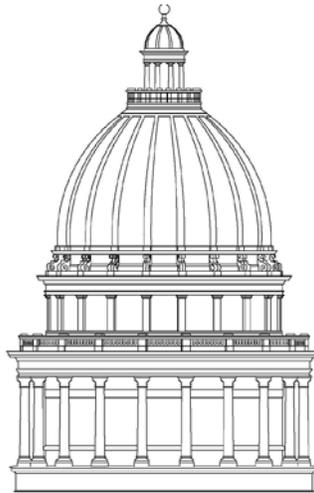


REPORT TO THE
UTAH LEGISLATURE
Number 2014-10



**A Performance Audit of the
Division of Services for People with Disabilities**

October 2014

Office of the
LEGISLATIVE AUDITOR GENERAL
State of Utah



STATE OF UTAH

Office of the Legislative Auditor General

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AUDITOR GENERAL

October 21, 2014

TO: THE UTAH STATE LEGISLATURE

Transmitted herewith is our report, **A Performance Audit of the Division of Services for People with Disabilities** (Report #2014-10). A digest is found on the blue pages located at the front of the report. The objectives and scope of the audit are explained in the Introduction.

We will be happy to meet with appropriate legislative committees, individual legislators, and other state officials to discuss any item contained in the report in order to facilitate the implementation of the recommendations.

Sincerely,

A handwritten signature in black ink that reads "John M. Schaff". The signature is stylized and includes a flourish at the end.

John M. Schaff, CIA
Auditor General

JMS/lm

Digest of a Performance Audit of the Division of Services for People with Disabilities

The State of Utah funds many services for residents with: intellectual and physical disabilities, acquired brain injuries, and autism spectrum disorder through the Department of Human Services' Division of Services for People with Disabilities (DSPD). The division's services are primarily funded by state and federal cost-sharing programs. In fiscal year 2014, DSPD provided services to 4,946 individuals in its four community-based programs.

Between 2008 and 2014, DSPD spent over \$1.4 billion in combined state and federal funds with costs increasing about 18 percent or \$33.6 million. The state portion for this period was about \$390 million (27 percent). Increases in services provided are the primary contributors to cost growth and account for about 86 percent of the increase. The remaining 14 percent is service cost growth. This growth in service cost is a 3.8 percent increase in provider rates.

In 2009, DSPD privatized their case management function (commonly called support coordination) in response to both direction from the Centers for Medicare and Medicaid Services (CMS) and Legislative budget reductions. Through fiscal year 2014, DSPD's support coordinator privatization and reorganization resulted in net cost savings of about \$740,000. Additionally, DSPD has relied on the Legislature to approve new ongoing funding increases to meet the ongoing costs of services previously funded with one-time money.

Since 2008, DSPD's costs have increased about 18 percent or \$33.6 million.

Chapter II DSPD's Allocation of Additional Client Services Lacks Adequate Policies and Controls

Policies Governing Requests for Additional Services are Insufficient. The Request for Additional Needs (RAS) process identified over \$10 million of additional service needs exceeding appropriated funding from fiscal year 2009 to 2014. DSPD should

DSPD needs standardized assessment tools and procedures to make the allocation process more consistent

increase its control over the RAS process to ensure allocated additional services are determined as needed through standardized policy, supported by documentation evidencing the need.

Better Controls to Assess Additional Service Allocations are Needed. DSPD lacks standardized assessment tools and procedures to evaluate additional service requests after approval from the RAS process. There is no mechanism for consistently weighing and reviewing additional services allocations. After RAS review, 80 percent of the requests from 2009 to 2013 were approved either as originally requested or modified as needed. DSPD's reports on additional service allocations are limited and do not allow for sufficient analysis. Standardization would help streamline DSPD reviews and could make the allocation process more consistent.

DSPD Should Establish Internal Process to Review Individuals' Budgets. Although DSPD does an initial assessment of client budgets, many DSPD clients have not gone through the RAS process where subsequent budgets are reviewed in-depth by the division. DSPD should implement a process for client budget review. Some clients have access to unneeded services as evidenced by services not being used and interviews with private support coordinators stating that allocated budgets may not be needed. As a result, DSPD risks providing and paying for services beyond actual needs without adequate review.

Chapter III

Amending Utah's Community Supports Waiver Should Be Explored

SB259 Enables Individuals with Less Critical Needs to Be Served Before Others with More Critical Needs. Senate Bill 259 (SB259) enables some individuals with less critical needs to receive waiver services before those with more critical needs. Once enrolled in the waiver, selected individuals cannot be limited to respite-only services, but must have access to all waiver services. The 44 individuals selected for fiscal year 2014 funding for ongoing respite services were mostly children, and we identified concerns exist with the selection process itself.

Utah Could Consider a Limited Supports Waiver to Target Specific Needs. A limited support waiver allows states to limit the

Some individuals with less critical needs can now receive services over those with more critical needs.

types of services provided compared to a comprehensive waiver. Once an individual is enrolled in the comprehensive waiver, services cannot be limited to respite only. Through SB259, the Legislature attempted to provide limited respite services, through Utah's comprehensive waiver, to a targeted group. Some states provide specific services to targeted needs groups through limited supports waivers. If the Legislature desires to target services to individuals with specific needs, a limited supports waiver should be considered.



REPORT TO THE UTAH LEGISLATURE

Report No. 2014-10

A Performance Audit of the Division Of Services for People with Disabilities

October 2014

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Chapter I

Introduction

The State of Utah funds many services for residents with disabilities through the Department of Human Services' (DHS) Division of Services for People with Disabilities (DSPD or "the division"). According to *Utah Code 62A-5-103(2)*, "The division has the authority to: (a) administer an array of services and supports for persons with disabilities and their families throughout the state...." Under this authority, the division's mission is to promote opportunities and provide supports for persons with disabilities to lead self-determined lives. DSPD serves children and adults with:

- Intellectual disabilities
- Acquired brain injuries
- Physical disabilities
- Autism spectrum disorder

The majority of DSPD's services are funded by state and federal cost-sharing programs; the federal portion is funded either by Medicaid or Social Services Block Grant (SSBG) funding for those unable to meet Medicaid eligibility requirements. This report addresses DSPD's community-based service programs.

DSPD Provides Most Services Through The Community Supports Waiver

In fiscal year 2014, DSPD provided services to 4,946 individuals in its four community-based programs.¹ DSPD provides most services through its Community Supports Waiver (CSW) Medicaid program. This CSW is authorized by the federal Centers for Medicare & Medicaid Services' (CMS) home and community-based services (HCBS) Medicaid waiver program, as authorized under 1915(c) of the Social Security Act. The CSW is a program for individuals with intellectual disabilities or related conditions. DSPD also provides services through two additional Medicaid waivers that target

¹ DSPD also served an additional 542 people through the Utah State Development Center and a pilot program for individuals with autism. This audit will not include a review of these two programs.

DSPD's programs serve individuals with intellectual disabilities, physical disabilities, brain injuries, and autism spectrum disorder.

Most individuals who receive services participate in DSPD's Community Supports Waiver Medicaid program.

In its community-based programs, DSPD contracts with private providers to deliver the actual services.

individuals with brain injuries and physical disabilities, both of which also fall under the HCBS program. In addition, DSPD provides non-Medicaid program services to individuals with similar disabilities who do not qualify for Medicaid. Under all of these programs, DSPD contracts with private providers to deliver the actual services.

Under HCBS waiver programs, Utah is permitted to “...furnish an array of home and community-based services that assist Medicaid beneficiaries to live in the community as an alternative to institutional services.” Figure 1.1 shows the number of people served by DSPD across its various community-based programs from fiscal year 2008 to 2014.

Figure 1.1 DSPD Provides Services to Individuals with Disabilities through Various Community-Based Programs. In fiscal year 2014, the majority of DSPD’s service recipients participated under the Community Supports Waiver Medicaid program (4,602 of 4,946 individuals).

	2008	2009	2010	2011	2012	2013	2014	2008 to 2014 # Change	2008 to 2014 % Change
Community Supports Waiver	4,337	4,423	4,387	4,476	4,436	4,468	4,602	265	6%
Acquired Brain Injury Waiver	106	108	100	110	108	104	112	6	6%
Physical Disabilities Waiver	129	117	113	125	131	130	129	0	0%
Non-Medicaid Program	262	177	94	94	103	95	103	-159	-61%
Total	4,834	4,825	4,694	4,805	4,778	4,797	4,946	112	2%

Source: DSPD Annual Reports

With limited resources, DSPD’s community-based programs cannot serve all who request services. Many potential service recipients must be placed on the division’s service and supports waiting list until funding becomes available. The majority of individuals DSPD serves are enrolled into services from the waiting list, based on the criticality of their needs as determined by a needs assessment and its associated standardized ranking score. Those with higher scores relative to others on the waiting list generally enter services first. The number of individuals on the waiting list has been fairly constant at about 1,900 for the last five years.

DSPD’s waiting list rankings are based on critical need.

Over the last five years, the number of individuals on the waiting list has been fairly consistent at about 1,900.

The needs assessment, conducted by a DSPD intake worker, is based on criteria found in *Utah Administrative Code* R539-2-4; the criteria includes the following:

- Severity of the disabling condition
- Needs of the person and/or family
- Urgency of need
- Appropriate alternatives available
- Household composition and size
- Parental/caregiver ability
- Finances and insurance
- Unmet medical needs
- Problem behaviors
- Protective service issues
- Resources/supports needed
- Time on immediate or future need waiting list

Individuals on the waiting list can submit an updated needs assessment annually or as needed, if there are changes in circumstances. An update may change an individual's ranking on the waiting list.

DSPD believes that the current assessment form has weaknesses. The specific weaknesses noted by DSPD include: medical needs and behavioral issues not being fully captured, a tendency to inflate scores, and inadequate attention to all dynamics of acquired brain injuries. Additional issues include the form's failure to recognize time spent on the waiting list beyond five years and DSPD's current use of a separate assessment form for the physical disabilities waiver. To address these concerns, DSPD recently contracted with the University of Utah's Center for Public Policy and Administration (CPPA) to create a reliable and valid needs assessment tool that will be used for all eligible individuals seeking placement on the waiting list.

DSPD's Expenses Increased 18 Percent between 2008 and 2014

In fiscal year 2014, DSPD's expenditures totaled about \$225 million. Figure 1.2 summarizes the division's total revenues, expenditures, and annual ending balance from fiscal years 2008 to 2014.

DSPD has contracted with the University of Utah to update its needs assessment tool.

DSPD's total expenditures were about \$225 million in FY 2014.

Figure 1.2 Between Fiscal Years 2008 and 2014, DSPD’s Total Expenses Grew 18 Percent. During this time period, the division’s expenditures totaled over \$1.4 billion. Also, DSPD has carry-forward authority for any unused funds, which were about \$6.7 million at the end of fiscal year 2014.

	Total Revenues (State & Federal)	Total Expenditures	Ending Balance (Carry-Forward)
2008	\$193,964,235	\$191,746,381	\$2,217,854
2009	210,057,762	206,168,936	3,888,826
2010	203,816,753	203,799,157	17,597
2011	199,454,712	199,381,035	73,677
2012	202,815,254	202,120,199	695,054
2013	217,832,559	214,915,096	2,917,463
2014	232,035,088	225,358,790	6,676,298
Total	\$1,459,976,362	\$1,443,489,594	
Percent Growth	20%	18%	

Source: DSPD Closeout Reports and Utah Data Warehouse

Figure 1.2 shows that DSPD spent over \$1.4 billion in combined state and federal funds between fiscal years 2008 and 2014, with costs increasing by about 18 percent (\$33.6 million). The state portion of the revenues totaled about \$390 million (27 percent) of the \$1.4 billion in total expenditures.

Because of its participation in Medicaid-eligible programs and activities with state funds, DSPD receives federal matching funds that cover the majority of its expenditures. Through the Federal Medical Assistance Percentages (FMAP), CMS reimburses DSPD for its direct service costs at an annual rate that fluctuated around 70 percent between fiscal years 2007 to 2014.²

DSPD has nonlapsing (carry-forward) authority for any unused funding in a given fiscal year. In general, DSPD applies these carry-forward one-time funds to its Community Supports Waiver budget the next fiscal year. At the end of fiscal year 2014, DSPD had an ending carry-forward balance of about \$6.7 million. Figure 1.3 outlines total DSPD expenditures across its seven appropriation units (grouped into three categories) for fiscal years 2008 and 2014.

² During the recent recession, DSPD received American Recovery and Reinvestment Act (ARRA) federal funds, effectively increasing the FMAP reimbursement rate to 80 and 79 percent in fiscal years 2010 and 2011, respectively.

Between FY 2008 and FY 2014, the state’s share of total costs was 27 percent.

By participating in Medicaid, DSPD receives a federal funding match that covers the majority of its costs.

DSPD has nonlapsing authority for any unused appropriations.

Figure 1.3 DSPD’s Expenditures Are Broken into Three Categories with Seven Appropriation Units. Between fiscal years 2008 and 2014, the Community Supports Waiver appropriation unit had the largest cost increase of almost \$46 million or 36 percent.

	2008	2014	2008 to 2014 Total	2008 to 2014 \$ Change	2008 to 2014 % Change
(Dollars Shown in Millions)					
Administrative Costs					
Administration	\$4.3	\$4.2	\$25.8	(\$0.1)	-2%
Service Delivery	16.6	5.1	64.9	(11.5)	-69%
Institutional Service Costs					
Utah State Developmental Center	37.6	36.1	247.0	(1.5)	-4%
Community-Based Service Costs					
Community Supports Waiver	126.6	172.4	1,059.4	45.8	36%
Brain Injury Waiver	2.2	3.6	20.0	1.4	64%
Physical Disability Waiver	2.0	2.2	14.2	0.2	12%
Non-Waiver Services	2.5	1.8	12.1	(0.8)	-31%
Grand Total	\$191.7	\$225.4	\$1,443.5	\$33.6	18%

Source: Utah Data Warehouse

Figure 1.3 shows that CSW costs grew by almost \$46 million (36 percent) between fiscal years 2008 and 2014. About \$10 million of that cost growth is attributed to a shift of expenses from service delivery to the waiver because of support coordinator (caseworker) privatization and related division reorganization, as discussed in the next section. The service delivery appropriation unit is a DSPD administrative function more directly tied to providing services than is the general administration appropriation unit.

Between FY 2008 and FY 2014, Community Supports Waiver costs grew by almost \$46 million (36 percent).

DSPD Privatized Case Management in Fiscal Year 2009

In response to the Centers for Medicare and Medicaid Services’ (CMS) direction and appropriation reductions, between fiscal years 2009 and 2010, DSPD privatized its support coordination function (commonly called case management). DSPD defines support coordinators as staff who:

Support coordinators assist individuals with disabilities to develop service plans based on the person's needs and wishes.

DSPD chose to privatize the support coordination function to address both CMS's direction and state appropriation reductions.

Privatization of support coordination initially increased costs by \$1.4 million.

...assist individuals with disabilities and their families to develop plans to find the most appropriate services and select the most appropriate service delivery model, based on the individual person's needs and wishes.

Before privatization, support coordinators were state employees funded within DSPD's service delivery appropriation unit. Support coordinators were generally assigned new cases as individuals entered DSPD services. Following privatization, most support coordinators are now selected by service recipients from a pool of private providers approved and contracted by DSPD. This change follows a CMS suggestion that DSPD allow recipients more choice of support coordinators, similar to other Medicaid Region VIII states that have privatized case management duties.

CMS's suggestion came as DSPD was considering widespread transitioning of internal support coordinators to external contracted providers to address appropriation reductions that occurred during the 2009 Legislative General Session. The division chose to accelerate support coordinator privatization at the end of fiscal year 2009. Expenses under the service delivery appropriation unit were reduced by shifting support coordinator costs from an administrative function to a direct service provider.

Accelerated Privatization Limited Planning

Although widespread support coordinator privatization was implemented to address budget cuts, DSPD officials indicate that privatization was not necessarily intended to cut overall service expenditures, and there was no time to study the long-term financial impacts of widespread privatization. A cost-benefit analysis has not yet been conducted to determine the overall cost effectiveness of support coordinator privatization.

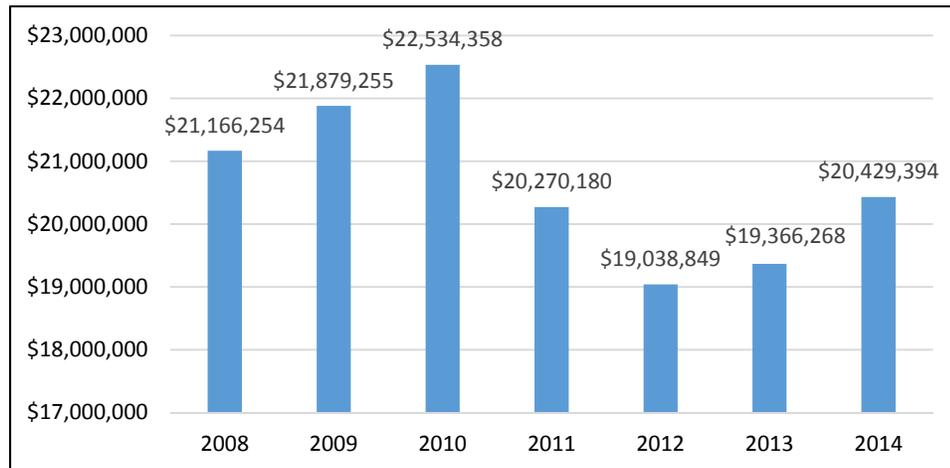
At the end of fiscal year 2010, following widespread support coordinator privatization, DSPD's costs for administration, internal service delivery, and external support coordination had increased by about \$1.4 million (from \$21.2 million in 2008 to \$22.6 million in 2010). DSPD officials explained that this increase could likely be attributed to certain fixed costs in service delivery (such as office leases

for support coordinators) that could not be reduced until later fiscal years.

DSPD officials report that, following support coordinator privatization, there was subsequent internal reorganization at the division that continued through fiscal years 2011 and 2012 to meet continued funding reductions. DSPD indicates that, in these years, it closed regional centers of operation throughout the state, moved staff to a more centralized operation, and reduced its workforce. From fiscal years 2008 to 2014, DSPD reduced its administrative and service delivery full-time equivalent employee (FTE) count from 275 to 111, a decrease of 163 FTEs (or 60 percent). This decrease in state employees was primarily a shift of the internal support coordinator function to privately contracted services, effectively transferring the costs from DSPD’s administrative costs to direct client service costs.

Figure 1.4 shows the interplay of privatization and reorganization as DSPD progressed from 2008 through 2014. Fiscal year 2008 is used as the base year before the changes.

Figure 1.4 DSPD’s Realized Cost Savings through Support Coordinator Privatization and Agency Reorganization. Between fiscal years 2008 and 2014, DSPD reduced its administrative, service delivery, and private support coordinator net costs by about \$740,000.



Source: Auditor analysis of Data Warehouse information

It appears that, between fiscal years 2008 and 2014, DSPD’s support coordinator privatization and reorganization has resulted in net cost savings of about \$740,000 (including state and federal dollars.) However, a detailed study has not been conducted to

Overall, operational reorganization resulted in administrative savings.

From 2008 to 2014, DSPD’s support coordinator privatization and administrative reorganization saved about \$740,000.

estimate the long-term cost impacts of support coordinator privatization. Currently, DSPD does not track its internal administrative overhead costs directly related to support coordinators.

DSPD's Appropriations and Services Provided Continue to Grow

Since 2008, DSPD's service costs have increased by over \$36 million. Increases in services provided are the primary contributors to cost growth, accounting for 86 percent of the increase. The remaining 14 percent is service cost growth. This growth in service cost results in a 3.8 percent increase in provider rates. Finally, in the past, DSPD approved ongoing service increases that could not be covered by the available ongoing funding. To cover these costs, the division has used one-time funds, thus leaving future costs unfunded. As a result, DSPD has had to rely on the Legislature to approve new ongoing funding increases to meet the increasing costs of services previously funded with one-time money.

Services Provided Are the Primary Cause of Increasing Costs

Between fiscal years 2008 and 2014, DSPD's Community-Based Service costs increased \$46.6 million (as outlined in Figure 1.3, page 5). About \$10 million of the increase in costs is due to the shift of support coordinator expenses from DSPD's administrative costs following caseworker privatization. The remaining \$36.3 million (27 percent) increase is primarily due to growth in services provided. Figure 1.5 outlines DSPD's annual service expenditures between fiscal years 2008 and 2014.

Since FY 2008, growth in services provided increased overall service costs.

Figure 1.5 DSPD Service Costs Have Grown Significantly Between Fiscal Years 2008 and 2014. During this seven-year timeframe, DSPD's direct service expenditures have grown over \$36 million or 27 percent.

	Annual Service Expenditures (Support Coordinator Costs Excluded)*
2008	\$132,407,088
2009	146,004,591
2010	144,913,019
2011	146,762,396
2012	151,091,887
2013	160,733,927
2014	168,748,889
Total	\$1,050,661,797
2008 to 2014 Growth in Dollars	\$36,341,801
2008 to 2014 Six Year Growth Rate	27%

Source: DSPD's USTEPS database system

* Support coordinator service costs were excluded from this data because privatization of support coordinators (and the associated shift in costs from one DSPD business unit to another) during FY 2009 and 2010 would skew the analysis if included.

There appear to be two main factors of DSPD's operations that contributed to the 27 percent service cost increase:

- Increases in services provided
- Increases to provider rates

Increases in services provided accounted for about \$31 million (86 percent) of the \$36.3 million in total service cost increases between fiscal years 2008 and 2014. Increases to services include:

- New or increasing services provided to those already in DSPD services (4,946 people served in 2014)
- The net increase or decrease of individuals entering and leaving DSPD services

As shown in Figure 1.1 (page 2), the number of individuals receiving services in DSPD's community-based programs increased by 2 percent between fiscal years 2008 and 2014. Comparing this low increase with the growth rate in service costs of 27 percent over the same period of time (as shown in Figure 1.5), it appears that most of the cost increases are attributable to those already in DSPD services.

The remaining \$5 million (14 percent) of the \$36.3 million in total service cost increases between fiscal years 2008 and 2014 is

Increases to services provided accounts for 86 percent of DSPD's cost growth.

It appears that most of DSPD's service cost growth is attributable to those already in services.

attributable to service cost growth. This growth in service cost is a 3.8 percent increase in provider rates. Adjustments to service allocations for those already in DSPD services are approved by the division through the Request for Additional Services (RAS) committee, as will be discussed in more detail in Chapter II.

DSPD Has Provided Service Allocations Beyond Available Ongoing Funding

Historically, DSPD's annual budget has increased by new funding from building block appropriations. These additional building block appropriations have funded:

- Increasing service needs of individuals in DSPD services
- Bringing individuals into services from the DSPD waitlist
- Funding services for individuals with disabilities who age out of the Division of Child and Family Services' care

Chapter II addresses the issue that DSPD's growth in service needs and related costs has exceeded the amount of funding received to cover such costs, creating a budget shortfall. DSPD has transferred unused funding within its budgeted line item and used one-time funding for ongoing purposes. To offset the shortfall, in fiscal years 2013 and 2014, DSPD requested and received from the Legislature additional building block appropriations for what the division refers to as a "structural imbalance."

According to DSPD, the structural imbalance building blocks are funds appropriated to cover past ongoing services commitments the division paid with one-time funds. This imbalance continues as DSPD allocates more funding to its service recipients for ongoing needs than received in ongoing appropriations. DSPD meets current fiscal year expense increases with its available one-time and/or carry-forward funds. Figure 1.6 shows the structural imbalance appropriations DSPD received in fiscal years 2013 and 2014.

DSPD's structural imbalance is the result of approving ongoing commitments beyond available ongoing funding.

Figure 1.6 DSPD Requested and Received Additional Building Block Appropriations. In fiscal years 2013 and 2014, DSPD received additional funds to cover the unfunded ongoing costs of prior services provided.

Structural Imbalance Appropriations	
2013	\$2,000,000
2014	8,395,000
Total	\$10,395,000

Sources: DSPD Appropriation Reports

As shown in the Figure 1.6, DSPD has received almost \$10.4 million in new appropriations to cover the ongoing costs of prior service commitments. However, almost \$1.2 million of the fiscal year 2013 structural imbalance appropriation was one-time funding. The use of these one-time appropriations for ongoing needs will further contribute to DSPD allocating services beyond available ongoing dollars.

In FY 2013 and FY 2014, DSPD received additional appropriations for its structural imbalance.

Audit Scope and Objectives

This audit of DSPD occurred concurrently with an in-depth budget review of the Department of Human Services (see Audit #2014-09). The audit is a result of a risk assessment of DHS's divisions that resulted in a focus on DSPD because of the division's large annual budget, recent major changes in the program's direction, and the division's history of performance audits.

During the course of the audit, we identified three primary risk areas within DSPD that constitute the scope of this report. These include: DSPD's budget, policies, and management tools addressing additional service allocations, the effect of recent legislation on service delivery, and a discussion about options for Utah's Community Supports Waiver. This chapter has addressed DSPD's increased expenditures, the effects of privatizing support coordinators, and the continued growth of DSPD's legislative appropriations and the services provided. The subsequent chapters of this report address the following:

- Chapter II – The adequacy of DSPD’s policies and management tools regarding the allocation of additional services to its clients
- Chapter III – The effect of 2013’s Senate Bill 259 on the delivery of services to DSPD clients and options under the Medicaid waiver

Chapter II

DSPD's Allocation of Additional Client Services Lacks Adequate Policies and Controls

DSPD uses its Request for Additional Needs (RAS) and Emergency Service Management Committees (ESMC) to review and evaluate client requests for new or additional services. These RAS processes result in an assessment of an individual client's service budget. However, in our review of the RAS process, we found that we are unable to determine if their growing needs are more a reflection of DSPD's lack of adequate controls to ensure additional services are truly needed and justified or the requirement that DSPD must satisfy client need, regardless of cost.

From fiscal year 2009 to 2014, RAS processes have allocated additional services beyond budgeted appropriations totaling more than \$10 million. Currently, DSPD policies governing these allocations of additional services are not standardized and do not adequately define how to establish when a service is needed. DSPD also lacks adequate controls, such as data management tools to assess additional service allocations and reliable data-driven measures to assess how and why additional services are allocated. Finally, DSPD should establish an internal process to manage individuals' budgets to ensure they more closely reflect actual expenditures thereby reducing DSPD's risk of providing services beyond the division's budget.

Policies Governing Requests for Additional Services Are Insufficient

From fiscal year 2009 to 2014, the RAS process identified over \$10 million of additional service needs in excess of appropriated funding. These obligated, non-funded allocations result in DSPD reliance on funds from other sections within the DSPD line item budget. Figure 2.1 demonstrates the annual level of funding needed to cover the annualized costs of the additional service allocations approved by RAS. When the use of services exceeds appropriated funds, the division closes the funding gap by using funds from its

other sections within its line item or from state-supported structural imbalance funds.

Figure 2.1 Allocations of Additional Services Have Exceeded Appropriations by over \$10 Million. Since 2009, DSPD has allocated \$30 million worth of additional services yet has only been appropriated just less than \$20 million to cover the cost.

Fiscal Year	Annualized Additional Service Allocations	DSPD's Requested Building Blocks for Additional Services	Amount Received in Ongoing Appropriations for Additional Needs	Difference Between Service Actual Appropriation Received and Service Allocation
2009	\$3,543,306	\$2,500,000	\$2,752,900	\$(790,406)
2010	4,441,465	3,800,000	-	(4,441,465)
2011	6,533,558	6,176,800	5,928,900	(604,658)
2012	4,910,073	4,176,500	-	(4,910,073)
2013	5,894,078	4,827,700	4,827,700	(1,066,378)
2014	4,901,759	6,210,700	6,210,700	1,308,941
Total	\$30,224,239	\$27,691,700	\$19,720,200	\$(10,504,039)

Source: Auditor Analysis of DSPD Data

DSPD was appropriated ongoing funding for the purpose of addressing additional service needs in fiscal years 2009, 2011, 2013, and 2014. Unfunded service allocations totaled \$10.5 million for the six years.

The 2014 appropriation for ongoing additional services reversed the trend by exceeding the division's allocation of additional services. This appropriation eliminated the need for transfers from other sources for that year, but the issue of unfunded service provision still exists.

Rather than continuing with periodic, supplemental funding and interagency transfers, the division would benefit from increased control over its RAS processes to ensure that all allocated services are appropriate and needed. Currently, the RAS processes lack adequate policies and controls to ensure that additional services are appropriate and addressed in their budgets.

DSPD is required to provide all needed services under the waiver, regardless of budget constraints, but allocating those services may be

FY 2014 was the first time in six years that the services allocated did not exceed available funding.

controlled by DSPD setting reasonable limits. However, the RAS process for allocating additional services lacks standardized policies that can aid in setting appropriate limits. Policies are also needed to establish the type and level of evidentiary documentation that should be required to identify true additional service needs. This lack of sufficient policy is complicated by a lack of reliable information that can aid DSPD in its assessment of additional service need and the financial allocation necessary to address additional needs.

RAS Process Must Satisfy Existing Need Regardless of Budget Constraints

Requests for additional services play an important part in Utah's waiver, which requires that all enrolled individuals have equal access to all needed services. The waiver directs that, once additional services have been deemed necessary, DSPD must provide those services. Although the services must be provided, DSPD is allowed to establish reasonable limits when determining need. Because DSPD does not establish these limits, the current process provides limited control over an individual's budget because it cannot prevent or modify an approved service from addressing that need.

In 2001, the U.S. Department of Health and Human Services Center for Medicaid and State Operations (Centers for Medicare and Medicaid Services or CMS) addressed this issue in a letter clarifying some allowable limits in the waiver. CMS explains that "the State may impose reasonable and appropriate limits or utilization control procedures based on the need that individuals have for services covered under the waiver." CMS also explains that "an individual's right to receive a service is dependent on a finding that the individual needs the service, based on appropriate assessment criteria that the State develops and applies fairly to all waiver enrollees."

Clear, Standardized Policy-Driven Process For Additional Service Requests Is Lacking

DSPD's policy for reviewing additional service requests does not clearly direct how the new service requests will be evaluated nor do policies exist to drive a standardized process. This lack of policy is so basic that the system lacks the ability to differentiate between DSPD's process for requesting for additional services and its process for identifying and addressing emergency services.

Once additional services are deemed needed, DSPD must provide those services, with limited control over the budget.

Utah may impose reasonable limits and control procedures based on appropriate assessment criteria.

DSPD's policy should define how a determination of need is established.

DSPD does have a policy to define when a service is deemed necessary to meet client needs. This policy revolves around providing a working definition of client need. However, the policy's ambiguity allows inconsistency of interpretation and application. As an example, establishing that there is a need for additional day supports includes, but is not limited to, the following elements:

- Day supports are necessary for the person to continue living at home
- The person has a history of benefitting from day supports
- Alternative supports do not address the level of support and services necessary
- The person has a goal related to skill development and deterioration in functioning will result without day supports

While these elements appear clear, there is no methodology for defining what constitutes a measure of the elements or whether or not the elements have been satisfied. There is no standard documentation as to how a support coordinator determines: that additional day supports are necessary to keep the person at home, how the individual has a history of benefitting from day supports, what would suffice to show that alternative supports do not address the necessary level of services, and whether functional deterioration would occur without day supports.

The manager of the RAS program agrees the policy is not ideal and said that DSPD is working on improving it. We believe policies are needed that are clear and define when and how a need is established. Policies must also establish a standardized process directed at providing as much equity as possible when awarding additional services.

The Human Services Research Institute (HSRI), a private non-profit organization that offers advice to policy makers about how to spend resources for people with intellectual and developmental disabilities, published a brief in 2010 which discusses individual budget and resource allocation. The brief defines that "Equity means being fair—people with the same constellation of support needs receive the same budget allocation." The brief also states that the individual budget allocation should be coupled with a standardized assessment measure of support needs. We do not believe DSPD

RAS policy should be standardized to provide as much equity as possible.

policies establish a standardized assessment measure to compare people with the same constellation of support needs.

Some other states' programs standardize their process of evaluating additional service requests. Three states that we reviewed use either a checklist or cover sheet when requesting additional services. The checklist requires standard documents to be included in the request, depending on what type of services are needed. Each request must include the checklist as a cover sheet. The cover sheets either rate the need, whether medical, behavioral, or for activities of daily living as low, medium, or high with an area for notes to explain the assessment or requires a yes/no response to a defined question with further explanation.

Utah's closest approximation of standardization is a document called the RAS Needs-Based-Change Funding Request form. This form is used to show the calculations of the requested additional service's costs. It also includes a question section for support coordinators dealing with the request. However, there is no scoring or weighing of the responses and no governing policy to define how the comments should be evaluated or to ascertain if information pertinent in determining need is present. While other states' tools may or may not answer all questions or provide a thorough evaluation, they are an attempt to create a systematic process with uniform information and consistent measurement of results.

Policies Should Establish Required Documentation to Evidence Need

DSPD's policy does not define what documentation is required as evidence of need for RAS requests. Therefore, determining need is subjective and risks the inequitable allocation of services. Our review of 10 RAS request case files and observation of 32 committee case reviews found the reviews to be heavily weighted by professional judgment. This weighting appears necessary as there is little standardized documentation justifying why a request was approved or denied.

This is not to say that DSPD did not appear to conduct a thorough investigation. On the contrary, during our review of the 32 cases we found DSPD staff well-versed in the individuals' case details. We observed DSPD staff attempt to analyze requests with their current

Other states use a standardized assessment form that provide some equity by weighing and/or scoring responses.

Standardized documentation is needed to provide consistency in additional service allocations.

policy in mind, yet it was difficult for us to understand if policies were being applied consistently because of a lack of consistent measures—such as required standard evidence or adequate tools to weigh the requests and outcomes.

Conversely, Wyoming’s Behavioral Health Division-Developmental Disabilities Section has a checklist and policy that requires standard documents to be submitted along with the request. According to their policy, requests to adjust a person’s budget “shall be carefully reviewed by the division and requires supporting evidence of the change in condition or need in order to review the request.” These documents include typical budget request and adjustment forms. However, requests must also include documentation to support particular service requests. Figure 2.2 shows some of the requirements under Wyoming’s policies.

Figure 2.2 Wyoming’s Policy Requires Specific, Standard Documentation to Determine Need. Physician letters, behavioral reports, and a list of current medications are some of the standard documents required for additional services in Wyoming.

Type of Condition or Need	Documentation Required with Request*
Loss of primary caregiver	<ul style="list-style-type: none"> • Out-of-home placement request form • Letter of caregiver’s primary physician • Referral documentation (such as a report) • Documentation substantiating abuse, etc. • Supporting medical documentation
Behavioral	<ul style="list-style-type: none"> • Summary of behavior data (3 to 6 months) • List of staff members scheduled per shift and others in the facility • Functional/positive behavioral analysis and plan and how it has changed (past 6 months) • Current list of medications
Medical	<ul style="list-style-type: none"> • Current list of medications • Recommendations from a medical case review • Psychological evaluation
Out-of-Home Placement	<ul style="list-style-type: none"> • Letter of caregiver’s primary physician • Supporting medical documentation • Supporting letters from physicians or specialists on letterhead, signed and dated • If on parole, court or parole officer documentation • Current list of medications

* These lists are not all-inclusive

Source: Wyoming Department of Health Behavioral Health Division-Developmental Disabilities Section case management forms

DSPD's process calls for the support coordinator to complete the RAS request form and, during the investigation, provide documentation in support of the request. Without standardized request documentation, DSPD relies significantly on the support coordinator's opinion and observations. This process places the private support coordinator, who represents the interests of the client, in the awkward position of trying to determine what information the RAS committee may want for each separate request.

We also found it difficult to locate and understand which documentation was used to assess additional service requests. DSPD policy does not require standard case management practices for maintaining additional service requests and supporting documentation. During our review of the RAS process, we had difficulty locating the electronic case files, understanding what documentation to review, and what was missing from a case file that should have been included (or would have been useful) when assessing an additional needs request.

Utah Code 62A-5-103 requires DSPD to maintain records of, and account for, the funds for the services provided. We believe maintaining records when allocating additional services, and how those services are allocated, would be included in this requirement. DSPD's current RAS policies and practices lack a clear, standardized assessment to adequately measure support need requests. We believe this prohibits DSPD from ensuring services are not allocated beyond need. We found the process to evaluate additional service requests is labor intense and more subjective than necessary. While we understand that reviewing individuals' need requires professional judgment, we believe the platform that evaluation should start from must be as consistent as possible to ensure fairness when allocating services.

Better Controls to Assess Additional Service Allocations Are Needed

DSPD does not have standardized assessment tools and procedures to evaluate requests for additional services. There is no control mechanism for consistently weighing need and comparing alternatives to get the best service at a reasonable cost. Therefore, it is difficult to control both the individual's and the program's budgets.

A lack of standard evidence risks unfair treatment and leaves DSPD policy up for interpretation.

Standardized case management practices can help DSPD justify why additional services allocations are justified.

DSPD's system report on RAS requests lacks reliability and utility.

The primary tool currently in use is the RAS report created in USTEPS by the private support coordinator. DSPD's data management staff reports, however, that there are no hard system controls to ensure the quality of the data presented in this report. In addition, DSPD processes have changed significantly since 2009 (the time period we reviewed) and may not be completely reflected in this report.

While this report is not ideal it could have merit if updated with appropriate controls and useful metrics. One caveat in reviewing the results from this report is that when individuals request additional services one request may affect several different service codes. The USTEPS report breaks the request data down by service codes which are reviewed by DSPD. For example, in fiscal year 2013 there were 1,256 requests resulting in 2,749 individual service codes and RAS reviews.

From fiscal year 2009 to 2013 additional service requests by over 3,000 people resulted in the assessment of over 10,500 individual service codes. According to DSPD, through the RAS process, as many as two-thirds of the original requests for additional services are modified to reduce the original amount of services requested to more accurately reflect need. After the RAS review, over 8,000, or 80 percent, of requests were approved either as originally requested or modified as needed.

Other states have additional service review systems that are significantly different from Utah's reviews. While Utah's RAS program conducted 1,256 reviews in a single year, four other states we contacted report between 14 and 202 annual reviews. While Utah's reviews result in an 80 percent approval level, the other states range between 50 and 73 percent approval levels. Utah's number of reviews and percent of approvals far exceed those of other states.

Some of these elevated levels may be due to a number of individuals making multiple requests. From 2009 to 2013, 480 individuals requested reviews in at least 3 years of that 5 year period. We cannot say why Utah's annual plans are in greater need of adjustment. Reasons for adjustment could include: that individuals' annual plans are not adequately covering their needs, emergencies keep arising, or other events are taking place requiring DSPD to assess service needs with greater frequency. DSPD needs better information

Utah reviews and approves more additional service requests than other states we reviewed.

to understand its additional need requests and the underlying issues behind the requests.

We believe the options given in USTEPS to justify the request for additional services are limited and do not allow for meaningful analysis. The categories are not descriptive and provide little guidance as to why additional services are being requested. Figure 2.3 shows the breakdown of the need justification reasons that support coordinators provided as to why the request was being made.

Figure 2.3 Most Justification Reasons for Additional Service Requests Fall Under Three Categories. Behavioral problems, No Natural Support, and One-time Service category selections make up 71 percent of the reasons for requests for additional services.

Need Justification Reason	Total	Percent of Total
Behavioral Problems	2,133	20%
Health Problems	936	9
Increase in Functional Limitations	612	6
No Natural Support	2,836	27
One-time Service	2,542	24
Replacement Service	789	7
Transition Service	723	7
Total	10,571	100%

Source: Auditor analysis of DSPD data

The USTEPS manual defines and explains the need justification basis for each of the three most cited categories as follows:

- Behavioral Problems: The Consumer has new or expanded behavioral issues that need to be addressed by this RAS request.
- No Natural Support: Indicates that the Consumer has no natural support for providing a service. This can be due to a new condition that has arisen, or the loss of a previously-available natural support for this issue.
- One-Time Service: The Consumer has a need for a one-time service that is in addition to their current services.

The USTEPS manual requests that all three of these categories should be further explained in a comments section or in log notes. However, USTEPS' log notes are not standardized or easily

Justifying additional services allocations under the one-time service category could be masking a more important issue.

The RAS tracking spreadsheet lacks standardization and requires manual completion, risking inaccuracy.

summarized to allow a clear determination of case outcome. Each log would have to be reviewed individually to understand why the additional services are being requested. Without standardization, log notes indicating a need for either behavioral supports or service needs to address No Natural Support are reviewed independently and may lack consistency.

The One-Time Service justification reason is a catch-all that does not capture why the one-time services are needed and may be masking an issue that should be handled differently. We identified 17 cases that received one-time service funding because their funds were spent incorrectly due to inadequate monitoring and control. We believe this situation calls for a more descriptive justification reason, and that allocating one-time funds due to an unexpected situation is different than allocating them when someone fails to correctly manage the budget. Therefore, they should be tracked and managed differently than under the broad category of the One-Time Service justification.

DSPD also uses an Excel sheet to track additional service requests and their outcomes. This document is created, updated, and manually calculated by DSPD staff. While used by DSPD staff, DSPD recommended that we not use the sheet for fiscal year 2013 as it was unreliable. We reviewed the fiscal year 2014 report and found it difficult to use as it lacked standardization in both how the information is recorded and assessed.

Reviewing the outcomes of the 945 RAS requests, for the first half of the fiscal year, from this spreadsheet lacks automation. This manual process is laborious. Standardization, as much as possible, would help DSPD streamline its reviews and could provide a more consistent allocation process. And although other states' programs may be different from Utah's due to the difference in operations, making comparison difficult, we believe that more meaningful metrics are needed to allow a better understanding of what circumstances individuals may be lacking in their needs.

A lack of adequate controls to review additional service allocations prohibits DSPD from being able to measure and understand why individuals' budgets are not fulfilling their needs and require adjustment.

DSPD Should Establish Internal Process To Review Individuals' Budgets

The RAS process addresses individuals' concerns, who feel their needs are not being met, by performing in-depth budget reviews. However, many clients have never gone through RAS and, consequently, their budgets have not been thoroughly assessed by DSPD. DSPD should implement a process for internal client budget review. Some individuals have access to services they have not shown as needed, which is evidenced both by the individuals not using those services and their support coordinators agreeing the allocated budgets are overstated. This exposes DSPD to the risk of providing and paying for services beyond what is truly needed. DSPD lacks a process to appropriately assess all client budgets.

A Human Services Research Institute (HSRI) brief states, "The individual budget allocation is the foundation upon which is built a participant-directed plan, that maximizes the use of available funds to advance the personal goals and preferences of the person with intellectual and developmental disabilities."

DSPD Should Implement a Process For Internal Client Budget Review

Private support coordinators reassess individuals' services plans (which includes their budgets) once a year. In this review, the services are reviewed and deemed as needed for the rest of plan year unless there is a change in the individual's situation. Without a RAS review, DSPD does not reassess the budgets from both a financial and programmatic perspective to ensure appropriate service levels. The lack of a standard budget reassessment process has led to some individuals being over-budgeted for their needs.

By comparing budget to actual expenditure data for individuals currently being served by DSPD, we found some individuals' budgets may not accurately reflect their true needs. We examined 22 individuals' cases that showed the greatest variance between budget and expenditures and selected 15 cases for a more in-depth review. Ten of the 15 cases are examples of people that are currently in-service that appear to have a budget which has far exceeded their actual expenditures for several consecutive years. There is no documentation

Conducting both a programmatic and financial review of individuals' budgets can help DSPD ensure budgets are appropriately set.

explaining this gap. Figure 2.4 is an example of one client’s budget to actual expenditures for four plan years.

Figure 2.4 An Example of One Client’s Case Shows Budget Exceeding Actual Spending for Four Consecutive Years. This client’s budget has been set 84 percent higher than actual spending.

	Budget	Actual Spending	Over budgeting
Year 1 (Base Year)	\$92,747	\$10,223	\$82,524
Year 2	95,205	16,503	78,702
Year 3	95,162	19,284	75,878
Year 4	98,190	16,283	81,907
Total	381,305	62,293	319,011
Annual Average	\$95,326	\$15,573	\$79,753

Source: Auditor analysis of DSPD data

As figure 2.4 shows, over four years this client’s allocated funds far exceed apparent need spending. Overall, this person utilized 16 percent of their allocation. DSPD staff agree this person’s budget appears to be over-allocated. DSPD indicated that it is the responsibility of the individual’s support coordinator, who updates the budget annually, to inform DSPD if a budget reduction is needed. However, they indicated this is not in official policy.

The individual’s private support coordinator expressed confusion as to if the budget should be reduced because it currently allows flexibility in adjusting services to better meet the individual’s needs. This support coordinator also stated that, perhaps, the budget should be reduced and if additional services are needed then RAS could be pursued. The support coordinator indicated that it would be helpful for DSPD to provide more direction and guidelines regarding how case managers should monitor and maintain individuals’ service budgets.

DSPD’s carry-forward appropriations are generally committed to the Community Supports Waiver the following fiscal year as they have the ability to shift funds between appropriation units. So, any unspent over budgeted funds are generally committed and spent at some point for another individual or another DSPD program. Our concern with DSPD not monitoring and adjusting for over-budgeting is that although clients may not spend all of their budget, in fact they can without demonstrating a need. This situation also contributes to the

DSPD believes it is the responsibility of the private support coordinator to alert them when a person is over-budgeted.

Over-budgeting prohibits DSPD from knowing the true costs of the program.

division's inability to identify the true cost of running its programs. DSPD indicated that they are now beginning a process to review client budgets to expenditures. Figure 2.5 details a summary of the ten cases reviewed for over-budgeting.

Figure 2.5 Over-Budgeting Across 4 Plan Years. Our review of 10 people receiving DSPD services with the greatest variance between budget and expenditures presents a pattern of over-budgeting that suggests budget allocations in excess of service needs.

Person	Annual Average of Overbudgeting	Total Overbudgeting
A	\$79,753	\$ 319,011
B	39,859	159,435
C	38,775	155,102
D	32,264	129,058
E	32,094	128,375
F	31,430	125,720
G	30,343	121,372
H	29,882	119,528
I	29,626	118,505
J	\$27,837	111,347
Total		\$1,487,453

Source: Auditor analysis of DSPD data

Not all excess allocations of an individual's budget are unjustified. According to DSPD staff, there can be valid reasons why individuals may underspend budgets in a given plan year. For example, an individual may have served a period of time during the year, away from DSPD services, due to a short-term civil commitment, an extended hospital stay, or incarceration. Under these circumstances, a person would not utilize DSPD's services, as care would be given through a different funding mechanism. Rather than readjust the individual's budget for a short-term lapse in services, DSPD retains the original budget level. However, these circumstances were not found in the 10 reviewed cases.

In addition to Person A's private support coordinator, we also spoke with the private support coordinators of five additional people in our sample. We asked them to explain why there appears to be a pattern of underspending in their clients' budgets over these four plan years. One private support coordinator explained that he/she has been considering reducing the budget because not all funding is being used

Some excess allocation of budget may be appropriate. For example, a person's DSPD budget may be underspent due to a hospital stay.

or needed. Two said that their clients present behavioral challenges but agreed that the budgets may be oversized based on spending patterns. A fourth private support coordinator indicated he/she did not review expenditures when planning the budget and agreed it would be a good idea for this client due to the level of underspending. Finally, the last private support coordinator acknowledged there was underspending, but chose to preserve the budget because he/she believed it was the client's budget to spend if needed. In most of these cases, the private support coordinator knew of the excess budget, but failed to take action and notify DSPD.

A representative from HSRI stated that individual budgets should reflect what services are being used and needed. Ideally, they would hope to see that a person with low needs requires less funding and vice versa. However, sometimes they do not see that relationship. Instead of funding becoming a straight line as need increases, it becomes more of a cloud where people with less needs have more funding in many cases, which is unsustainable over time.

Figure 2.6 shows an analysis of DSPD's client budget data grouped by level of unspent budget for four years (plan years ending in fiscal year 2013). The budget amount for these clients total \$580,474,469. However, only \$523,786,919 of this amount was spent, leaving an unspent allocated budget amount of \$56,687,550.

Figure 2.6 Over Four Years, DSPD Clients Had Large Unspent Budget Amounts. Unspent budgets mask the amount of services needed and exposes DSPD to the risk of paying for services beyond their current appropriations.

Total Unspent Over 4 Years	Number of People*	Total Amount Unspent	Average Amount Unspent
\$100,000 and Up	29	\$3,973,853	\$137,029
\$50,000 to \$99,999	149	10,143,925	68,080
\$25,000 to \$49,999	406	13,827,154	34,057
\$0 to \$24,999	3632	28,742,618	\$7,914
		\$56,687,550	

Source: Auditor analysis of DSPD data.

* There were also 285 clients who had overspent their budgets by an average \$2,697 or about \$769,000. Because the RAS process remedies an overspent budget by allocating more services (through a budget increase), it is possible that more of the individuals in this figure would have overspent instead of underspent their budget if they had not requested additional services through RAS.

DSPD's lack of a process to review individual budgets leads to the question as to what share of the \$56 million over allocation is not

based on actual need and should be reduced so that budgets more accurately reflect the true need? Inaccurate budgeting prohibits DSPD from understanding where the true need lies. The National Association of State Directors of Developmental Disabilities Services (NASDDDS) director of technical assistance emphasized that there must be an annual review by the state of the expenditures versus the budget and the person’s plan. Reviewing this data will tell a lot about the activities where a state needs to be active.

Because DSPD does not have an internal review process to ensure clients’ budgets reflect only true need, as shown through spending practices, Utah’s perspective of how much it costs to support each person may be lacking. Reliable and accurate information is needed along with a reliable tool or way of measuring. DSPD creates budgets annually but lacks an assessment of how that budget weighs out by the end of the year. HSRI’s brief states, “State leaders may have precise information to describe what amount they are paying per person, but may have little idea of what each person actually costs to support.”

The Ohio Department of Developmental Disabilities has created an assessment tool to determine individual service needs to be used upon waiver enrollment and reviewed annually to ensure it is still accurate. DSPD does perform initial determinations of budgets, but annual reviews are lacking. In Ohio, it is the responsibility of the county boards to complete the annual assessment. In Utah, the annual budgets are reassessed by the private support coordinators.

Utah’s privatization of the support coordinator role fundamentally changed the nature of that position and the relationship to DSPD. Before privatization, support coordinators were internal case managers. There were internal processes that served as a sounding board and review before additional services were officially requested. The support coordinator, as a state employee, presumably had an interest in both the individual and preserving the state’s interest in allocating additional resources as equitably as possible. However, once privatized, it is unreasonable to expect support coordinators—who represent and work for the individuals seeking services—to also represent the state’s interest of ensuring services are allocated and delivered in a manner as consistently as possible.

DSPD Lacks a Process to Appropriately Manage Misspent Budgets. A related issue concerns that of individual budget

The goal is not to reduce client’s budgets but to ensure they reflect the true need.

Reliable, accurate information on client budgets is needed to help the Legislature better understand the community’s needs.

The privatization of support coordinators reduced the state’s control in allocating additional resources as equitably as possible.

DSPD's RAS staff and audit staff have limited communication concerning budget misspending.

management. In our review of RAS, we found 17 cases where a lack of budgetary control and monitoring resulted in a client's need for additional funds to complete his or her plan year. We also found four cases that also received additional services (under categories other than One-Time) due to a misspending of the funds compared to the budget. In the RAS process, these cases received a warning. However, that warning may have no effect. The system neither reports nor analyzes the warning that could isolate this problem.

DSPD does not have a process to capture this type of additional service allocation through RAS (due to budget misspending) and communicate it to DSPD's audit staff—who are responsible for monitoring support coordinators' management of individual budgets. Because these types of budget overspending warnings are not communicated to audit staff, they are not aware of the problem.

Currently, when audit staff see the support coordinator has requested an RAS review and received approved additional services, they presume the support coordinator is getting the services the person needs, but not necessarily due to a budget management problem. Therefore, audit staff are not aware of the true nature for the additional services that have been allocated. DSPD reports they are starting a process to capture this problem.

Recommendations

1. We recommend that DSPD ensure their policies reflect the RAS processes clearly and accurately, providing direction on how additional services are requested and assessed.
2. We recommend that DSPD create a checklist to provide structure and a consistent assessment process.
3. We recommend that DSPD clarify and establish what standard documentation is required to support requests for additional services.
4. We recommend that DSPD track, maintain, and store additional service requests and the outcomes in a consistent and standard manner.
5. We recommend that DSPD create standard and reliable data-driven measures to: 1) assess additional service requests and allocations to best understand client needs, and 2) provide more accurate monitoring of DSPD's processes.
6. We recommend that DSPD implement a systematic internal review assessing individual's budgets and ensure DSPD's resources are used as effectively as possible.

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Chapter III

Amending Utah’s Community Supports Waiver Should Be Explored

Utah’s Community Supports Waiver (CSW) permits Utah to “...furnish an array of home and community-based services that assist Medicaid beneficiaries to live in the community as an alternative to institutional services.” Prior to the passage of 2013’s Senate Bill 259 (SB259), funding for individuals waiting for services was allocated based on criticality of needs. SB259 redirected funding to individuals with less critical needs and places them ahead of individuals with more critical needs. The Legislature could consider creating a limited supports waiver to target individuals with specific needs.

SB259 Enables Some Individuals with Less Critical Needs to Be Served Before Others with More Critical Needs

Senate Bill 259 (SB259) allows a limited number of individuals with less critical needs to receive waiver services over those with more critical needs. However, as the waiver currently operates, these individuals with less critical need cannot be limited to respite-only services, but must be allowed access to all waiver services. We reviewed fiscal year 2014 ongoing respite funding selection process, and it appears to have a greater impact on children. In addition, we have concerns with the selection process used for fiscal year 2014 respite funding.

SB259 Allows Individuals with Less Critical Needs to Receive Waiver Services

Prior to the passage of SB259, *Utah Code* 62A-5-102 required all legislative funding for wavier services be allocated based on criticality of need. With the passage of SB259, 15 percent of the appropriated funds for individuals waiting for services is allocated to those needing ongoing respite services. These services encompass care provided by a trained individual to temporarily relieve parents or caregivers from the day-to-day care provided to an individual with disabilities. The other 85 percent of funding is allocated to individuals based on the following:

SB259 redirects 15 percent of appropriated funds toward individuals needing respite services only.

Severity of disability; urgency of the need for services; ability of a parent or guardian to provide the person with appropriate care and supervision; and length of time during which the person has not received services from the Division.

DSPD is charged with randomly selecting individuals for respite funding by analyzing the needs assessment results of those on the waiting list to determine if the individual needs only respite services. Those people are then given a respite-only designation and considered for respite funding. Once identified, DSPD proceeds to reassess the cases to ensure eligibility and contacts the individuals to offer respite services, which the individuals may accept or reject.

Based on 15 percent of their fiscal year 2014 appropriation being designated to serve those waiting for respite services, DSPD selected 44 individuals to receive ongoing respite funding. Utah was required to amend the waiver to include the estimated number of individuals who would be enrolled in the waiver for respite services. This number is now found in the waiver and will be amended annually to reflect the number of individuals who can be brought into services based on the 15 percent of appropriations. For fiscal year 2014, 44 individuals were selected from the 1,896 who were then on the waiting list.

Figure 3.1 shows the distribution of waiting list rankings for the 44 individuals selected for respite-only care. Those with more critical needs are in the first quartile while those with less critical needs are in the fourth quartile.

Figure 3.1 Individuals Selected for Fiscal Year 2014 Respite Funding Had Rankings on the Waiting List that Covered a Broad Range. A slightly higher percentage of those with the least need were selected over those with the greatest need.

Waiting List Ranking Range	Number of Individuals	Percent of Total
First Quartile (Greatest Need)	13	30%
Second Quartile	12	27
Third Quartile	5	11
Fourth Quartile (Least Need)	14	32
Total	44	100%

Source: Auditor analysis of DSPD data

In FY 2014, 44 individuals were selected to receive ongoing respite funding.

The figure demonstrates that, under SB259, individuals are selected for respite-only services, regardless of criticality. Lower-need-ranked individuals can now be placed ahead of those with greater need. Prior to SB259, the waiver enrolled individuals only from the first quartile, or those with the greatest need. We recommend the Legislature assess whether the effect of allowing less critical individuals to be served before those with more critical needs under SB259 is the desired outcome.

Waiver Services Cannot Be Limited to Respite Only

Once enrolled in the waiver, individuals cannot be limited to respite-only services. Thus, SB259 provides an alternate avenue to access waiver services, other than criticality. In January 2001, the Center for Medicaid and State Operations issued a letter stating the following, “A state is obligated to provide all people enrolled in the waiver with the opportunity for access to all needed services covered by the waiver and the Medicaid State Plan...” Therefore, once those with less critical needs are included in the waiver, these individuals may request additional services, thus leaping forward over the more critical needs individuals still on the waiting list.

Centers for Medicare and Medicaid Services (CMS) officials explain that under *Title 42 CFR 441*, states must ensure that the health and welfare of individuals are met through certain safeguards. These include the “...assurance that the State is able to meet the unique service needs of the individuals when the State elects to serve more than one target group under a single waiver...” This means that, if the state’s waiver does not target one particular type of disability, the state must ensure that all service needs (available through the waiver) of all disability types are met through waiver.

The Utah Department of Health (DOH), responsible for administering Medicaid programs for the State of Utah, concurred with CMS that individuals enrolled in the waiver are entitled to all waiver services where need is demonstrated. As people are enrolled in the waiver, the entire array of services must be available based on need. Consequently, individuals cannot be limited to respite-only services once they demonstrate a need for services beyond respite.

Individuals enrolled in the waiver cannot be limited to respite only as waiver enrollees must have access to all needed services.

Some individuals selected for FY 2014 respite funding are now receiving services that go beyond respite.

As a result, individuals selected for respite services under SB259 can receive all available services. At least three individuals selected for fiscal year 2014 respite funding have begun receiving services DSPD does not consider respite. These services include day supports and supported living services. Day supports encompass daily support, supervision, and training for recipients in a non-residential, community-based setting while supported living services provide recipients with supports, supervision, and assistance needed to live as independently as possible. Providing these types of services should not be unexpected as some of those selected for respite services have higher needs rankings and can now receive additional services if needed. We believe there should be an expectation that, once an individual is enrolled into the waiver, he or she may eventually need services not in line with a respite-only service model.

At our request, the Utah Office of Legislative Research and General Counsel reviewed the effect of SB259 on how DSPD provides services. Its review of the effect concurs with this analysis.

Senate Bill 259 Appears to Have Greater Impact on Children

The majority of individuals selected for ongoing respite funding were children. Of the 1,896 on the waiting list, 166 individuals were included in a pool for respite funding consideration. Figure 3.2 shows that 68 percent of the 166 in the fiscal year 2014 respite selection pool were children under the age of 18, while 32 percent were adults. Of the 44 selected, 34 (77 percent) were children and 10 (23 percent) were adults.

Figure 3.2 Thirty-Four Individuals Selected for Fiscal Year 2014 Ongoing Respite Funding Were Children. Ten of the individuals selected for funding were adults. All individuals selected have an intellectual disability or related condition.

Disability Group	Respite Pool		Selected for Respite Services	
	Total	Percent of Total	Total	Percent of Total
Adult	53	32%	10	23%
Child	113	68	34	77
Total	166	100%	44	100%

Source: Auditor analysis of DSPD data

Twenty-three (52 percent) of the individuals selected were on the waiting list for three years or less. Of these 23, 18 had been on the list less than two years, while one individual had been on the list for only six days before the selection date.

Since respite is primarily intended to help families, it is the nature of respite services to target younger individuals. Children are already receiving other types of services from natural family supports and often do not require services other than respite. The average amount of time on the waiting list is six years.

Concerns Exist with Selection Process Used for Fiscal Year 2014 Respite Funding

Utah Code 62A-5-102 requires that the 15 percent of the appropriation be allocated for respite services be based on random selection. We could not confirm that the process used for fiscal year 2014, the program's first year, was random. DSPD staff did provide a spreadsheet believed to have been used by a former DSPD employee to make the selection. An explanation of the selection methodology was not available. For fiscal year 2015 respite funding, DSPD changed its random selection methodology to improve sample selection.

Further, the 2014 selection process did not include some individuals due to an error. Initially, 181 individuals were identified as needing respite-only services; however, only 166 actually appeared in the selection pool. Of the 15 not in the pool, DSPD officials agreed that eight individuals (six children and two adults) were inadvertently omitted from the pool due to a technical error. The remaining seven were omitted from the respite pool because they were selected for funding based on critical need.

With SB259, the Legislature was attempting to provide limited respite services to a targeted group of people. As the waiver is currently designed, it does not allow Utah to limit enrollees to one type of service, such as respite. If the Legislature desires to target and limit services in this way, a limited supports waiver may be a better option. This option is discussed in the next section.

Some of those selected for FY 2014 respite funding had been on the waiting list for a short period of time.

We could not confirm the FY 2014 selection process was random.

Some individuals were not included in the respite services selection process due to a clerical error.

Utah Could Consider a Limited Supports Waiver to Target Specific Needs

A limited supports waiver operates under the authority of the Home-and-Community-Based Waiver and allows states to limit the types of services provided compared to the comprehensive waiver. We found that some states focus the services they provide through limited supports waivers to groups with specific needs. If the Legislature desires to target services to individuals with specific needs through a limited supports waiver, several important factors should be considered.

Some States Offer Focused Services Through Limited Supports Waivers

States can construct waivers to be comprehensive or limited, serving certain groups of individuals with specific needs. States can also create controls in their waivers to manage service costs. For instance, Medicaid Region VIII states' comprehensive waivers utilize different mechanisms to control costs, such as employing individual cost limits, dollar limits on services provided, and other budgetary limitations. However, Senate Bill 259 established a mechanism in Utah's comprehensive waiver that may have been more appropriately addressed through a limited supports waiver. Some states operate these limited supports waivers, enabling them to limit and focus services to individuals with specific needs. Support waivers generally target individuals who do not require residential services, may apply a spending limit, and are a lower-cost alternative to comprehensive waivers.

Some services provided through supports waivers may include day supports, supported employment, personal assistance, and therapeutic services. Individuals may also have flexibility with the types of services and supports they want to select.

While Utah does not use a supports waiver, four Region VIII states currently operate supports waivers:

- Colorado's support waiver targets individuals with intellectual and developmental disabilities (I&DD) over 18 years of age and places a \$35,000 spending limitation on each waiver

Supports waivers enable states to focus on those who need less expensive services.

Four Medicaid Region VIII states are currently operating supports waivers.

participant. Services are targeted to help the individual remain in the home.

- Montana operates a support waiver that assists individuals with working and living in the community. The waiver is available to individuals with I&DD over 16 years of age and a \$20,000 per year spending cap is imposed.
- South Dakota's supports waiver provides basic supports to individuals with the intent of serving them in the home.
- Wyoming recently implemented a supports waiver that allocates an annual, capped budget of \$12,500 to individuals aged zero through 21 and an annual, capped budget of \$16,500 to individuals over 21 and out of school.

The Office of the Legislative Fiscal Analyst provided the Legislature with a brief detailing DSPD's response to the use of a tiered approach to the waiver. During the 2012 General Legislative session, the Legislature required DSPD to explore options of utilizing a tiered approach to the waiver. In October 2012, a workgroup consisting of DSPD, stakeholders, service providers, and the state Medicaid agency met to determine if a tiered approach to the waiver was an option for Utah. Their work resulted in two options.

The first option was to continue serving individuals with the most critical needs first, which would eventually lead to mainly serving "high cost" individuals. And the second option was to restructure Utah's current waiver program by eliminating the current waiver and creating three new waivers targeting limited family support services, supported working and living services, and full residential services.

DSPD also provided programmatic alternatives and advised further study before the implementation of a tiered approach to the waiver. DSPD believes the waiver is complex and changes could bring about unknown consequences to the service system already in place. As a result, no further action was taken at that time.

In 2012, a workgroup headed by DSPD explored the possibility of creating a tiered waiver and found more study was needed.

The creation of a supports waiver could bring about additional administrative burdens for DSPD.

Items to Consider with Changing Utah's Waiver

If the Legislature desires to provide a targeted service to meet a specific need to enrollees, such as respite care, through restructuring the waiver, there are several important factors to consider. The creation of a supports waiver could create additional administrative tasks. Potential administrative burdens include transitioning individuals between new comprehensive and supports waivers, finding resources necessary to build infrastructure for the supports waiver, correcting operational issues with the supports waiver, and integrating the supports waiver into the existing waiver structure. In effect, DSPD could end up with the opposite outcome of privatization by having to establish infrastructure rather than discarding it.

A report by the Human Services Research Institute and RTI (a research institution) to the U.S. Department of Health and Human Service's Assistant Secretary for Planning and Evaluation stated that states need resources to create robust infrastructure such as technology, case management services, and quality management services to adequately serve individuals on support waivers. States with support waivers also encounter operational issues, such as properly setting individual funding allocations and providing flexibility with services. States face the challenge of including the support waiver in the larger service system in a fashion that complements the comprehensive waiver as well.

The creation of a supports waiver could also create cost neutrality issues within a state's waiver system. Cost neutrality is defined as the average cost of providing waiver services to an individual that is not greater than the average cost of providing service to an individual in an institution. CMS requires states to ensure waivers are cost neutral and this must be demonstrated for a waiver to be approved by CMS.

We spoke with representatives from CMS, the DOH, and DSPD to further understand this issue. As more individuals are placed in lower-cost supports waivers, the average cost of the comprehensive waiver may increase because more expensive services, such as residential care, could only be accessed through the comprehensive waiver. This risks approaching the threshold of the cost for institutional care, a cost that waivers services cannot exceed.

Utah must ensure the average cost of providing services through a supports waiver does not exceed the average cost of institutional care per person.

A State Pilot Program Can Be Used to Test Waiver

Amendments. The Support Work Independence (SWI) program is an example of a state-funded program operated by DSPD³. It began as a pilot program but eventually became permanent, though still only state-funded. We recommend that, in the future, the Legislature consider a state pilot program first before enrolling individuals in the comprehensive waiver.

Amending Utah's waiver is a technical and detailed process that requires a collaborative effort between stakeholders to ensure that both individuals' and the state's needs are taken into account. If the Legislature would like to consider this option, a more comprehensive study is recommended.

³ The SWI program is jointly operated by DSPD and the Utah State Office of Rehabilitation (USOR) Vocational Rehabilitation.

Recommendations

1. We recommend that the Legislature ensure that the current law targets the desired population(s) for ongoing, respite-only appropriations.
2. We recommend that the Legislature assess if the effect of SB259, namely allowing individuals with less critical needs to receive services before those with higher critical needs, satisfies the desired outcome.
3. We recommend that the Legislature consider a state pilot program as a possible approach to providing a targeted service.
4. We recommend that, if it desires, the Legislature consider the use of limited support waiver(s) if it desires to deliver groups of services to targeted populations.

Agency Response

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State of Utah

GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

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ANN SILVERBERG WILLIAMSON
Executive Director

Division of Services for People with Disabilities

PAUL T. SMITH
Director

October 7, 2014

Mr. John M. Schaff, CIA
Auditor General
State of Utah - Office of the Legislative Auditor General
W315 Utah State Capitol Complex
Salt Lake City, UT 84114-5315

RE: **Report No. 2014-10**

Dear Mr. Schaff,

The Division of Services for People with Disabilities (DSPD) appreciates the opportunity to respond to the Performance Audit conducted by the Office of the Legislative Auditor General. DSPD's ongoing improvement is based upon data, diverse stakeholder input - including engagement with the Disabilities Advisory Council established by the Governor in 2012 - and with a focus on the individuals we serve. Proposed system changes follow this consultative approach. As a result, DSPD has been working on the areas noted by these audit recommendations.

As codified in State law, Section 62A-5-102(6), the Division shall ensure that the services and support provided to any person with a disability enable personal choice that best meet individual needs and promote independence, productivity and integration into community life. Policy and practice improvements will be advanced with respect to the law and the DSPD core principle of person-centered planning and service delivery.

CHAPTER 2

Recommendation 1

We recommend that DSPD ensure their policies reflect the RAS processes clearly and accurately, providing direction on how additional services are requested and assessed.

DSPD agrees and is revising existing policy and processes to reflect the recommended approach for more clear, objective and consistent direction. Stakeholder input and real-world scenarios influence the

Our Mission is to Promote Opportunities and Provide Supports for Persons with Disabilities to Lead Self-Determined Lives.

revisions, as well as compliance with state statute and federal rules. The policies and practice guidelines will be reflected through an interactive module of the Utah System for Tracking Eligibility, Planning and Services (USTEPS).

Recommendation 2

We recommend DSPD create a checklist to provide structure and a consistent assessment process.

DSPD agrees with this recommendation to develop a more consistent and standardized assessment process to determine the needs of individuals served. DSPD criteria will guide data collection that aligns with the general service categories and will reflect more specific service code descriptions. The USTEPS module referenced in response to Recommendation 1 will require private sector support coordinators to:

1. Identify information upfront regarding what circumstances exist or have changed in the person's life that necessitates new or additional services;
2. Provide satisfactory answers that, depending on the service being requested, will determine whether the service being requested is needed or simply wanted;
3. Provide documentation and evidence, which will help DSPD verify that such a need exists; and
4. Complete the RAS process in exactly the same manner, each time.

Additionally, it will require documentation of the response from the DSPD RAS Committee for future reference and evaluation.

Recommendation 3

We recommend that DSPD clarify and establish what standard documentation is required to support requests for additional services.

DSPD agrees with the recommendation and is developing standards that will guide what documentation is necessary to evaluate requests for additional services. DSPD will also use existing assessment tools and materials in the record when requests for additional services are submitted.

Recommendation 4 and 5

We recommend that DSPD track, maintain, and store additional service requests and the outcomes in a consistent and standard manner.

We recommend that DSPD create standard and reliable data-driven measures to: 1) assess additional service requests and allocations to best understand client needs, and 2) provide more accurate monitoring of DSPD's processes.

DSPD agrees with the recommendations. The Division recognizes the importance of tracking the patterns and dispositions of requests for additional services in an objective manner.

A module in USTEPS will manage and enforce criteria for evaluating requested additional needs. Reports from USTEPS will provide data intelligence to analyze and evaluate system performance.

Additionally, DSPD uses public feedback, workgroups and recipient experience to critique our practices. We plan to continue these mechanisms of guiding our system efficiency and effectiveness.

Recommendation 6

We recommend that DSPD implement a systematic internal review assessing individual's budgets and ensure DSPD's resources are used as effectively as possible.

DSPD agrees with this recommendation. Prior to the audit, DSPD completed utilization improvements, reviewing all budgets and bringing the allocated amount of money in line with the individual plan maximums.

In August, DSPD began analyzing budgets for funds that have been allocated but historically not completely utilized. A draft sequence of steps to be taken for each proposed layer of reduction is now developed. The Division is identifying which individual budgets are consistently underutilized and which service types account for the majority of that underutilization.

DSPD's next step is to establish criteria to standardize the reviews, ensure consistent outcomes, and support decisions with effective communication such as the statutorily required notices of agency action.

Conclusion

DSPD is encouraged that the areas identified for attention from the audit have already received the Division's priority focus. External and internal evaluations of DSPD practices are crucial. The Division will continue to partner with individuals we serve, family members, private sector contractors and other key stakeholders in advancing our person-centered work.

Regards,



Paul T. Smith, Division Director