State of Rhode Island and Providence Plantations

Department of Administration
BUREAU OF AUDITS
One Capitol Hill
Providence, RI 02908-5889
TEL #: (401) 574-8170

June 9, 2015

Ms. Maria Montanaro, Director
Department of Behavioral Healthcare,
Developmental Disabilities and Hospitals
Barry Hall-14 Harrington Road
Cranston, RI 02920

Dear Director Montanaro:

The Bureau of Audits has completed its performance audit and status determination of the "Rhode Island Emergency Department Diversion" legislative mandate. The performance audit was conducted in accordance with Rhode Island General Laws (RIGL) §35-7-3. Pursuant to Rhode Island General Law §35-7-3(b), entitled *Audits performed by bureau of audits*, the Bureau may update the status determinations included in this report within one year following the date of issuance.

We would like to express our sincere appreciation to the staff of the Department of Behavioral Healthcare Developmental Disabilities and Hospitals and the Division of Purchases for the cooperation and courtesy extended to the members of our team during the course of this audit.

Respectfully yours,

Dorothy Z. Pascale, CPA, CFF
Chief

c- Internal Audit Advisory Group
Elizabeth Roberts, Secretary, Executive Office of Health and Human Services
Honorable Daniel DaPonte, Chairperson, Senate Committee on Finance
Honorable Raymond Gallison, Chairperson, House Finance Committee
Dennis Hoyle, CPA, Auditor General
Brian Daniels, Director, Performance Management, Office of Management and Budget, DOA

Why the Bureau Did This Review

The Bureau of Audits (Bureau) conducted an audit of the "Rhode Island Emergency Department Diversion" legislative mandate, as part of its annual risk assessment and audit plan. The purpose of this engagement was to determine the current status of this project and to assess compliance to the mandates referenced in Rhode Island General Laws §23-1.10-20, et seq.

Background Information

The Rhode Island General Assembly, in 2010, created the Special Senate Commission to Study Cost Containment, Efficiency, and Transparency in the Delivery of Quality Patient Care and Access by Hospitals. This Commission concluded the State over-relied on costly and potentially unnecessary hospital emergency room visits for behavioral health evaluations. The Commission ultimately authorized $250,000, of State funding, to cover first year start-up costs for the program. The Providence Center (TPC), the sole respondent to the request for proposals, was awarded a purchase order for the pilot program. The rate of payment for services remains to be agreed upon. This agreement for the initial proposal was not acceptable to TPC, and a revised program proposal from TPC is now being developed based upon the preliminarily agreed-upon rate.

Audit Executive Summary

We reviewed management compliance with the statutory mandates. Management has made substantial progress towards awarding a service provider contract for the implementation of the pilot program. Management remains hopeful that additional funding will be secured to implement the pilot program and fully implement the program after July 1, 2015. The determined status of the six mandates are:

- Complete 1
- Partially Complete 2
- Constrained 1
- Not Complete 2

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Introduction

As part of the Bureau of Audits FY 2015 annual risk assessment and audit plan, the Alcohol Diversion Program Initiative (a.k.a. ED Diversion Program or the "Rhode Island Emergency Department Diversion") was selected for performance audit. The Rhode Island General Assembly created the Special Senate Commission to Study Cost Containment, Efficiency, and Transparency in the Delivery of Quality Patient Care and Access by Hospitals during the 2010 session.

In response to the Commission's report, the General Assembly approved legislation to make the Department of Behavioral Healthcare, Developmental Disabilities and Hospitals (BHDDH) responsible for presenting a proposal for a three-year pilot program to divert individuals impaired by substance abuse related issues to an alternative treatment program outside of the hospital emergency room. The General Assembly passed a statute (§23-1.10-20 et seq.) to establish a program for individuals impaired by substance abuse as an alternative treatment or referral to an emergency room department.

This performance audit report determines the status of agency action to comply with Rhode Island General Law (RIGL) § 23-1.10-20, *Pilot alternative program established.* The statute mandates the following actions:

> *(a) There is hereby created a program for individuals impaired by substance abuse related issues, as an alternative treatment/referral service to the emergency room department, to foster their entry into a continuum of care for treatment and recovery. This pilot program shall be an addition and shall not alter the comprehensive and coordinated program for the treatment of alcoholics and intoxicated persons as set forth in § 23-1.10-6.*
>
> *(b) As used in this section, the following words and terms shall have the following meanings:*
>
> > *(1) "Department" means the Rhode Island department of behavioral healthcare, developmental disabilities and hospitals.*
> > *(2) "Pilot program" means the program described in this section. The pilot program shall not be subject to subsections 23-1.10-10(a), (b), (c) and (d).*
> > *(3) "Substance abuse related issues" means any of the symptoms that are caused by either active substance use, substance abuse/dependence or a combination of both.*
>
> *(c) No later than December 31, 2012, and subject to approval of the Rhode Island executive office of health and human services, the department shall present a proposal to the governor and general assembly to expand existing service(s), that shall result in services described in subsection (a) available twenty-four (24) hours a day, seven (7) days a week to implement the pilot program.*

(d) Subject to approval from the governor and general assembly and the receipt of required funds, the director shall commence the implementation of the pilot program.

(e) The director may adopt such rules and regulations governing the management of the pilot program as he/she deems necessary to carry out the provisions of this section.

(f) The pilot program shall have a duration of three (3) years, commencing on the date that the first licensed facility becomes operational.

(g) The department shall provide an annual report of its findings and recommendations to the general assembly and governor no later than January 31st of each year beginning in 2014.

(h) After three (3) years of operations, the department shall provide an analysis demonstrating outcomes related to the pilot program to the general assembly and governor.

Legislative Mandate Performance Status Determination

Performance Categories

The Alcohol Diversion Pilot Program statute has mandated the above referenced milestones for implementation. We determined the status of the mandated milestones using the following categories:

- **Complete:** The recommendation or corrective action has been implemented as noted in the report.
- **Partially Complete:** The recommendation or corrective action is in the process of being implemented.
- **Not Complete:** The Agency has not begun work.
- **Constrained:** The mandate cannot be implemented due to limitations from sources outside of agency control (i.e., funding, required legislative change).

Whenever appropriate, an Observation paragraph is presented to further develop the status of mandate. Milestones noted in Paragraphs (a) and (b) above do not require agency action. Therefore, status determinations for these paragraphs are not included in this report.

Status of Mandates

Mandate: RIGL § 23-1.10-20(c)

No later than December 31, 2012, and subject to approval of the Rhode Island executive office of health and human services, the department shall present a proposal to the governor and general assembly to expand existing service(s), that shall result in services described in subsection (a) available twenty-four (24) hours a day, seven (7) days a week to implement the pilot program.

Status: Complete

Observation: The report "Non-Emergency Hospital Diversion Program" was submitted prior to the deadline of December 2012. BHDDH staff presented the report to the Committee on February 14, 2013. The report stated a need for approximately $1.3M to implement an appropriate program, and additional funding for housing support as well as transportation would be required.

Mandate: RIGL § 23-1.10-20(d)

Subject to approval from the governor and general assembly and the receipt of required funds, the director shall commence the implementation of the pilot program.

Status: Partially Complete

Observation: BHDDH issued a Request For Proposals (RFP) on January 28, 2014. The Providence Center (TCP) was the sole respondent to the RFP; subsequently, Purchase Order No. 3382109 was awarded to TCP. The purchase order has a not-to-exceed $250,000 expenditure limit and a term of July, 1, 2014, through June 30, 2015, with an option to renew for two additional one-year extensions exercised at the discretion of the State. The contract identifies the Executive Office of Health and Human Services (EOHHS), as the lead agency for the program funding and BHDDH as the lead agency for program development. The purchase order further requires:

> *Initiation of contracted services, including physical changes to the program facility, shall not begin until such time as the Executive Office of Health and Human Services, BHDDH, the contractor and the Center for Medicaid Services have agreed on a fair Medicaid rate for the Sobering Treatment Opportunity Program (STOP) and the Executive Office of Health and Human Services and BHDDH have identified how STOP services for the uninsured and underinsured will be covered.*

EOHHS proposed a rate to TPC who declined. As of the date of this report, TPC has verbally agreed to an EOHHS proposed new reimbursement rate; and they will submit their revised proposal for program review and approval. There is a risk that TPC's revised proposal will fail to obtain the necessary approvals from EOHHS, BHDDH, Division of Legal Services, Division of Purchasing, and the General Assembly prior to the purchase order expiration date of June 30, 2015. We anticipate the agency to exercise its right to a contract extension while it negotiates the rate and program services.

Mandate: RIGL § 23-1.10-20(e)

The director may adopt such rules and regulations governing the management of the pilot program as he/she deems necessary to carry out the provisions of this section. The program will not be a licensed program; therefore any rules governing its management will be contractual.

Status: Not completed

Observation: Since the rate and program services have not yet been fully defined or agreed upon with TPC, EOHHS and BHDDH have not yet begun to determine the necessity of rules or regulations governing the management of the pilot program.

Mandate: RIGL § 23-1.10-20(f)

The pilot program shall have duration of three (3) years, commencing on the date that the first licensed facility becomes operational.

Status: Constrained

Observation: EOHHS, BHDDH and TPC have not agreed upon a rate for services to be provided for the pilot program, and the allotted $250,000 does not appear to be sufficient to implement a complete pilot. Due to budgetary constraints, the agencies do not have other available funds to support the pilot. TPC is revising their program to meet the rate presented by EOHHS. The agreed-upon services and rate may be less than the Committee expectation due to funding constraints.

Mandate: RIGL § 23-1.10-20(g)

The department shall provide an annual report of its findings and recommendations to the general assembly and governor no later than January 31st of each year beginning in 2014.

Status: Partially Complete

Observation: Since no program was implemented by December 31, 2013, no written report was dispersed to the General Assembly or the Governor. BHDDH did, however, informally communicate with members of the Legislature that support the program. Refer to Appendix A for a chronological listing of activities and communications.

Mandate: RIGL § 23-1.10-20(h)

After three (3) years of operations, the department shall provide an analysis demonstrating outcomes related to the pilot program to the general assembly and governor.

Status: Not Complete

Observation: The three-year period has not yet begun. The implementation of the program is pending the acceptance of TPC proposal.

Objective, Scope and Methodology

The purpose of this engagement was to determine the current status of actions mandated via RIGL §23-1.10-20 et seq. The audit included a review and understanding of the:

- Special Senate Commission report submitted to the Senate on February 16, 2012.
- Department of Behavioral Healthcare Developmental Disabilities and Hospitals (BHDDH) proposal "Non-Emergency Hospital Diversion Program."
- Request for Proposal No. 7548426, titled "Hospital Emergency Room Diversion."
- TPC's response to the RFP.
- BHDDH correspondence.

The Bureau of Audits will update the status of this initiative within one year in accordance with RIGL §35-7-3(b) which states in pertinent part:

> *...within one year following the date on which the audit report was issued, the bureau of audits may perform a follow-up audit for the purpose of determining whether the department, agency or private entity has implemented, in an efficient and effective manner, its plan of action for the recommendations proposed in the audit report.*

Appendix A

Chronology of Agency Activity

Date	Summary
6/18/2012	Signed by Governor
5/7/2013	RFI for STOP created.
11/18/2013	Development of the RFP #7548426
12/11/2013	Senate followup on involuntary commitments and locked-ward discussion. Senate advised The BHDDH Director to work with Health on the transportation part of program.
1/8/2014	BHOLD Status report as of 1/7/2014 submitted by consultant was discussed.
1/28/2014	RFP # 7548426 created by Division of Purchases.
5/27/2014	Discussion of the rate setting for STOP, including covering uninsured and underinsured; and BHDDH's share of the cost for uninsured and underinsured.
5/28/2014	BHDDH had questions regarding staffing for the STOP program.
6/3/2014	Rate setting for STOP, Director explores excluding covering uninsured and underinsured; include only Medicaid.
8/21/2014	Shared these docs--Scope of Work for contract.docx; Vendor Questions and Answers for RFP # 7548426 and ER diversion-Per Diem Scenarios.
9/3/2014	Invitation to a meeting about STOP licensing
9/5/2014	Licensing requirements for TPC and Emmanuel House. The STOP program would not need any licensing beyond what TPC already has.
9/12/2014	Discussion of how much to tell TPC about Medicaid rates and program funding, particularly the fact there was no funding for uninsured, or underinsured.
9/12/2014	Advising TPC to contact Medicaid Director at EOHHS regarding project funding.
11/18/2014	Set up meeting regarding the STOP program between BHDDH and EOHHS.
11/18/2014	Request for language used to describe how to fund the STOP program.
11/19/2014	Agenda for meeting on 11/20/2014 regarding RFP, Waiver document and 1115 Authority.
11/29/2014	Discussing a letter from Rhode Island Hospital which proposed a vision of STOP program.
12/5/2014	Requesting a meeting, between BHDDH and EOHHS.
12/8/2014	Confirming meeting.
1/5/2015	Shared proposed rate structure for the RFP with EOHHS.
1/15/2015	Supplied Bureau of Audits with documents supporting TPC's response to RFP.
3/20/2015	Raised the question of whether funding could be extended to next year, if program doesn't start this year.

Date	Summary
4/8/2015	TPC has accepted the Medicaid rate and is reworking their plan. It appears the program is partially developed and ready to go, but full implementation depends on securing other funding.
4/17/2015	Confirms that there has been no contact between BHDDH and DOH regarding a transportation plan for STOP.
4/21/2015	BHDDH is waiting for a revised proposal from TPC. The program will not require any special rules or regulations.
4/23/2015	BHDDH believes that given TPC's acceptance of the offered rate, EOHHS and BHDDH will need to approve a proposal before the pilot program can proceed.

Apendix B

Agency Activity Update Memorandum

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

DIVISION OF BEHAVIORAL HEALTHCARE SERVICES
14 Harrington Road
Cranston, RI 02920-3080

AGENCY UPDATE OF ACTIVITY

TO: Dorothy Z. Pascale CPA, CFF
Chief, State of Rhode Island Bureau of Audits
Department of Administration

FROM: Corinna Roy
Administrator, Research, Data Evaluation and Compliance
Department of Behavioral Healthcare, Developmental Disabilities and Hospitals

RE: STOP Audit Report Addendum

Since the writing of the STOP Audit Report The Providence Center (TPC), BHDDH and EOHHS agreed on using the Crisis Service Medicaid Rate to pay for staff to get started on the program whenever the facility is completed and work with the insurance plans to come up with a total cost for the program that they would pay for to keep people out of the ER which would reduce their cost of care. TPC has begun to move forward on rehabilitating the STOP facility at Emmanuel House and is using some of the remaining funding to pay for recovery coaches to conduct outreach and provide support to individuals in the hospital who were admitted for inebriation. As of July 1, 2015, despite legislative language that said that this program would not be a BHDDH budget initiative, BHDDH will use federal grant dollars to pay for the peer support needed for the program through its Respect contract.