State of New Mexico
OFFICE OF THE STATE AUDITOR

Hector H. Balderas, State Auditor

For Immediate Release
February 27, 2014

Contact: Evan Blackstone
(505) 670-0171

State Auditor Balderas Releases Financial Audit that Finds Poor Oversight and Mismanagement of Federal Funds by the Human Services Department

Audit Shows HSD Violated State Contracts by Paying Over $620,000 to Out-of-State Private Contractors for Improper and Inappropriate Costs; HSD Approved Duplicate Per Diem Payments, Reimbursement for Double-Billed Expenses and Purchases of Alcohol; Audit Also Faults HSD's Circumvention of Requirements for Investigating Medicaid Fraud Allegations; Department Also Failed to Collect $60.2 Million in Federal Funds to Reimburse State for Medicaid Expenses

(Santa Fe, NM)—Today, State Auditor Hector Balderas announced the results of the Human Services Department's (HSD) fiscal year 2013 financial audit which found poor oversight and mismanagement of federal funds by the Department. Among the findings, independent auditors found that HSD violated its state contracts with five Arizona behavioral health providers by approving payments for inappropriate costs that exceeded $620,000. HSD used both federal and state funds to pay the costs. In one finding, auditors stated HSD improperly approved advance payments to two of the providers totaling $187,896, even though the contractors had not yet incurred or paid the costs.

Auditors also found HSD approved nearly $7,000 in payments of federal Medicaid funds to Public Consulting Group, Inc. (PCG) for improper costs, including double-billed expenses, duplicate per diem reimbursements and alcohol purchases. Additionally, auditors found that HSD circumvented established requirements for investigating and referring credible allegations of fraud related to 15 behavioral health providers whose Medicaid payments the Department suspended in June 2013. HSD's own procedures require its Program Integrity Unit (PIU) to perform initial investigations of fraud allegations related to Medicaid funds; however, the PIU was not involved in the investigative process nor did it perform the initial investigation of the allegations related to the 15 suspended providers.

"The Department created additional fraud risks by violating state contracts and approving advance payments to private contractors for services not rendered." Auditor Balderas said. "I'm also concerned that HSD approved double-billing and alcohol

purchases for an out-of-state private contractor who was hired to investigate Medicaid fraud allegations. The Department should hold itself to the same high standard of accountability that it demands from organizations that receive federal funds."

HSD spent $2.6 billion in federal Medicaid funds in fiscal year 2013, and Auditor Balderas expressed concern that HSD's mismanagement identified by the audit may jeopardize the State's eligibility to receive federal Medicaid funds intended for vulnerable New Mexicans. Highlights of the audit include:

- Auditors found HSD improperly paid a total of $620,383 to five behavioral health providers from Arizona hired by HSD to replace the 15 suspended providers. These costs, which HSD paid with federal and state funds, violated HSD's professional services contracts with these providers. The costs included:
  - Reimbursements totaling $412,747 for invoices for services that were received more than 15 days after the end of the fiscal year;
  - Payments totaling $187,896 that include prepayments for estimates or projections rather than reimbursement (advance payments for costs not yet incurred or paid); and
  - Reimbursement totaling $19,740 for purchases of tangible personal property over $10,000 that did not receive HSD's prior approval.

- Auditors found that HSD improperly paid nearly $7,000 to PCG for certain inappropriate costs incurred under HSD's professional services contract with PCG. The costs, which HSD paid with federal Medicaid funds, included:
  - Excess per diem reimbursements to PCG employees in the amount of $2,797. These reimbursements included duplicate per diems reported on the same day and per diem paid in addition to reimbursement for actual travel expenses;
  - Reimbursement of alcoholic beverages totaling $115;
  - Reimbursement of expenses previously billed in the amount of $3,315; and
  - Reimbursement to PCG for payment for State of New Mexico employees' meals in the amount of $713.

- For 15 referrals HSD made to the Attorney General's Medicaid Fraud Control Unit (MFCU) in June 2013, auditors found HSD circumvented established requirements for the investigation and referral of credible allegations of fraud. HSD's procedures require HSD's Program Integrity Unit (PIU) to receive initial reports of allegations, conduct a preliminary investigation of the allegations or forward the allegations to the Department's Office of Inspector General. Auditors noted that PIU staff did not perform the preliminary investigation of the allegations associated with HSD's June 2013 suspension of certain behavioral health providers, yet PIU staff signed the 15 referrals to the MFCU.

- Auditors found that the Department's internal controls over compliance with the proper use of Medicaid funds were not designed effectively to timely detect potential overpayments to behavioral health providers. The Department's inability to timely detect overpayments resulted in significant potential questioned costs over a three-

year period. Auditors found that the questioned costs, identified by the PCG audit report to be approximately $36 million, indicate HSD's poor management of contractual agreements which are in place to monitor payments made to behavioral health providers.

- Auditors identified $60,212,204 in federal funds which HSD failed to collect in order to reimburse the State of New Mexico for Medicaid expenses. For many years HSD failed to make timely requests for federal reimbursement for payments made to Medicaid recipients, and the Department also incurred expenditures in excess of approved award amounts for Medicaid funds. Over time these failures led to an amount of $60,212,204 the Department is now unable to collect from the federal government, which has contributed to a negative fund balance for the State's Medicaid Fund. The fund is currently short $72 million.

HSD's fiscal year 2013 financial audit was performed by CliftonLarsonAllen LLP (CLA), the independent auditor selected by the Department. Staff auditors from the OSA worked closely with CLA to ensure HSD's use of federal Medicaid funds and the Department's compliance with federal regulations was adequately audited.

Auditor Balderas said his office has referred the audit's findings to the New Mexico Attorney General, the federal Centers for Medicare and Medicaid Services, and the Office of Audit Services (OAS) within the Office of Inspector General of the U.S. Department of Health and Human Services. The OAS conducts independent assessments of federal fund grantees in order to reduce waste, abuse, and mismanagement and promote economy and efficiency. Balderas recommended that OAS' expertise would be beneficial in helping HSD improve its compliance with federal requirements for the oversight of federal Medicaid funds. He added he will also transmit the audit report to the Interim Legislative Health and Human Services Committee.

In his referrals, Auditor Balderas also voiced his concerns over HSD's lack of transparency related to the PCG audit report. Auditor Balderas subpoenaed the PCG report in July 2013 after HSD Secretary Sidonie Squier refused to provide a copy of the report to the State Auditor and CLA. In October 2013, Auditor Balderas discovered that the PCG audit report that HSD referred to the Attorney General in June 2013 had been altered before HSD provided the report to the State Auditor and CLA. Specifically, the PCG audit report HSD provided to the State Auditor in July 2013 removed the language, "PCG's Case File Audit did not uncover what it would consider to be credible allegations of fraud, nor significant concerns related to consumer safety." HSD failed to inform CLA and the State Auditor of the alteration, and the State Auditor once again engaged the court in November 2013 for a second subpoena to sort out the inconsistencies caused by HSD's withholding of information material to completion of the audit. The First Judicial District Court subsequently issued an Order directing Secretary Squier to "immediately produce, to the extent she has not already done so, '[a]ny and all 'audit report(s)' . . . generated by Public Consulting Group, Inc.'"

The entire fiscal year 2013 Human Services Department financial audit report can be accessed on the Office of the State Auditor's website, at http://www.osanm.org/audit_reports/detail/8619.

# # #