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PASSPORT evaluation: Accountability for finances, compliance, and fairness

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PASSPORT Evaluation

**Accountability for
Finances, Compliance,
and Fairness**

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INTRODUCTION

The key question in this part of the PASSPORT evaluation is: "Are Ohio's fiscal processes sufficient to ensure the fiscal accountability of PASSPORT?" Fiscal accountability includes all the mechanisms and processes that assure that funds are managed properly and procurements are undertaken in a fair, open manner. Fiscal accountability, like other measures of accountability, is the product of the relationships among the many PASSPORT stakeholders (O'Connell, 2005). These stakeholders include Centers for Medicare and Medicaid (CMS), Ohio Department of Job and Family Services (ODJFS), Ohio Department of Aging (ODA), Regional PASSPORT Administrative Agencies (PAAs) and their employees, providers and their employees, and PASSPORT consumers and their informal caregivers. These stakeholders all play a part in contributing to the value of PASSPORT to the consumer.

For the Fiscal Accountability Topical Study, our task was to:

- Gain sufficient knowledge of the PASSPORT program to understand how it works;
- Gain an understanding of the control environment;
- Examine, review, and evaluate the monitoring processes; and
- Determine whether all the required processes are being adhered to.

All of these tasks must be considered within the context of the "accountability dilemma," which is the attempt to balance accountability for finances, for compliance, and for fairness.

HOW IT ALL WORKS
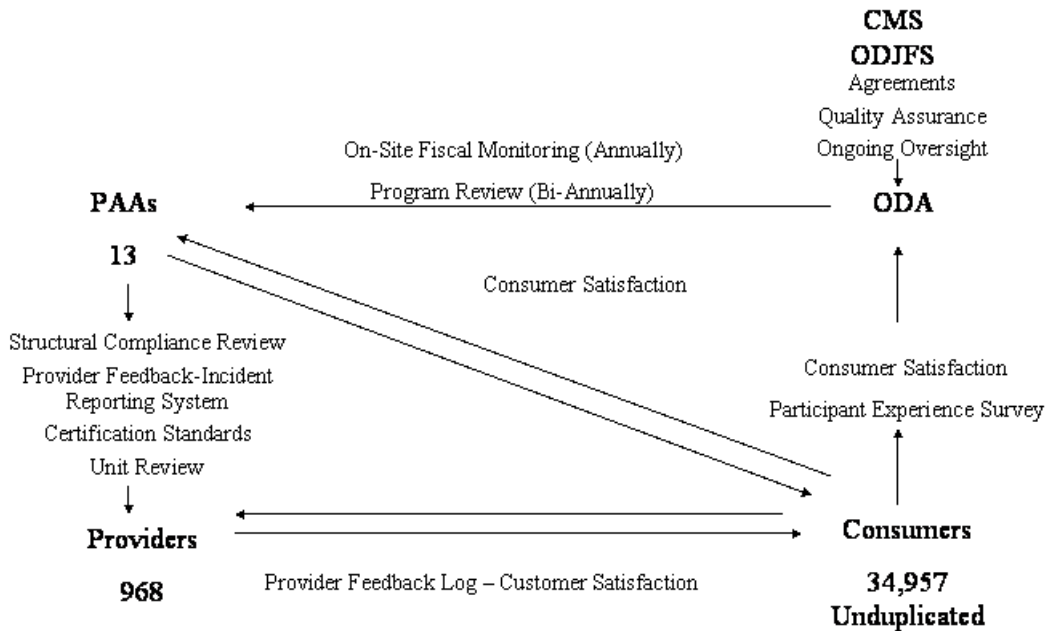
Figure 1: The Fiscal Accountability Environment

Figure 1 presents the multiple relationships associated with accountability in the

PASSPORT program. The arrows indicate the direction of control in the relationship.

PASSPORT, like other waiver programs, operates under the auspice of federal law and is

approved by CMS. Home and Community-Based Service (HCBS) Medicaid waivers are

approved by CMS for a five-year period and for a maximum number of participants (sometimes

referred to as the "approved slot number"). PASSPORT is in the fourth year of its current

approval period. CMS typically does an on-site review of the PASSPORT program during the

fourth year of the approval period. The next CMS on-site review was scheduled for the spring of

2007. The on-site review did consist of a small number of consumer interviews, consumer record

review, and interviews with ODJFS, ODA, and PAA staff. The last CMS Management Review began in June 2002.

This year CMS revamped its process for assessing and conducting ongoing quality monitoring activities for the Home and Community-Based Services Waiver Program. Now, CMS is asking Ohio to demonstrate that it has adequate mechanisms for finding and resolving problems on an ongoing basis. If Ohio provides evidence pertinent to level of care determinations, plans of care, qualified providers, health and welfare, and financial accountability, CMS may not need to do additional monitoring activities. This is a significant departure from past practices.

ODA manages PASSPORT, with oversight from Ohio's single state Medicaid agency, ODJFS. ODA manages PASSPORT through a network of thirteen PAAs. These PAAs are Ohio's twelve designated regional Area Agencies on Aging (AAA) - created pursuant to the federal Older Americans Act and Catholic Social Services in Sidney (which operates one of the original PASSPORT pilot projects), serving the rural Miami Valley counties. The PAAs enter into a "three-party" agreement with ODA and ODJFS that sets PASSPORT performance requirements for the PAAs. For example, this agreement requires PAAs to maintain a consumer-to-case manager ratio of 65:1. The PAA is responsible for preadmission reviews, assessment activities related to PASSPORT or nursing facility (NF) admission, and ongoing case management for those enrolled in PASSPORT. The PAA is not permitted to provide PASSPORT home-care services to consumers. Other local service providers, both non-profit and for-profit organizations, provide personal care, adult day services, home-delivered meals and the other authorized PASSPORT home care services. The separation of case management from the provision of

home-care services builds accountability into PASSPORT by eliminating potential conflicts of interest.

Since Ohio does not have licensing requirements for home care providers, the state has created certification standards for PASSPORT providers. These standards were recently revised and published in April 2006. Since PASSPORT is a 1915c Medicaid waiver, any willing provider that meets the certification standards can become a PASSPORT provider.

Consumers are invited to choose among certified providers, but, according to PAA Site Directors, most consumers do not exercise this option because they are new to the system and not familiar with the agencies providing PASSPORT services. In cases where the consumer does not choose a provider, a provider is assigned based on service-provider capacity (i.e., hours available and/or days available) and cost.

In addition to oversight by CMS and ODJFS, ODA monitors its PAAs on a regular basis. ODA conducts an annual on-site fiscal monitoring visit at each PAA to ensure the fiscal integrity of the PASSPORT program. A program review is also done by ODA's Community Long-Term Care Division (CLTCD) on a biannual basis. As part of the programmatic review, a sample of PASSPORT consumers are interviewed in-person using the Participant Experience Survey (PES) developed by CMS and modified by CLTCD. The PES is used to determine the extent to which PASSPORT home care is meeting the individual needs of PASSPORT consumers. An analysis of the PES responses was completed as part of the Quality Framework topical study.

PASSPORT service providers are monitored on an annual basis by the PAAs. Monitoring activities at the PAA level consist of a structural compliance review (SCR) that measures compliance with state certification standards. Providers that do not meet the standards can be sanctioned. Depending on the seriousness of the deficiency, sanctions may include requiring a

plan of correction, suspending further PASSPORT referrals, or decertifying the provider from the PASSPORT program. In addition, each year a sampling of PASSPORT providers are subject to a unit review to ensure that the services the provider billed for were actually delivered to the PASSPORT consumer.

METHODOLOGY

Our review of the relationships among CMS, ODJFS, ODA, PAAs, Providers, and PASSPORT consumers clearly demonstrates the complex nature of fiscal accountability. It also demonstrates that in order to determine if Ohio's processes are sufficient to ensure the fiscal accountability for funds expended through PASSPORT, multiple levels of financial and administrative reports needed to be reviewed; a sample of ODA, and PAA staff and providers had to be interviewed; compliance reviews had to be observed; and providers had to be surveyed.

Over forty key informants had an opportunity to inform our thinking about the fiscal accountability of the PASSPORT program – some of these informants helped us on multiple occasions. Additional insights came from taped interviews at three PAAs. We conducted seven PAA site visits (at five PSAs) and participated in four interview sessions with ODA staff.

FINDINGS AND DISCUSSION

As mentioned earlier, fiscal accountability includes all the mechanisms and processes that assure that funds are managed properly and procurements are undertaken in a fair, open manner. Some think of financial oversight, financial accountability, or fiduciary responsibilities when they hear or read the term "fiscal accountability." We think of fiscal accountability as the accountability of finances, compliance and adherence to legal and administrative rules and regulation, and a fair balance among the interests of all stakeholders. Accordingly, the results of

our evaluation will be reported under these three important categories: Accountability for Finances, Accountability for Compliance, and Accountability for Fairness.
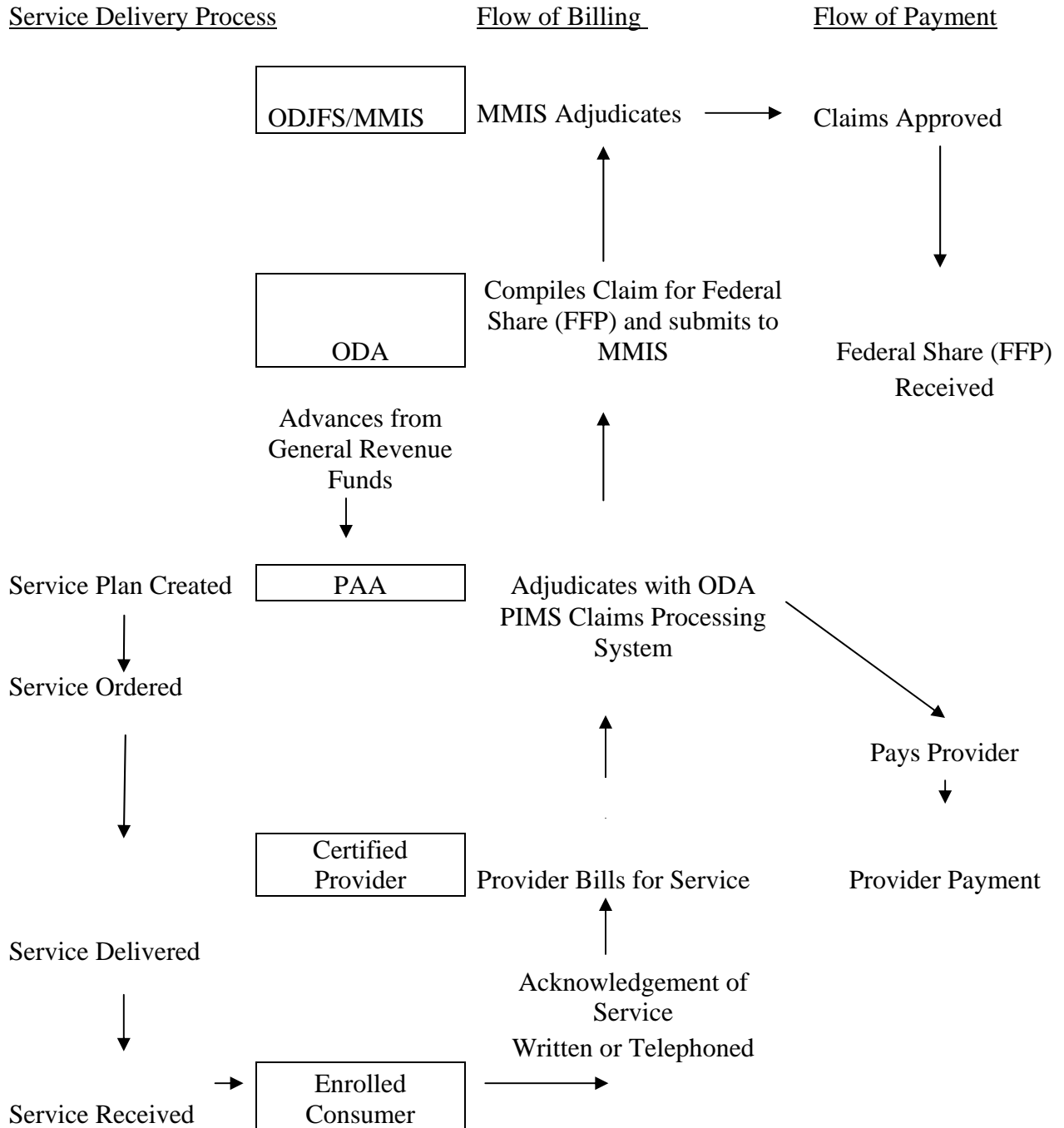
Accountability for Finances

A full understanding of the checks and balances to assure PASSPORT's financial accountability is impossible unless the reader first understands PASSPORT's billing and payment processes. It is important to keep in mind that billing and payment are outcomes from services being delivered to an enrolled consumer by a certified provider(s) according to a service plan created by a case manager after assessment and the enrollment process is complete. All of these inputs to billing and payment are processes in and of themselves, part of this evaluation, and discussed in greater detail in the Assuring the Health and Welfare of PASSPORT Consumers and Assessment and the PASSPORT Assessment and Services parts of this evaluation.

Figure 2 charts PASSPORT's flow of service, billing, and payment. Once an enrolled consumer receives a service, and it is verified in either writing and/or by a Telephony system, all provider billings are submitted for review through ODA's PASSPORT Information Management System (PIMS). Providers can submit bills either through use of a direct data entry module into the PIMS database or by using a HIPAA-compliant electronic data interchange.

Provider claims are initially reviewed by the PAA using PIMS. This system contains checks to ensure that the participant is enrolled, that each service is preauthorized and delivered according to the participant's service plan, and is provided by certified agencies that have a Medicaid provider agreement. The system identifies an approved payment amount for each service. Payment to providers comes from advances distributed to the PAA from the Ohio General Revenue Funds (GRF).

Figure 2: Billing and Payment Flow Chart

| Service Delivery Process | Flow of Billing | Flow of Payment |

ODJFS/MMIS   MMIS Adjudicates → Claims Approved

ODA   Compiles Claim for Federal Share (FFP) and submits to MMIS   Federal Share (FFP) Received

Advances from General Revenue Funds

Service Plan Created   PAA   Adjudicates with ODA PIMS Claims Processing System

Service Ordered

Pays Provider

Certified Provider   Provider Bills for Service   Provider Payment

Service Delivered

Acknowledgement of Service
Written or Telephoned

Service Received   Enrolled Consumer

After the payments are documented, ODA adjudicates the claims a second time and then compiles a claim for Federal Financial Participation (FFP) (this is the claim to receive the federal matching funds) from these approved payment records and submits an electronic file to Ohio's Medicaid Management Information System (MMIS). The MMIS provides controls to ensure: that participants are Medicaid eligible and entitled to receive certain waiver services at a certain maximum cost for a given period of time; that providers are eligible to receive payment for those waiver services; and that providers are eligible to provide the certain waiver services. ODJFS adjudicates the ODA claim for program and Medicaid eligibility through its MMIS and the CRIS-E, respectively, and the federal share (59.88%) is remitted to ODA for approved claims.

Before discussing the methods used to ensure the integrity of payments, it is important to underscore the importance of two critical components of the flow of billing and the flow of payment.

First, is PIMS. PIMS is not without its shortcomings, particularly in management reporting, but is an integral part of billing and payment flow. PIMS adjudicates claims to assure several factors are met for the service dates, including that the:

- Consumer is enrolled;
- Service is authorized;
- Units billed match the service plan;
- Provider is certified by the local regional entity and has a Medicaid provider number; and
- Provider payments match the approved rates for each service.

Second, is the case managers and case management visits. The role and responsibilities of the case managers and consumer visits is discussed in great length in the Assessment and Service Plan Development Process topical report, but it is important to emphasize the role they play in protecting the system from the fraudulent reporting of PASSPORT services that are ordered, billed for, and not delivered. For the case manager, if a

provider bills for services above the authorized amount, PIMS identifies the mismatch and the consumer's case manager is the one who ultimately approves or disapproves the request. For the case management visit, PIMS does not have the ability to detect if a provider fraudulently bills PASSPORT services that are ordered and not delivered. The case management visit and discussions with consumers about what services they have received serve to ensure against fraudulent billing.

Other methods used to ensure the integrity of payments that have been made for PASSPORT services are: PAA's unit of service verification as part of each provider's structural compliance review; ODA's review of contract, provider payment processing, claims processing, and financial reporting as part of PAA's annual monitoring; ODJFS's financial audits of the PAAs; AAA audits; and an annual Single State Audit of ODJFS by the auditor of the state of Ohio.

Unit of Service Verification: PAAs are required to complete an annual on-site structural compliance review for every provider (emergency response, chore, home medical equipment, minor home maintenance, and transportation may be reviewed biannually after their first two annual structural compliance reviews). The on-site review includes verification that a sample of paid service units was delivered according to the PASSPORT requirements. The verification audit is based on a review of a ten percent sample of the provider's current-certified service delivery records for each service delivered, with a minimum of three records per-service and a maximum of thirty records reviewed. The time period reviewed is the quarter preceding the date of the on-site structural compliance review. If unit-of-service errors are detected during the review, the provider must return the overpayment to PAA. The repayment must be completed using acceptable state auditing procedures. The PAA reserves the right to expand the sample or

require that an outside audit be conducted at the provider's expense. In addition to the unit-of-service review, the structural review also includes a service-delivery component. A more detailed discussion of the service delivery component of the structural compliance review process will be presented under findings related to compliance and adherence to legal and administrative rules and regulation.

After the PIMS adjudication and case management visits, the unit of service verification is the next line of defense against reducing or eliminating the three horsemen of accountability: fraud, waste, and abuse. These verifications are completed in different ways by staff with different skill sets across the PAAs. In some cases, the same staff that does the unit of service verification also does the structural compliance review (to be discussed under compliance). In other cases, a team of nurses and social workers does the structural compliance review while the unit of service verification is completed by representatives from the fiscal division of the PAA. From an accountability for finances standpoint, the latter may be a better approach, but there is some benefit in looking at the "services authorized and delivered" (Program Review) at the same time as looking at "services delivered and billed" (Fiscal Monitoring). We also see the value in doing both the unit of service utilization and structural compliance review at the same time. Two PAA visits to a Provider agency are more intrusive than one.

ODA Fiscal Monitoring: Similar to the structural compliance review process, ODA conducts a program review every other year and an on-site fiscal monitoring review annually for every PAA. The fiscal monitoring includes randomly selecting PASSPORT provider contracts to check for compliance with administrative rules and regulations; using the PASSPORT provider payment process test to determine if the PAA is, on average, complying with ODA's 30-day payment regulation; checking to see if the PAA is properly paying PASSPORT providers;

verifying case manager oversight of PASSPORT consumer service plans and delivery; reviewing cost allocation processes; and reviews the PAA's cash balance and disbursements. Unlike unit-of-service verifications, ODA's fiscal monitoring is not based on units of service but on dollars expended. Depending on the size of the PAA, ODA's fiscal monitoring usually takes two days. The only real criticism of the process is exit conferences. In some cases, the PAA's are not told the general findings from the fiscal monitoring until some time after the on-site monitoring review is completed.

ODJFS Audits: ODJFS has an organized, autonomous audit function that is independent of the ODJFS Medicaid program area. The Office of Research, Assessment and Accountability (ORAA) conducts an audit to provide reasonable assurance that costs reimbursed through the Medicaid program are allowable under state and federal program requirements and indicative of goods or services rendered. On a biennial basis, ORAA personnel conduct audits of PAA-prepared cost reports. The audit's scope includes selecting enough provider claims to assure an appropriate level of evidence exists to validate that the amounts reimbursed are allowable and indicative of the services provided. Additionally, through the use of standardized review procedures, including statistical sampling, ORAA conducts performance-based reviews to determine the appropriateness of eligibility determinations.

The ODJFS Bureau of Access also uses a Quality Assurance Survey to assess: consumer self-reported health and functioning; congruence of the care plan with consumer's needs; home safety; knowledge of complaint processes; informal caregiver/direct care worker functions and training; and incident reporting practices. The last published Quality Assurance Survey was in July 2002. ODJFS began its latest study in the fall of 2006. The results will not be available before this PASSPORT evaluation is over.

We interviewed representatives from ODJFS to determine how the ORAA audits are conducted and how information from the audit is incorporated into Bureau of Community Access oversight responsibilities. In the past, the fiscal review of the PASSPORT program has not been tied to the ODJFS Bureau of Community Access' quality assurance survey process. However, recent changes have been made to the way ODJFS is reviewing waiver programs like PASSPORT. Last year, ODJFS introduced the concept of a Comprehensive Waiver Review. The new design is a full program evaluation of internal program management, including case management and adverse-incident management processes, quality assurance protocols, provider accountability, opportunities for consumer and stakeholder participation, and overall continuous quality improvement and fiscal integrity. According to ODJFS, the addition of a financial component to its waiver review process it is not intended to replace the formal auditing that is conducted by ORAA. The financial oversight that occurs as part of BCA's comprehensive waiver reviews fulfills a programmatic management function, occurs on more of a real-time basis than formal audits, and is intended to help administrating agencies avoid financial findings in formal audits. The new comprehensive review design was piloted last year and the Ohio Bureau of Community Access plans to use the same model for the review of the PASSPORT waiver in the future. We view this as a positive outcome.

Final word about the ORAA audit process: We discussed the ORAA audits with three PAAs. When ORAA audits a PAA, they usually are looking at more than one year and are on site for several weeks. One PAA was being audited when we spoke to them, and another PAA had just completed their audit. There is no question that these audits are taking place in accordance with the rules and regulations. However, we question their validity based on a long time lag. They are currently auditing FY 2001, 2002, and 2003 between three and five years after

the year is over. The purpose of an audit is to verify that there are sufficient controls over cash

and cash-like assets, and that there are adequate process controls over the acquisition and use of

resources. If a PAA had insufficient controls or questionable practices that went undetected, it

could result in a significant financial liability over a number of years. A similar situation

occurred in Hamilton County last year when a formal audit of Hamilton County Department of

Jobs and Family Services discovered flaws in reporting and accounting practices. In that

situation, irregularities uncovered by the ODJFS during an audit of HCDJFS revealed that

HCDJFS inappropriately charged foster care expenses to other programs, such as Medicaid, food

stamps, Title XX of the Social Security Act, and the Workplace Investment Act. The audit

identified a total of more than $1.7 billion in questioned costs

(http://jfs.ohio.gov/RELEASES/rl091406/index.asp).

    AAA Independent Audits: ODA requires each AAA to have an audit conducted in

accordance with the guidelines identified in the Office of Management and Budget (OMB)

Circular A-133 and guidelines contained in ODA's Sub-Recipient Audit Guide. The audits are

yearly and include PASSPORT among multiple sources of revenues and expenses.

    State of Ohio Audit: The Auditor of the state of Ohio conducts an annual Single State

Audit of ODJFS. Audit and review activities conducted by ORAA are included within the scope

of the state of Ohio audit.

    In addition to the multiple levels of organization and people auditing the PASSPORT

program, the Auditor of State's Office was authorized to undertake a performance audit of the

Medicaid program and an independent audit of Medicaid providers in June 2005. The purpose of

the audit was to determine ways of reducing or eliminating fraud, waste, and abuse in the

program, and to make the program more efficient and enhance the program's results. The final

reports for each study were published in December 2006. Findings pertinent to the PASSPORT

evaluation are:

- Statewide inconsistencies exist in the performance of County Departments of Jobs and Family Services (CDJFS);
- The Medicaid Management Information Systems (MMIS) is antiquated and does not provide enough information;
- Providers go above and beyond the program requirements to help consumer's access quality care;
- Providers are often unhappy with the rates they receive for their services; and
- Stagnant rates (PASSPORT rates have not been adjusted in seven (7) years) contribute to declining provider participation.

Compliance Accountability

The methods used to ensure the integrity of the PASSPORT program are PAA structural

compliance review of every provider every year; ODA annual program review and fiscal

monitoring; ODJFS Quality Assurance review of PASSPORT; and CMS Management Review of

the State of Ohio Home and Community-Based Services Waiver Program for Elderly and

Disabled Individuals.

PAA Structural Compliance Review (SCR): Once certified, a provider undergoes regular

monitoring by the PAA. Some provider types (emergency response, chore, home medical

equipment, minor home maintenance, and transportation) may be reviewed biannually after their

first two annual structural compliance reviews. All others are reviewed annually. The SCR may

be conducted over several days, depending on the number of employees and the number of

consumers involved and the number of services provided.

The PAAs announce the date of the review in advance. Some PAAs also give the

providers the names of the employees and the consumers whose records will be reviewed. A

10% sample (with a minimum of 3 and a maximum of 30) of the provider's current service

records for each service delivered are examined during the review.

In addition to unit-of-service audits (discussed earlier), the SCR focuses on all aspects of the conditions of participation for the service being provided. These conditions cover employee training, credentials, caregiver's on-the-job behaviors (e.g., no discussion of religion and politics) and other aspects of service delivery, which vary according to the services provided.

As part of Fiscal Accountability Study we participated and observed the structural compliance review process in one PAA and discussed the process with several other PAA representatives. The structural compliance review is thorough and-time and human resource-intensive before, during, and after the site visit, and is completed according to rules and regulations.

Like unit-of-service verifications, structural compliance reviews are done differently across Ohio. One difference is the manner in which PAAs give providers the names of employees and consumers whose records will be reviewed. Some PAAs give prior notice of the names of consumers whose files will be the subject of review during the site visit. Others do not provide the names of selected consumers ahead of time. Still others use some combination of these two approaches, depending on whether the provider has more than one office and a decentralized record keeping system. All have the right to ask for additional records for review if findings suggest a trend or pattern of non-compliance to PASSPORT provider conditions of participation.

Our opinion is that providers have a significant advantage when providers know "what records will be pulled" and could take advantage of the situation by changing or correcting errors that would lead the reviewers to believe the provider is not meeting PASSPORT conditions of participation. If a provider has the names of consumers whose files will be the subject of review ahead of time, this gives the provider an opportunity to check those records and the records of

employees serving the consumer for errors before the compliance review team gets to the provider's office.

In forming this opinion, we did consider if not notifying providers would create an undue burden on them. Our conclusion is it depends on the size of the provider and the location of consumer and employee records. If the reviewer wants to see a consumer's record that is at a satellite office, then it does create a burden. If the reviewer is at the provider's administrative office where records are kept, there is no burden. A compromise, which is used by some PAAs, is to ask for the consumer and employee records from satellite offices ahead of time and request other consumer records as part of the required entrance conference.

ODA Program Review and Fiscal Monitoring: ODA's annual fiscal monitoring of PAAs has already been discussed above. ODA also completes a program review of PAAs every other year. ODA's program review of PAAs is coordinated with the monitoring processes of other ODA initiatives like Older Americans Act programs and/or Choices. The goals of the coordinated monitoring process are as follows:

- To determine the AAA's compliance with federal and state fiscal and program requirements;
- To verify the accuracy of the information received from AAAs;
- To ensure that services are accessible and of high quality;
- To establish a baseline of knowledge in regard to new requirements, programs and services, and to provide technical assistance to the AAAs;
- To identify trends and patterns which require systemic change;
- To improve services and enhance communication between ODA and the AAAs;
- To identify and promote best practices throughout the aging network; and
- To support informed involvement by AAA Advisory Council and governing board members in the operation of the AAAs.

The program review encompasses three major activities: desk review, an on-site monitoring visit, and reporting. Desk review encompasses ODA's ongoing review of plans,

administrative reports, and the data required by ODA on a routine and on-going basis. The scope

of desk review activities includes: review of ODA's internal reports and the mandated reports

that AAAs must generate; reports affecting consumer welfare and safety; data and reports

generated by ODA-designated reporting systems, including OASIS, SAMS, and the

PASSPORT/RSS system; AAA implementation of new or revised policies, statutes and rules;

Area Plan narrative and budget submissions; AAA governing board and advisory council

minutes; and infrastructure issues by ODA's Information Systems Division. ODA will bring

issues that arise from desk review activities to the immediate attention of the affected AAA

Director.

Before the on-site visit to the PAAs administrative offices, consumers and providers are

selected by the reviewers for visits and/or record review based on the scope of review for the

current monitoring round. A minimum of 12 consumers and 12 providers will be visited, and a

minimum of 12 consumer records and 12 provider records will be reviewed. Sample size may be

expanded, depending on previous monitoring results, occurrence reports, consumer feedback,

provider feedback, and complaints.

ODA then makes an on-site monitoring visit to each AAA every other year. Visiting each

AAA every two years instead of one is a recent change in practice. When asked, ODA staff

indicated this change has not had an impact on compliance accountability. The scope of the

monitoring visit includes: fiscal practices of the AAA; program management and operations

(e.g., PASSPORT and non-PASSPORT); consumer satisfaction; adherence to ODA mandated

policies and procedures; adherence to state and federal law governing grants and contracts; best

practices of the AAA; and AAA Area Plan accomplishments and promising practices.

At the end of the site visit an exit conference is held. Issues, findings, concerns and additional information that will be part of the monitoring report are discussed, either in person or by phone, with the AAA as part of the exit conference or soon after. Then a monitoring report is written and distributed to the AAA Director. The AAA Director is responsible for communicating the final results to the AAA's governing body.

As with our approach to structural compliance, we participated in and observed the ODA's Program Review process in one PAA and discussed the process with several others. The program review is thorough and-time and human resource-intensive before, during, and after the site visit, and completed according to rules and regulations.

After we observed the program review, we asked the PAA we observed and others how they felt about the program review process. Most felt it was helpful, and very professionally done. When issues are identified in the PAAs, ODA provides technical assistance and reaches out to the PAA to help resolve them.

Interestingly, some of the PAAs expressed the same concerns about program review that providers and ODA expressed about SCR and Quality Assurance Review, respectively. All those reviewed feel monitoring focuses more on the technical features of service delivery with a strong emphasis on rules and regulations instead of on higher level management issues. Since the likelihood of successful implementation of a program is rooted in enhancing capacity and fostering group consensus by providing technical assistance and monitoring advice, we believe that it makes sense to move away from unnecessary focus on rules and regulations and to move toward management issues. For example, instead of focusing on rules associated with certain procedures time may be better spent distributing information about "best policies" in PASSPORT Administrative Agencies, discussing approaches to nurturing stronger working

relationships with better and more responsive providers, and/or measuring and improving quality.

ODJFS Quality Assurance Review of PASSPORT: The ODJFS Bureau of Community Access also completes a Quality Assurance Survey to assess: self-reported consumer health and functioning; congruence of the care plan with consumer needs; home safety; knowledge of complaint processes; informal caregiver/direct care worker functions and training; and incident reporting practices. The last published Quality Assurance Review of PASSPORT Waiver was in July 2002. ODJFS began its latest study in the fall of 2006. The results will not be available before the PASSPORT Evaluation is over.

CMS Management Review of the State of Ohio Home and Community-Based Services Waiver Program for Elderly and Disabled Individuals: According to Section 1915(c) of the Social Security Act, CMS is required to monitor Ohio's implementation of the PASSPORT waiver program. This is usually completed in the fourth year after approval, or in the year before renewal. Ohio renews its PASSPORT waiver in 2008. CMSs'management review started on December 29, 2006.

This year CMS revamped its process for assessing and conducting ongoing quality monitoring activities for the Home and Community-Based Services Waiver Program. Now, CMS is asking Ohio to demonstrate that it has adequate mechanisms for finding and resolving problems on an ongoing basis. If Ohio provides evidence pertinent to level of care determinations, plans of care, qualified providers, health and welfare, and financial accountability, CMS may not need to do additional monitoring activities. This is a significant departure from past practices.

Accountability for Fairness

Up to this point, we have discussed the PASSPORT rules and regulations that establish a basis for holding ODJFS, ODA, PAAs, and Providers accountable for finances and compliance. What we have not discussed is accountability for fairness. In other words, is PASSPORT being managed and acting in the interest of all stakeholders?

PASSPORT stakeholders include CMS, ODJFS, ODA, PAAs and their employees, providers and their employees, and consumers and their caregivers. As described at the beginning of this report, these stakeholders are linked by a complex set of laws, regulations, and contracts.

To determine if PASSPORT is being managed and acting in the interest of all stakeholders, two steps were taken. First, ODJFS, ODA, and PAA staffs were interviewed to determine how the system works, and how PASSPORT balances the interests of its stakeholders. Second, a survey of active and inactive providers was completed as part of the Assuring the Health and Welfare of PASSPORT Consumers topical study.

There were three major issues identified in our quest to determine if PASSPORT treats its stakeholders fairly. The first issue is the inconsistency of County Department Jobs and Family Services as it relates to financial eligibility determination. In order for a person to become eligible for enrollment in PASSPORT, the County Department of Jobs and Family Services (CDJFS) must have determined the individual to be financially eligible for Medicaid. Federal rules require the CDJFS to make the determination no later than 45 days after an individual's application is complete. In discussing enrollments and waiting lists with PAA staff, we find that most of the "waiting list" is comprised of individuals who are pending CDJFS financial-eligibility determination.

Looking deeper into the issue, we determined that this is not a statewide problem. Some of the PAAs have excellent relationships with their respective CDJFSs and experience fast financial eligibility determination turnaround times. For these it seems to be a result of the size of the county (rural counties seem to work better for eligibility), having designated PASSPORT reviewers at the CDJFS, and/or a concerted effort to foster a strong working relationship between the PAA and CDJFS. For those with slower turnaround times, PAA staff indicate employee turnover, conflicting Medicaid priorities, and/or the difficulty of navigating the system as causes for delays. Both groups also pointed out that the delay in a CDJFS financial-eligibility determination is not always CDJFS's fault. At times there is resistance on the part of the consumer and/or caregivers to present the necessary documentation and/or apathy on the part of individuals seeking assistance.

Slow Medicaid eligibility determination is not only an issue in Ohio. Robert Mollica (2004) discusses the background, causes and financial implications of slow financial eligibility determinations in Ohio as well as Washington, Kansas, Michigan, Nebraska, Pennsylvania, Colorado, and Georgia. Common causes include:

- Applications for individuals seeking long-term care are more complicated because of financial and disability determinations;
- Nursing homes are more willing to admit individuals while their Medicaid is pending because of their knowledge of Medicaid and the fact that residents can be charged if they are found ineligible; and
- Community service agencies have less experience with Medicaid eligibility criteria.

Mollica (2004) continues by suggesting states attempt to expedite Medicaid eligibility determinations by streamlining organizational structure and/or adapting the application process to today's technology. These innovations include, but are not limited to, use of home visits instead of in-office appointments. This can be accomplished by arming case managers with portable scanners/copiers and laptop computers. Another option is co-locating financial eligibility workers. In Florida, for example, co-locating financial eligibility workers at the same agency as the functional assessment worker is in the state's statute. Finally, one solution to the problem could be as simple as having financial eligibility workers dedicated exclusively to long-term care and/or PASSPORT, which is what some CDJFS offices in Ohio have done.

The final issues associated with stakeholder fairness are the quality and quantity of PASSPORT providers. Providers are the bread and butter of the PASSPORT program. In 2004-2006, there were 968 certified PASSPORT providers. A detailed discussion of provider conditions of participation, certification, and the results of a survey of active and inactive providers is presented in the Assuring the Health and Welfare of PASSPORT Consumers topical study. Our findings tell the provider's story from the ODA and PAA perspective.

Our provider surveys and discussions with PAA staff indicate providers, even those that have left the PASSPORT program, are committed to PASSPORT. We are convinced that, like other Medicaid providers, providers (even those unhappy with the rates they receive for their services) go above and beyond program requirements to help consumer access quality care. We also were told that some of these same providers often cannot continue as PASSPORT providers because they are losing money and/or can not get enough referrals to make ends meet.

Comments from inactive providers surveyed for the PASSPORT Evaluation identify two main reasons for their exiting the PASSPORT program - low reimbursement rates and lack of

referrals. One inactive provider said, "The reimbursement rate from PASSPORT wasn't enough and between paying the employee on top of paying office staff, nurses, paperwork in general, bonding, insurance – we were in the hole".

On the surface, the driving force behind providers leaving the PASSPORT program appears to be reimbursement rates. PASSPORT rates and other reimbursement policies have not been adjusted in seven years. We think it is much more complicated. Some formula must exist that allows ends to be met in PASSPORT's current operating environment. Otherwise, why would 91 percent of the providers surveyed be either 'very satisfied' or 'satisfied' with the PASSPORT program? And, why do the majority of these providers say they will very likely stay in the PASSPORT program?

Further, when asked, PAA staff tell you the formula for success may include reducing the number of PASSPORT consumers to be served, forming entirely different organizational structures to care for PASSPORT consumers (organizational structures that pay lower wages, offer fewer [if any] non-statutory benefits, and no travel reimbursement), shifting costs from other programs like levy supported programs, Medicare, other home care waiver programs, and private pay consumers, or refusing to participate in the PASSPORT program at all. PAA staff also said the lack of change in reimbursement has not left a void in the number of providers in the PASSPORT network, but the pool of providers has changed over time. According to PAA staff, large not-for profit health care agencies are being replaced by small for-profits with less ability to respond to the services ordered and delivered to PASSPORT consumers.

PAA staffs are also frustrated with the number of providers. Federal law requires PASSPORT to approve any willing provider that can pass ODA's Conditions for Participation. With the exception of some rural areas of the state, where certain types of providers are not

available, most markets have responded with an ample supply of providers. Each one of these providers is pre-certified, initially certified, and checked for compliance annually as part of the structural compliance review regardless of their size. A significant amount of time and human resources is invested in certifying, providing technical assistance, and monitoring each provider. An outcome is PAA staffs that want to nurture strong working relationships with their better and more responsive providers do not have the time to do so.

Another problem with the current number of providers is the impact on the number of referrals each provider receives. Just over half of the inactive providers surveyed mentioned they had so few PASSPORT consumers that it was not cost effective for them to continue providing PASSPORT services.

The protocol for PASSPORT referrals is to give the consumer enough information to make an informed choice. If the provider chosen by the consumer is not available, or if the consumer does not choose a provider, the consumer is referred to the provider with the lowest cost. According to PAA staff, low-cost selection occurs more often than not. Obviously, it pays to be the lowest cost provider in a PAA. Unfortunately, if a provider has a well-established and compensated work force and is not chosen by the informed consumer, that provider likely will not get a referral. Hence, more experienced providers may get fewer referrals, and their share of the market shrinks. A decrease in market share in a business that makes very little (if anything) off of each transaction is likely to fail.

RECOMMENDATIONS
- Improve the management reporting capacity of the PIMS system.

- When possible, complete the unit of service verification and the service delivery component of the structural compliance review at the same time.

- Encourage ODJFS to continue with its plan to change its quality assurance review to a full program evaluation of internal program management, including case management and adverse-incident management processes, quality assurance protocols, provider accountability, opportunities for consumer and stakeholder participation, and overall continuous quality improvement and fiscal integrity.

- Make every effort to reduce the time lag in ORAA audits.

- Change structural compliance review record request procedures to insure objectivity.

- During quality assurance reviews, at all levels, provide more technical assistance and monitoring advice to enhance the systems capacity and foster group consensus.

- Work with ODJFS to develop strategies to expedite Medicaid eligibility determinations.

- Request a waiver for the Federal requirement that PASSPORT approve any willing provider that can pass PASSPORT's Conditions of Participation.

CONCLUSION

From a financial and compliance accountability standpoint, we feel PASSPORT, on average, operates according to established rules and regulations. The financial integrity of the program has well guarded and multiple levels of adjudication and financial auditing, from CMS to the PASSPORT consumer. We are particularly impressed with the role of PIMS and the case managers in ensuring financial accountability, and we are bewildered by the number of audits that take place over the course of a year. From a compliance standpoint, program review at the federal, state, regional, provider, and consumer levels are being completed according to PASSPORT rules and regulations.

We identified several issues when we looked at PASSPORT from an accountability for fairness perspective. Two are similar to those identified during the Medicaid program performance audit earlier this year. These are:

- Statewide inconsistencies in the performance of County Departments of Jobs and Family Services (CDJFS); and
- Providers that are unhappy with the rates they receive for their services go above and beyond program requirements to help consumers access quality care.

We did find that stagnant reimbursement rates contribute to certain types of providers dropping out of the program. On the other hand, some entrepreneurs find ways to make up for slim margins.

Finally, we found, with the exception of some rural areas in different PAAs, more than an adequate supply of providers. PASSPORT should consider changing the provider selection process to address this issue. One quality assurance/quality improvement manager said "Too many providers does not mean quality." Fewer providers may lower compliance and administrative costs, and allow for more opportunities for technical assistance, time to recruit providers in underserved areas, stronger PAA-provider relations, and opportunities to channel provider referrals to better providers. All of these could have an impact on the quality of the PASSPORT program.

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