



BEAVER VALLEY HOSPITAL'S MEDICAID UPPER PAYMENT LIMIT PROGRAM

SOCIAL SERVICES APPROPRIATIONS SUBCOMMITTEE
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ISSUE BRIEF

SUMMARY

This issue brief follows up on all 11 of the recommendations made by the Legislative Auditor General in [A Performance Audit of Beaver Valley Hospital's Medicaid Upper Payment Limit Program](#) in October 2017. The fiscal analyst believes that one recommendation was not implemented. This brief is for informational purposes only and requires no Legislative action.

DISCUSSION AND ANALYSIS

Background

The reports from the Department of Health (see <https://le.utah.gov/interim/2018/pdf/00003154.pdf>) and Beaver Valley Hospital (see <https://le.utah.gov/interim/2018/pdf/00003800.pdf>) are in response to the following intent language passed by the Legislature in item 30 in H.B. 7, *Social Services Base Budget*, from the 2018 General Session:

The Legislature intends that the Department of Health report to the Office of the Legislative Fiscal Analyst by July 8, 2018 on the status of all recommendations from Office of the Legislative Auditor General's October 2017 A Performance Audit of Beaver Valley Hospital's Medicaid Upper Payment Limit Program.

The summary information in the sections below includes the following information:

- 1) Status of implementation of the recommendation
- 2) The quotes are the original recommendations from [A Performance Audit of Beaver Valley Hospital's Medicaid Upper Payment Limit Program](#).
- 3) Summary of action taken by the Department of Health or Beaver Valley Hospital.

One Recommendation Not Implemented

1. Not implemented "We recommend that Beaver Valley Hospital document the amount of seeding in the contracts with management companies, as well as, amend current contracts to reflect these fees." (Chapter 3, Recommendation #4)
 - a. Beaver Valley Hospital: "[It is] nearly impossible for Beaver Valley Hospital to contractually detail, with the individual nursing facilities, the quarterly and annual IGT funding requirements. However, this information is available on a quarterly basis from the UDOH and is issued by the UDOH with each quarterly IGT invoice."

Status of Remaining Recommendations

2. Implemented "We recommend that Beaver Valley Hospital document how [Upper Payment Limit] funds received from nursing facilities are used." (Chapter 2, Recommendation #1)
 - a. Beaver Valley Hospital (BVH): "To cite specific examples in the hospital environment, BVH has upgraded or is in the process of upgrading several areas of the hospital including Radiology with a new CAT Scan, the development of a surgery center and the addition of orthopedic surgery services. These innovations combined with plant and maintenance in the

last year cost in excess of \$1,000,000. These innovations and needed maintenance help extend the life of BVH's aging facility. These changes would have been extremely challenging if not unlikely to occur considering past revenue losses. As part of the upgrades to the facility, the hospital has completed a renovation of two operating rooms to accommodate increased surgery services. New flooring throughout the facility is in process and a remodel of the nursing facility wing has enhanced the quality of life for patients and residents.”

3. Implemented “We recommend that Beaver Valley Hospital conduct a risk assessment for all nursing facilities to determine what oversight and control deficiencies may exist.” (Chapter 2, Recommendation #2)
 - a. Beaver Valley Hospital (BVH): “BVH, at significant expense, hired a national CPA firm with extensive knowledge of the UPL program to both conduct annual financial audits, and to provide technical support regarding the financial administration of the program. As a result, a unified reporting system and additional financial controls have been carefully established and are being followed jointly by all parties.”
4. Ongoing “We recommend that the Department of Health continue to seek legal advice from Medicaid experts, or the Centers for Medicare and Medicaid Services (CMS) to ensure that the [Upper Payment Limit] program, administrative fees, and seed funding, as currently in practice, are complying with CMS requirements.” (Chapter 2, Recommendation #3)
 - a. Health: “The Department sought advice from CMS, the Attorney General’s Office, and Covington & Burling Law firm. The CMS review is still in process and the Department will continue to follow-up with CMS in order to obtain additional perspective on the program’s compliance with CMS’s requirements.” The next technical assistance phone call with CMS will take place this summer.
5. Implemented “We recommend that Beaver Valley Hospital create a control structure to monitor the use of the Upper Payment Limits for all nursing facilities they operate.” (Chapter 2, Recommendation #4)
 - a. Beaver Valley Hospital: “As noted previously, (see Recommendations 2-1 and 2-2) the Hospital has expanded the control structure significantly since the previous report was published. Great care has been taken to develop a cooperative relationship with the UDOH and align the efforts of both to reduce risk and utilize UPL funds to improve patient care and the resident's quality of life throughout the state.”
6. Ongoing “We recommend that the Department of Health continue to work with Beaver Valley Hospital and other hospitals in the [Upper Payment Limit] program to provide technical assistance and develop an oversight program that will reduce the risk of misusing [Upper Payment Limit] funds.” (Chapter 2, Recommendation #5)
 - a. The Department of Health sent staff to Indiana to learn about its Upper Payment Limit program in December 2017. The department shared lessons learned with Beaver Valley Hospital and will be amending its contract for FY 2019. The Department of Health continues to provide auditors and other staff as needed to give financial assistance.
7. Ongoing “We recommend that the Department of Health implement additional measures to assure that Beaver Valley Hospital has the funding capability, such as a bond, to pay back any Upper Payment Limit funds if required to do so by a federal or state entity.” (Chapter 2, Recommendation #6)

- a. [House Bill 417](#) from the 2018 General Session prohibits the Department of Health from requiring an entity like Beaver Valley Hospital to obtain a bond or insurance for an Upper Payment Limit program. The Department of Health proposes amending its contract for FY 2019 to require management entities to pay their portion of any disallowance due.
8. Implemented “We recommend that Beaver Valley Hospital establish and document quality of care metrics in contracts with nursing facilities.” (Chapter 3, Recommendation #1)
 - a. Beaver Valley Hospital (BVH): “Each BVH nursing facility has different needs as to the type of services provided, environmental and geographical conditions, and constant changing patient case-mix. Consequently, quality measures are being implemented on an individual basis to meet the specific needs of the facility...Efforts are continuing in cooperation with the UDOH and industry leaders to identify specific metrics that would be effective in demonstrating measurable improvements in patient care for each facility. In addition to the BVH-led initiatives noted above, the contract with the UDOH has spending requirements the Department has determined to be valuable in improving patient care.”
9. Implemented Differently “We recommend that Beaver Valley Hospital use quality of care metrics as incentives to reward nursing facilities and document this incentive in contracts with management companies.” (Chapter 3, Recommendation #2)
 - a. Beaver Valley Hospital:
 - i. “However, quality improvement stipulations are found in each contract insuring compliance with the UDOH UPL contract, UAC R414-516, and other state and federal laws and regulations. The incentive is clear; the facility is compliant or their UPL involvement may be terminated.”
 - ii. “Beaver Valley Hospital and the Department of Health are requiring Nursing Facilities to comply with the Department’s quality of care metrics as a requirement of participation in the Program...Beaver Valley Hospital is an active participant with the Department of Health and the Nursing Facility industry in developing and implementing quality of care metrics.”
10. Implemented “We recommend that Beaver Valley Hospital document administration fees in the contracts with management companies, as well as, amend current contracts to reflect these fees.” (Chapter 3, Recommendation #3)
 - a. Beaver Valley Hospital: “All current contracts detail the specific management fees, and fair market rent for the facilities BVH leases and fair market payments for licensing rights. Other fees such as incentive fees along with general operational expenses are also memorialized in each management agreement. If the numbers change for any reason, the contracts are appropriately amended.”
11. Implemented “We recommend that Beaver Valley Hospital document how the Upper Payment Limit funding is to be used in contracts with management companies, as well as amend current contracts to reflect these fees.” (Chapter 3, Recommendation #5)
 - a. Beaver Valley Hospital (BVH): “BVH ensures that all current and amended contracts have cash flow models that detail the flow of funds. Also, all Management contracts detail expected management fees that are paid on a monthly and annual basis using the additional UPL dollars received, subject to fulfillment and performance of the management companies’ contractual obligations under those agreements.”

For more information please see the reports by the Department of Health and Beaver Valley Hospital available at <https://le.utah.gov/interim/2018/pdf/00003154.pdf> and <https://le.utah.gov/interim/2018/pdf/00003800.pdf>.