



State of New Mexico
OFFICE OF THE STATE AUDITOR

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State Auditor Tim Keller Issues Risk Advisory on Guardianship Services
Widespread oversight failures of guardianship services for people with disabilities makes program ripe for fraud, waste and abuse

SANTA FE, NM – State Auditor Tim Keller issued a Risk Advisory raising concerns about the Development Disabilities Planning Council (DDPC) Office of Guardianship. The Office of the State Auditor (OSA) conducted an initial review of the statewide program that oversees companies that provide guardianship services of last resort for disabled adults who are incapacitated. The OSA’s review revealed a widespread failure of the Office of Guardianship to adequately oversee contract guardians. Earlier this year, co-founders of a contract guardian firm, Ayudando Guardians, were indicted on charges of embezzlement.

“Safeguarding these resources to provide care for our most vulnerable citizens should be a high priority for the state,” stated State Auditor Tim Keller. “Since the agency was given responsibility for this critical role, it has never really been adequately resourced and there are few systems in place to monitor the companies who are contracted to provide guardianship services. This is a clarion call to right the ship before these failures in oversight are exploited again.”

The OSA identified the following issues:

- During fiscal year 2017, there were no formal policies for contract guardians and the DDPC only monitored two out of 21 guardianship contracts;
- The DDPC did not address complaints about guardians and the required periodic reporting by contract guardians was irregular and unenforced;
- The DDPC could not have been monitoring the accuracy of billing or identifying early signs of the type of fraud and abuse that led to indictments of the leaders at Ayudando Guardians; and,
- The DDPC reports that a severe lack of resources and capabilities, such as adequate staffing, expertise and travel budget, are contributing to the oversight failure.

The OSA recommends that the Office of Guardianship immediately be subject to more oversight and management. In addition to emergency help now to fill the gaps, the OSA recommends long-term enhancement and restructuring by the New Mexico Legislature and the Governor. The New Mexico Legislature transferred the Office of Guardianship from the Office of the Attorney General to the DDPC over ten years ago. OSA recommends the New Mexico Legislature consider placing these responsibilities under an experienced oversight agency during the next legislative session.

The Emergency Risk Review is available here:

https://www.saonm.org/media/uploads/OSA_Letter_to_DDPC_9-21-17.pdf

The full results of the additional audit work will be available in the DDPC’s next annual audit, due later this year.