

NORTH  
**Dakota** | Health & Human Services  
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DATE: January 8, 2024

TO: Representative Emily O'Brien, Chairman  
Legislative Audit and Finance Review Committee

FROM: Jessica Thomasson, Executive Director, Human Services Division  
Tina Bay, Director, Developmental Disabilities

RE: HHS State Audit Report for the Two-Year Period Ended June 30, 2023  
Finding 2023-01: Workforce Retention Grants Not Monitored

Through American Rescue Plan (ARP) Section 9817, and in conjunction with the Federal Centers for Medicare and Medicaid Services (CMS), North Dakota's Health and Human Services agency was approved to dispense approximately \$31.7 million through grants and pilot programs through a spending plan submitted to CMS in June of 2021.

One of the state's early Section 9817 Plan strategies focused on workforce availability and the impact workforce challenges have on access to services for people with disabilities. Recruiting and retaining well trained direct care staff to serve people's needs 24 hours per day, 7 days per week in geographies large and small is an ongoing challenge and consistently reported by the industry as a primary concern.

The "HCBS Workforce Recruitment and Retention Pilot" launched March 2022. (see Attachment A for guidance documents published for Agency providers and Attachment B for Individual providers)

- Program Duration: March 2022 (program guidance released) - October 2023 (last payment issued)
- Participating Providers: 61 agencies (28 DD, 33 AA) plus 525 individual QSPs (AA) and 417 individual DSPs (DD, Autism, and Medically Fragile self-directed)
- Workforce Impacted: 5,530 – approximately 4,588 individuals working for provider agencies and 942 working as individual providers
- Total dollars distributed: \$7,899,914.76; \$7,421,545.77 for retention and \$478,368.99 for recruitment

In Summer 2023 HHS completed a mid-pilot report intended to evaluate how the state's HCBS providers had used the funds and what impact they saw from the pilot related to their ability to improve retention and recruitment of direct care workforce. The evaluation collected both qualitative and quantitative data through an online survey distributed to the 79 eligible agencies. (see Attachment C for copy of the 2023 evaluation report)

Note: The legislature also appropriated \$2.5 million from the state's general ARPA State and Local Relief Funds allocation to allow HHS to operate a parallel workforce recruitment/retention program for direct care professionals working in Intermediate Care Facilities (ICFs) as these settings were not eligible for any programs funded through the Section 9817 HCBS initiative. HHS was able to weave these two funding sources together to create opportunities for providers to utilize workforce retention/recruitment incentives across a variety of setting types (see Attachment D for ICF direct care program guidance issued).

**EXECUTIVE OFFICE**

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### 2022-23 Audit Report Follow Up

The State Auditor's Office (SAO) selected the HCBS retention element of the Section 9817-funded Workforce Retention and Recruitment Pilot as one of the initiatives it reviewed as part of the 2022-23 state audit.

In conducting its review, the SAO developed a "confirmation form" that was sent to a sampling of participating providers, to gather information directly from providers as to their use of funds.

The following is a summary of HHS' response to each of the items noted during the course of the SAO review.

#### Provider #1: A Spectrum of Care

SAO indicated that A Spectrum of Care paid 2 employees over the allowed \$2,100 maximum.

- Employee A was paid \$2,200, which is \$100 over the allowed \$2,100
- Employee B was paid \$2,150, which is \$50 over the allowed \$2,100.

HHS sent findings and a recoupment letter to A Spectrum of Care on 10/23/2024 requesting the **recoupment of \$150.00**. HHS received a check in the amount of \$150.00 on 10/29/2024.

#### Provider #2: Anne Carlsen Center

SAO indicated that Anne Carlsen Center employees were not eligible for the retention incentive because they did not meet the eligibility requirements. The confirmation form Anne Carlsen Center returned to SAO indicated that 7 employees had worked less than 51% of their paid time in a non-institutional setting during the period for which the incentive was being requested.

HHS followed up with Anne Carlsen Center and verified that the above-noted individuals worked in an ICF (not an HCBS) setting and should have been paid under the ICF Workforce Retention incentive. HHS confirmed that these individuals had not already received payment under the ICF workforce retention incentive. HHS determined **no funds needed to be recovered**; HHS completed journal voucher entries to apply the payments made to the corrected program funding source.

HHS conducted an additional review of all retention payments made to Anne Carlsen Center (total of \$300,300 paid to 172 employees). As part of this review HHS noted that 165 additional employees were not eligible for the HCBS retention incentive because they worked in an ICF setting and should have been paid under the ICF Workforce Retention Incentive. HHS confirmed that these individuals had not already received payment under the ICF workforce retention incentive. HHS determined **no funds needed to be recovered**; HHS completed journal voucher entries to apply the payments made to the corrected program funding source. HHS sent findings letter to Anne Carlsen Center on 10/31/2024.

#### SAO Recommendation re Finding 2023-01 (2022-23 state audit):

We recommend DHHS identify whether there were other ineligible payments, and recoup funds for payments made to ineligible caregivers identified in this audit and through the Department's additional procedures.

We recommend DHHS develop ways to measure whether programs achieve the intended purpose.

#### HHS Management Response to Finding 2023-01:

The Department of Health and Human Services (HHS) agrees with the recommendation. HHS used Section 9817 funds from the American Rescue Plan Act to pilot a program supporting recruitment and retention of the direct care workforce in HCBS. At the time of the audit, the program was ongoing, and a post-implementation evaluation had not yet been completed. HHS will use gathered information to assess the program's efficacy and summarize lessons learned. HHS will follow its existing processes to recoup any funds not used according to program guidance, including those identified in this audit.



**Provider #3: Development Homes, Inc.**

SAO indicated that Development Homes Inc. (DHI) had two areas of non-compliance.

- Employees were not eligible for the retention incentive because they did not meet the eligibility requirements. Development Homes, Inc. indicated on the confirmation form returned to SAO that one employee worked less than 25% of their paid time providing direct care supports or services to an individual who receives services via a state or federally funded HCBS program.

HHS sent findings and a recoupment letter to Development Homes, Inc. on 10/13/2024 requesting the **recoupment of \$2,000.00** for this finding, because the employee received an incentive not in accordance with program guidelines.

- Development Homes, Inc. was not passing all requested amounts through to employee caregivers, distributed incentive funds to administrative personnel or other personnel.

HHS conducted a follow-up monitoring with Development Homes, Inc., and concluded that the “administrative personnel or other personnel” indicated on the confirmation form were Residential Habilitation Managers and Qualified Service Professionals; even though their “role” is not solely direct care, these staff did spend over 50% of their time with clients; and the ratio was even higher during the audit period. DHI verified on 11/8/2024 that each employee met the program requirements for providing direct care. HHS determined **no funds needed to be recovered** as the provider paid out the incentives according to guidelines.<sup>1</sup>

HHS conducted an additional review of all retention payments paid to Development Homes, Inc. (total of \$251,000 paid to 182 employees). As part of this review HHS found that 2 additional employees were not eligible for the retention incentive because they did not meet the eligibility requirements. Employee A was paid \$1,000 and Employee B was paid \$1,000.

HHS sent findings and a recoupment letter to Development Homes, Inc. on 10/31/2024 requesting the **recoupment of \$2,000.00** for this finding. A check in the amount of \$4,000.00 was received 11/13/2024.

**Provider #4: Helping Hands Care**

SAO indicated that Helping Hands Care was not passing all requested amounts through to direct care employees, and that they had distributed incentive funds to administrative personnel or other personnel.

HHS followed up with Helping Hands Care, LLC and confirmed via e-mail on 4/17/2024 that the provider had mis-interpreted the intent of the SAO confirmation form. They had selected “other” for the two employees in question because their roles in the company are Owner and RN; however, these individuals did spend over 50% of their time with clients; the ratio was higher during the audit period.

Based on the additional information received, HHS determined that the payments were made within the program guidelines and **no repayment is required**. HHS sent findings letter to Helping Hands Care on 10/23/2024.<sup>1</sup>

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<sup>1</sup> NOTE: HHS notified SAO prior to the finalization of the audit that a person with a job title of “administrative or other” may also provide direct care so it is not accurate to disallow a person solely based on their job title, however, no changes were made to the audit findings.

**Provider #5: Pride, Inc.**

SAO indicated that Pride Inc. was out of compliance in two areas.

- Employees were not eligible for the retention incentive because they did not meet the eligibility requirements. Pride, Inc. identified on the confirmation form returned to SAO that the sample of 10 employees worked less than 51% of their paid time in a non-institutional setting during the period for which the incentive was being requested.

HHS followed up with Pride, Inc and confirmed that the provider had made an error in completing the confirmation form. Pride, Inc. is not licensed to provide ICF services; as such, all services provided by Pride, Inc are considered HCBS services. The provider marked 0-50% in error; Pride, Inc. did provide the State an updated confirmation form on 4/8/2024. <sup>2</sup>

Based on the additional information received, HHS determined that the payment was made within the program guidelines **and no repayment is required.**

- Employee retention incentive exceeded program guidelines.
  - Employee A was paid \$2,368.01, which is \$268.01 over the allowed \$2,100.

HHS conducted an additional review of all retention payments paid to Pride, Inc. (total of \$285,312.30 paid to 196 employees). As part of this review HHS found that Pride, Inc. paid 1 additional employee more than the max payment of \$2,100. Employee B was paid \$2,100.01, which is \$0.01 over the allowed \$2,100.

HHS sent findings and recoupment letter to Pride, Inc. on 10/23/2024 requesting the **recoupment of \$268.02**. Check in the amount of \$268.02 was received 11/6/2024.

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<sup>2</sup> NOTE: HHS notified SAO prior to the finalization of the audit that the provider indicated they completed the form incorrectly, however, no changes were made to the audit findings.

### Summary

SAO selected 10 agency providers (80 employees) in the work they did to determine adherence to program guidelines. These 10 selected agencies employed 1,209 people who received retention incentives, which represents 26% of all agency employees benefitting from the program.

Five of the 10 providers surveyed by SAO were identified as having areas of non compliance (described in detail in the memo above). These five providers received a total of \$865,637.30 in incentive payments for 577 employees. HHS' review of each circumstance presented, along with additional validations for the 3 largest providers with areas of potential non-compliance, indicated a need to recover a total of \$4,418.02 in payments that were made in a manner that was not in compliance with program guidelines.

Agency Providers	Total incentive received	Total employees receiving incentive	Requested recoupment* / # employees affected	Recoupment as % of total incentive
Anne Carlsen Center **	\$300,300.00	172	\$0.00 / 0	0.00%
Development Homes, Inc. **	\$251,000.00	182	\$4,000.00 / 3	1.59%
Pride, Inc. **	\$285,312.30	196	\$268.02 / 2	0.10%
Helping Hands Care	\$9,150.00	6	\$0.00 / 0	0.00%
A Spectrum of Care	\$19,875.00	21	\$150.00 / 1	0.75%
<b>SUBTOTAL – subset of sample with some indication of non-compliance</b>	<b>\$865,637.30</b>	<b>577</b>	<b>\$4,418.02 / 6</b>	<b>0.51%</b>
<b>ABLE, Inc.</b>	<b>\$133,110.00</b>	<b>75</b>	<b>\$0.00 / 0</b>	<b>0.00%</b>
CHI Friendship	\$361,441.90	188	\$0.00 / 0	0.00%
Good Samaritan Home Care	\$10,420.00	5	\$0.00 / 0	0.00%
HIT, Inc.	\$365,500.00	220	\$0.00 / 0	0.00%
Red River Human Svc Foundation	\$212,050.00	123	\$0.00 / 0	0.00%
Poppy's Promise	\$39,100.00	42	\$0.00 / 0	0.00%
<b>SUBTOTAL – subset of sample with no indication of non-compliance</b>	<b>\$1,121,721.90</b>	<b>653</b>	<b>\$0.00 / 0</b>	<b>0.00%</b>
<b>TOTAL</b>	<b>\$1,987,359.20</b>	<b>1,209</b>	<b>\$4,418.02 / 6</b>	<b>0.22%</b>

\*100% of requested recoupments were received by HHS

\*\*HHS review of 100% of payments issued

SAO selected 69 individual providers (QSP and SDS DSP) in their work to determine adherence to program guidelines. The 69 individual providers represented 7% of all individual providers benefitting from the program. None of the individual providers sampled returned any areas of non-compliance.

Individual Providers	Total incentive received	Total employees receiving incentive	Requested recoupment* / # employees affected	Recoupment as % of total incentive
Qualified Service Providers (QSP)	\$964,425.00	525	\$0.00 / 0	0.00%
Direct Service Providers Self Directed (SDS DSP)	\$820,050.00	417	\$0.00 / 0	0.00%
<b>TOTAL</b>	<b>\$1,784,475.00</b>	<b>942</b>	<b>\$0.00 / 0</b>	<b>0.00%</b>