local partnership that has existed since the DDRA has been an important component of the service system. Attempts to force consolidation could unnecessarily disrupt this partnership and reduce the local contact for stakeholders. Also, the cost savings identified in the audit, as stated, would need more comprehensive review to determine if it is feasible and practical.
2) As stated previously, the loss of services for 600 individuals who have no other funding source is much greater than offering services to 240 people from the waiting list. We are in support of eliminating the waiting list, but disagree with doing so at the expense of others.

Sincerely,



Chad VonAhnen
Executive Director
Johnson County Developmental Supports

CV/st

Itemized Response to LPA Recommendations

Audit Title: LPA 13-006 – CDDOs: Reviewing Issues Related to Community Services
Agency: Johnson County Developmental Supports

LPA Recommendation	Agency Action Plan
Question 2	
3. To address the issue of CDDOs inappropriately spending funds on lobbying-related activities:	JCDS will continue to review the purpose of all spending, as is the current practice. After reviewing the report JCDS, does not believe CDDO funds were inappropriately spent on lobbying.
b. The four sampled CDDOs that had non-allowable expenditures identified should take the steps necessary to ensure the funding is not state or federal funding (for example, eliminate co-mingling by separating and tracking different funding sources).	JCDS is an agency within Johnson County government and utilizes the county's financial system. All revenue sources and expenses are tracked and accounted for separately by federal, state, local and grant funding. As is the current practice, JCDS will continue to monitor all revenue sources and expenditures to assure they are tracked appropriately within the county's system.

New Beginnings Enterprises, Inc.

Board of Directors

Jim Hogan,
Chairman
Elk County
Rochelle Chronister,
Secretary/Treasurer
Wilson County
Teressa Kirkpatrick
Elk County
Larry Moore
Greenwood County
Rachel Clasen
Greenwood County
Janet Rash
Elk County
Delbert Lampson
Chautauqua County
Joanie Cain
Greenwood County

President/CEO
Joe O'Rourke

RECEIVED
MAR 3 2014
LEGISLATIVE DIVISION
OF POST AUDIT

March 3, 2014

Legislative Post Audit
800 Southwest Jackson
Topeka, Ks 66612-2212

Dear Legislative Post Audit:

Re: Response Letter

The following letter is a response to the Legislative Post Audit Draft Report dated February 18, 2014 regarding "CDDO's: Reviewing Issues Related to Community Service Providers for Individuals with Disabilities."

I participated on the March 17th call and asked the question regarding the wording of statements used in the questionnaire to guardians as being inaccurate. Your response was that the question was worded that way on purpose. I was very surprised that LPA would use that technique as a way of testing "validity". The guardian that showed me the questionnaire was confused as to the wording, mentioned that case managers do not discuss choice of services with parents/guardians, felt the survey was biased and didn't fill it out. I'm afraid you may have outsmarted yourselves and confused a great number of people along the way. I think simple, straightforward questions would get you the information needed.

Sincerely,

Joe O'Rourke
President/CEO

1001 Wilson St. • PO Box 344 • Neodesha, Kansas 66757
(620) 325-3333 • Fax (620) 325-3899

RECEIVED
MAR 2014
LEGISLATIVE DIVISION OF POST AUDIT

Reno County CDDO
Community Developmental Disability Organization

March 3, 2014

RE: Reno County CDDO Response to Post Audit
CDDOs: Reviewing Issues Related to Community Services

Thank you for the opportunity to provide a response and feedback to this Legislative Pose Audit. We appreciate the efforts of the Legislative Post Audit staff to address the questions in the scope
statement related to the intellectual and developmental disability services system.

Question 1: We are pleased that the outcome found no evidence that CDDOs who are a division of a community service provider (CSP) take advantage of their role to the advantage of their CSP.

- CDDOs, including ourselves, follow many procedures to ensure each person is informed of all available service providers in order to make an informed choice and to conduct fair and equitable quality assurance reviews. In Reno County, all individuals receiving or waiting for services are provided a complete list of service providers annually, as well as when they are choosing or changing service providers. Each person receives an annual quality assurance interview, as well as selecting a random sample for more in depth review. We use the same quality assurance process for all individuals, regardless of their chosen provider(s) and follow up on each concern raised in the quality assurance review or from other contacts with individuals and their families.
- Should the administration decide to make changes to the current CDDO Peer Review process, we will participate in this redesign to ensure thorough and consistent reviews.
- Additionally, we agree that it would be a benefit to those we serve to have consistent tracking and reporting of formal complaints and dispute resolution across CDDO areas and would work with Administration staff in the development of this system as well as implementing processes to ensure BASIS accuracy and consistency.

Question 2: We cannot stress enough the detriment reallocating State Aid funding would have on those who rely on that funding for their services.

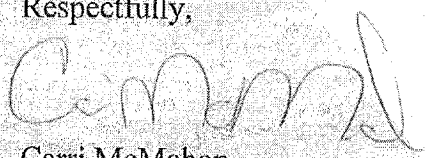
- Those served with State Aid dollars are typically not eligible for Medicaid funding and would not benefit from additional Medicaid Funding.
- This group of individuals would be forced out of service in order to serve people now waiting for services. State Aid funding is used to serve approximately 600 people, unfunding one group to serve another serves no purpose.

"Your entry to developmental disability services in Reno County"
Reno County CDDO • P.O. Box 399 • 1300 East Avenue A
Hutchinson, KS 67504-0399 • 620-663-2219 • FAX 620-663-2439
The Reno County CDDO is a division of the Training & Evaluation Center of Hutchinson, Inc.

Reno County CDDO
Community Developmental Disability Organization

In conclusion, we agree and are pleased with the findings of the Audit related to conflict of interest concerns and look forward to working with the administration to further improve the I/DD service system and associated processes. We do not support a policy change in the use of State Aid funding that would force people currently receiving services to lose funding and services to serve others who are waiting. Given the lack of evidence of abuse of the 'inherent conflict of interest' , the significant difference in the roles of ADRCs and CDDOS, and the minimal estimated potential savings of consolidating CDDOs we feel the results of this audit do not support a reorganization of the current CDDO structure.

Respectfully,



Carri McMahon
Director, Reno County CDDO

Southwest Developmental Services, Inc.

"Helping Kansans with developmental disabilities access quality community services"

RECEIVED
FEB 26 2014
LEGISLATIVE DIVISION OF POST AUDIT

To: Legislative Division of Post Audit

Inherent Conflict of Interest

The initial design of the CDDO system, nearly 20 years ago, created an inherent conflict of interest for CDDOs/CSPs which still exists today. The current LPA report identified several areas of conflict however there are other areas of conflict that were not addressed. These areas include the CDDO's ability to control the affiliation process for competing providers and the CDDO's control of county mill funds and State Aid funds. There is also a conflict of interest when CDDOs/CSPs need to work with KDADS in the oversight of services provided in their area. These are important issues that should have been addressed in this LPA.

CDDO Peer Review Process

We believe the current process is not consistently applied and has merely created the appearance of separation of CDDO and service provider. If the process is to be retained, we support the recommendations of the LPA to enhance the CDDO review process.

Maximizing Funding for persons with I/DD

We agree with the LPA report that consolidation of CDDO regions and separation of the CDDO from service provision would result in administrative savings for the I/DD system. However, we do not agree with the comparison of CDDO and ADRC functions. CDDO responsibilities are much broader and more complex than just gatekeeping and assessment.

We agree with the LPA report to redirect state aid to provide additional Medicaid waiver services. This would add approximately $11.5 million to the system.

Mark G. Hinde
President and CEO
Southwest Developmental Services, Inc.

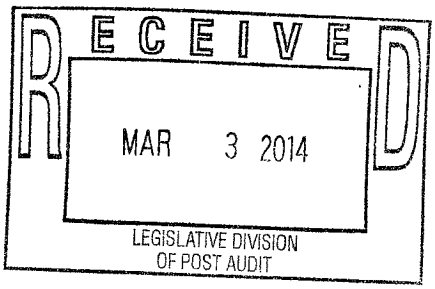
1808 Palace Drive, Suite C
Garden City, KS 67846
(620) 275-7521
800-611-4735
FAX (620) 275-1792

Community Developmental Disability Organization
www.sdsicddo.com

1105 Main Street, Suite D
Great Bend, KS 67530
(620) 793-7604
888-793-7604
FAX (620) 793-7906

TRI-KO INC.

COMMUNITY DEVELOPMENTAL DISABILITY ORGANIZATION
Miami, Linn, & Anderson Counties
CDDO



March 3, 2014

Mr. Scott Frank
Legislative Post Auditor
Legislative Division of Post Audit
800 Southwest Jackson Street; Suite 1200
Topeka, KS 66612-2212

Dear Mr. Frank:

TRI-KO, Inc., the Community Developmental Disability Organization (CDDO) for Anderson, Linn, and Miami counties, appreciates the opportunity to respond to the draft Legislative Post Audit report, "*CDDO's: Reviewing Issues Related to Community Services Provided for Individuals with Disabilities*". TRI-KO has identified the following key points of the report for comment, our responses are as follows:

"Community Developmental Disability Organizations (CDDOs) determine whether individuals are eligible for waiver funded services".

The report does seem to oversimplify the CDDO's eligibility determination process as merely the administration of BASIS. To the contrary, BASIS is only the last step in a very lengthy, complex, and highly personalized process. The CDDO gathers and analyzes information from various professionals, administers standardized eligibility assessments, and performs service option and provider counseling.

You will note that the scope of these responsibilities is vastly different from those of the ADRC. Additionally, CDDO clientele are markedly different than the individuals served by the ADRC. In many cases, face to face contact and a personal interaction is crucial for effective communication with developmentally disabled individuals. For these and countless other reasons, we do not believe a consolidation of CDDOs and ADRCs would be cost effective or prudent.

"Kansas could increase Federal revenues by up to $6.5 million a year by redirecting $5 million in State Aid".

Converting the State Aid funding to HCBS Waiver funding would take essential services away from a group of developmentally disabled people who have no other means to access services. Simply put, there is a sizable population that would directly suffer as a result of such an action.

301 1st Street, Osawatomie, KS 66064 *phone: 913.755.3025* *fax: 913.755.4981*

"CDDOs appear to inform individuals about all service providers in the area, and parents and guardians we surveyed generally agreed".

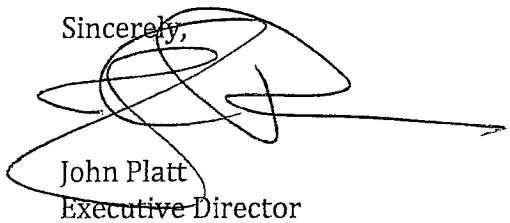
The report acknowledges the CDDO's role in assisting in providing service provider options, but seems to incorrectly indicate that people surveyed were receiving the assistance from "case management". To clarify, this is not a case management function. In the Tri-Ko CDDO region, the CDDO takes absolute responsibility for all service option counseling. This is a safeguarded and very specific role to our CDDO to ensure an unbiased and impartial process.

"CDDOs provide referrals to and oversight of all service providers, which put them in a unique position to take advantage of the system".

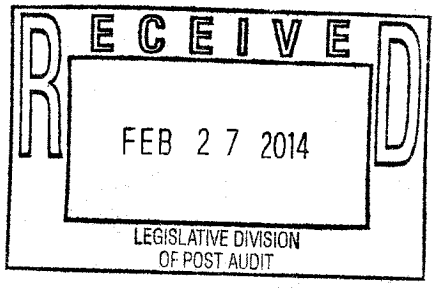
I would emphasize the reported outcome that, given the inherent conflict of interest that arises from being both a CDDO and a Community Service Provider, CDDOs are not necessarily using the dual relationship to their advantage. Thank you for this observation, I agree, and certainly welcome additional oversight of CDDO functions by KDADS. We value our longstanding relationship with the state, and we'd welcome any opportunity to renew and strengthen that partnership.

TRI-KO appreciates the efforts of the Legislative Post Audit staff in conducting this audit. Thank you for the opportunity to respond to the draft audit report.

Sincerely,



John Platt
Executive Director
TRI-KO, Inc.



February 28, 2014

Legislative Post Audit
800 Southwest Jackson, Suite 1200
Topeka, KS 66612-2212

Dear Legislative Post Audit:

RE: Response Letter

The following document is a response to the Legislative Post Audit Draft Report dated February 18, 2014 regarding *"CDDO's: Reviewing Issues Related to Community Services Provided for Individuals with Disabilities."*

First, I would like to show my appreciation to the Legislative Post Auditors for their openness, frankness and collaboration in working with the Tri-Valley CDDO. Although we do not agree with all of the findings, we found the team to be professional, congenial and informative. Secondly, I would like to address both questions that the audit answered within the report and scope statement; and clarify some of the findings of the audit team. Finally, I would like to comment on House Bill 2155 that "would prohibit CDDO's from both determining an individual's eligibility and providing services through their own service provider."

The first question that I would like to comment on is "Do substantial conflicts of interest remain for CDDOs that have their own service providers, and how could those conflicts be resolved?" Tri-Valley supports the audits findings that "**For the areas we were able to assess, we did not find direct evidence that CDDO's have taken advantage of the inherent conflict of interest.**" The CDDO's have been proactive in ensuring that conflicts of interest do not exist in the I/DD system. In 2004 and 2005, the CDDO's worked hard to implement a peer review system to evaluate the conflict of interest issue. Over the past six years and even before, the Tri-Valley CDDO has created its own website, moved into its own building, developed its own policies and procedures, created job descriptions that reflect the two entities, added a CDDO Report for the board of directors, added community and provider members to committees and many other changes to eliminate the perceived conflict of interest. Due to the fact that the audit did not find any evidence of conflict of interest, I urge the legislators **not** to adopt any of the audits findings regarding the CDDO's.

The second question that I would like to comment on is "How could the community services system be changed to maximize the amount of funding available to provide services for individuals with developmental disabilities?" There are several issues that I would like to comment on. The first is that consolidating CDDO's could reduce administrative costs by $500,000 to $800,000 a year. The 27 CDDO's were created by the Developmental Disability Reform Act to take into account local and regional differences. The goal was to keep them as localized as possible to better meet the needs of people with

Administrative Offices
3740 S. Santa Fe
P.O. Box 518
Chanute, KS 66720
Telephone 620.431.7401
Facsimile 620.431.1409

Community Developmental
Disability Organization
521 W. Chanute 35 Parkway
P.O. Box 518
Chanute, KS 66720
Telephone 620.431.7401
Facsimile 620.431.4191

Chanute Service Center
3602 Johnson Rd
P.O. Box 518
Chanute, KS 66720
Telephone 620.431.7401
Facsimile 620.431.1520

Ft. Scott Service Center
4305 Campbell Drive
Fort Scott, KS 66701
Telephone 620.223.3990
Facsimile 620.223.3997

Iola Service Center
10 W. Jackson
Iola, KS 66749
Telephone 620.365.3307
Facsimile 620.365.3328

disabilities. By consolidating CDDO's and expanding the area covered by each one, you only distance the staff from resources and knowledge of the clients. I also question the audits assumption of savings and would like to point out the report found that **"without a detailed study, it is difficult to know how much actual savings could result from consolidating CDDO's."** In addition, I would like to point out the off-setting costs of consolidating CDDO's by noting that there may be county governments that may decide to no longer provide mill levy funding for services and there will be increased travel expenses.

The next issue I would like to comment on revolves around the recommendation to increase federal revenues by redirecting state aid funding. By taking this action, you would be harming the 600 individuals who currently utilize state aid for their funding source. As noted in the report, the additional funding generated by the use of state aid to draw down more federal funds would only provide services for 280 people on the waiting list versus the 600 who are currently receiving services. **If this action takes place, 320 fewer people will be receiving services.** I also respectfully disagree with the audits findings that state aid funds are used to support high level functioning and fewer needs individuals. One example from our CDDO area is an individual who has cancer and will most likely be going on oxygen shortly. He has been receiving one on one staffing through state aid because of his needs.

The last issue I would like to address within question 2 is in regards to the finding that CDDO's spent funds on lobbying related activities through its state association and also intermingled funds with the community service provider. **We strongly disagree with both claims.** Tri-Valley has been a member of our state association since almost its inception and has paid dues as part of its membership. The auditors claim that the dues paid go towards lobbying activities, but what they fail to take into consideration is that the state association also provides education, training, and many other activities. For example, the Issues Forums that are provided every two months are to educate providers in the state about local, state and national issues affecting our services. They are not lobbying activities. We are aware of the contract and federal regulations pertaining to lobbying and have worked hard to ensure that this does not take place. Every year we have an independent audit conducted by a local accounting firm, utilizing accepted accounting practices to ensure that illegal activities do not take place. In addition, we utilized account codes and cost centers to track all income and expenses, again utilizing accepted accounting practices to ensure that there is a separation of funds. This is common fund accounting practices. You are not required to have a separate checking account for each funding source. As well as an independent audit, we also submit quarterly CDDO Administrative Reports to KDADS that reflect allowable expenses. In those reports, we have never included association dues in those reports. These quarterly reports are also reviewed by our independent auditors.

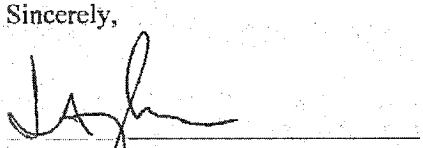
Finally, there is no need to move HB 2155 forward since the audit determined that CDDO's are not using their position to their advantage or the agency they are attached to. There is no need to

overhaul the entire engine when all it needs is an oil change.

In conclusion, I am a little disappointed that the Legislative Post Audit did not take into consideration any of the recommendations made by the families, providers or CDDO's to improve the system or increase funding and only examined requested changes to the system made by KDADS. Their explanation was that they were limited in their time of discovery and were unable to look at our requests which I find very one sided in its scope, but there were several ideas from the TVDS CDDO area that would have generated over $25 million dollars in additional funding for the system without having to do much discovery.

If I can be of any service, please do not hesitate to contact me at (620)431-8782.

Sincerely,



Tim Cunningham
Executive Director

3

Itemized Response to LPA Recommendations

Audit Title: LPA 13-006 – CDDOs: Reviewing Issues Related to Community Services
Agency: Tri-Valley Developmental Services, Inc.

LPA Recommendation	Agency Action Plan
Question 2	
3. To address the issue of CDDOs inappropriately spending funds on lobbying-related activities:	
b. The four sampled CDDOs that had non-allowable expenditures identified should take the steps necessary to ensure the funding is not state or federal funding (for example, eliminate co-mingling by separating and tracking different funding sources).	The Tri-Valley CDDO disagrees with the audits findings that the CDDO used government funds on lobbying related activities. In order to alleviate this false impression that funds were used towards lobbying, we plan to consult with our independent auditors to determine what changes need to be made to our policies and procedures to ensure that lobbying related activities are not funded by state or federal dollars.

TWIN VALLEY DEVELOPMENTAL SERVICES, INC.
...working to enhance the lives of the citizens we serve.

Workshop, Residential,
& Independent Living

785 / 747-2251
785 / 747-2254 - Fax

413 Commercial St.
P.O. Box 42
Greenleaf
Kansas 66943-0042

March 3, 2014

To Whom It May Concern,

I am responding as a professional in the field of providing services in Kansas for 40 years – 37 as administrator of 1 agency. We have a thriving but small agency hidden in rural Kansas.

I also respond as a parent having a 28 year old son in the system receiving day and residential services – so I have a stake in the outcome of this beyond my job.

When I started in the field services were frantically being set up so our people, and their parents and families, could have an alternative to keeping their mentally handicapped child at home all their lives or place them in a "less than desirable" living situation. It also relieved them of not knowing what would happen to their son or daughter when they no longer could care for them. Programs were also developed because of the many questionable "service providers" then in existence. It was alarming just how bad many of these services were. These providers are what families had to hand their son/daughter to if they were not lucky enough to have family who would step up and take over their total care!

So we have worked very diligently for years setting up day programs, group homes, semi and independent living situations (unheard of when I first started!), found jobs for some, and worked undauntedly to make our people an integral part of our communities with far more choices of work and living then ever was envisioned. One of the very high points of my career came the day I was stopped in Wal-Mart by an older gentleman farmer who had fought development of one of our programs in our early days. He stated to me, "You are to be congratulated, you really did it!" I was taken aback wondering what I did! Very much not expecting what came next! He stated, "You made our local folks very much a part of our local community and I very much appreciate your hard work in doing that. They have been a blessing to our community!" There have been no moments in my career that have meant more than that moment except, of course, the many achievements our people served have reached which is my ultimate satisfaction!

But back to some response to your audit findings. The two that stick out the most are:

- Reduction of CDDO's would MAYBE save the state $500 to $800 thousand! This hardly seems significant in a system that spends $360 million especially when you consider the effect it would have. It would take away our local presence in assisting our people and their families in maneuvering our system of services for folks with developmental disabilities in Kansas which has become extremely complex. Local control is very important to Kansans and our CDDO's retain the ultimate in local control.

- The other confusing suggestion is to reduce services to 600 individuals on state funds so we can match those state dollars and serve 165 folks off the wait list! This hardly makes good "common sense". Let's take this out one more step. Once these 600 folks are not supported many of them will wonder our streets without supports and guess what? They most likely will lose abilities and/or get in trouble with local law enforcement thus costing more dollars for local law enforcement, local courts, and then, guess what? They will again end up in our services in crisis! Only now they are HCBS eligible because of lost abilities! Again, this hardly makes good common sense!

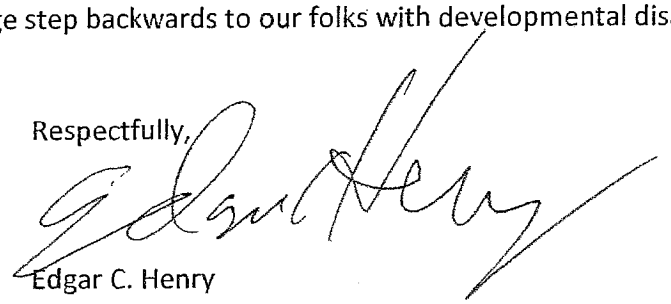
Probably the one other area that bewildered me was the findings of all we spend on lobbying. Our agency did not join Interhab (then known as KARF) for many years due to cost. However, after we joined we did so for the information, assistance, training, and access it gave us to other agencies and folks within Interhab in developing programs, forms, policies, etc. This support saved us many dollars through the years as it would have cost us much more to gain this information in other ways! This report seems to overlook all that Interhab provides us outside of lobbying. It also called out all we spend on contract negotiations! That is hardly a lobbying cost! This only appears to be a bold attempt to squelch a very organized voice for our folks and their attempt to get better and more services in the state of Kansas!

This boldly stands out on the last page where Interhab members have $153,367 in lobbing costs to 0 costs for a non Interhab member. Not all those costs are lobbying and to say the other agency had no lobbing costs is hardly reasonable especially considering they also participated in contract negotiation. Someone needs to investigate this a bit deeper for what Paul Harvey used to call, "the rest of the story".

To clarify my perspective on all the above. Our agency has been called various things through the years. I think our first name was Community Mental Retardation provider, and then we become a CMRC. Then later we became a CDDO, CSP, and TCM Provider. I can still dig in my piles and find our first rules and regulations book of 6 pages! I wish I could say things are better now than they were back then, but we now just jump through a lot more hoops to get the same amount or less done. All we want, out of this deal is the ability to give our local folks with developmental disabilities the most independence they can achieve in the most inclusive setting possible. All the acrobatics and policies involved in providing this these days are just distracting and disturbing!

We thank you for the privilege of being allowed to respond to this post audit. Doing away with the CDDO's, and local control, would be a huge step backwards to our folks with developmental disabilities in Kansas.

Respectfully,



Edgar C. Henry
CEO