FINAL REPORT

Child Development Services – Implementing Comprehensive Program Management, Encouraging Responsible Stewardship of Resources, and Developing Data to Support Management Decisions Could Improve Efficiency and Cost Effectiveness

Report No. SR-CDS-11

Issues OPEGA noted during this review:

- Organizational structure and limited capabilities in key management functions hinder comprehensive management, transparency and oversight of program. (pg. 42)
- MDOE and CDS have not placed sufficient emphasis on ensuring efficient and cost-effective use of resources in the implementation of the CDS program. (pg. 46)
- MDOE has not adequately monitored CDS' finances nor ensured that CDS' biennial budgets reflect projected actual resource needs. (pg. 49)
- CDS does not track actual service units provided by its direct service staff against children's Plans and does not consistently monitor staff productivity. (pg. 51)
- Electronic data necessary, or useful, for managing the program is not always reliable or captured in a consistent manner. (pg. 52)
- Contract management is decentralized and professional administrative services are not always competitively procured. (pg. 54)
- Program revenue sources have not been maximized. (pg. 55)
- Lack of coordination between MDOE, CDS and DHHS creates risk of potential fraud and abuse in the MaineCare program associated with billing for CDS program services. (pg. 57)

July
2012

a report to the
Government Oversight Committee
from the
Office of Program Evaluation & Government Accountability
of the Maine State Legislature

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ABOUT OPEGA & THE GOVERNMENT OVERSIGHT COMMITTEE

The Office of Program Evaluation and Government Accountability (OPEGA) was created by statute in 2003 to assist the Legislature in its oversight role by providing independent reviews of the agencies and programs of State Government. The Office began operation in January 2005. Oversight is an essential function because legislators need to know if current laws and appropriations are achieving intended results.

OPEGA is an independent staff unit overseen by the bipartisan joint legislative Government Oversight Committee (GOC). OPEGA's reviews are performed at the direction of the GOC. Independence, sufficient resources and the authorities granted to OPEGA and the GOC by the enacting statute are critical to OPEGA's ability to fully evaluate the efficiency and effectiveness of Maine government.

Requests for OPEGA reviews are considered by the Government Oversight Committee in accordance with a standard process. Requests must be made in writing and must be initiated or sponsored by a legislator. Individual legislators or citizens should review the process and FAQ that are posted on OPEGA's website at http://www.maine.gov/legis/opega/ProcessProducts.html. There is also a form there to help facilitate the GOC's consideration of the request. Legislative committees can request reviews directly through a written communication to the Government Oversight Committee.

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Child Development Services – Implementing Comprehensive Program Management, Encouraging Responsible Stewardship of Resources, and Developing Data to Support Management Decisions Could Improve Efficiency and Cost Effectiveness

Introduction

The CDS program provides services to children with disabilities from birth through age five in accordance with the federal Individuals with Disabilities Education Act (IDEA).

The Maine Legislature's Office of Program Evaluation and Government Accountability (OPEGA) has completed a review of Child Development Services (CDS), a program that is the responsibility of Maine's Department of Education (MDOE). This review was performed at the direction of the Government Oversight Committee for the 125th Legislature.

The CDS program provides early childhood intervention services and a Free Appropriate Public Education (FAPE) to children with disabilities from birth through age five in accordance with federal requirements in the Individuals with Disabilities Education Act (IDEA). The organizational structure, with related roles and responsibilities, for implementing the program is established in Maine statute and is referred to as the CDS System. Table 1 provides an overview of the CDS program revenues, expenses and number of children served in each of the last five fiscal years (FY), as well as the budgeted full time equivalent positions (FTEs) in the CDS regional sites.

The title **Child Development Services** and the acronym **CDS** are commonly used to refer to either the program or the organizations implementing it. Throughout this report distinctions will be made as follows:

- **CDS Program** – refers to all activities and efforts involved in providing the defined services.
- **CDS System** – refers to the structure established in statute for the program encompassing all entities with responsibilities for implementing, managing and overseeing the program.
- **CDS** – refers collectively to only the CDS Central Office (aka SIEU) and the regional site offices (aka IEUs).

Table 1. CDS Statistics for Fiscal Years 2007 – 2011

	FY07	FY08	FY09	FY10	FY11
Revenues	$24,824,425	$24,809,348	$26,805,561	$28,023,107	$34,813,299
Expenses	$25,620,738	$26,137,784	$27,605,628	$29,558,274	$35,381,116
Children Served	5,152	4,883	4,663	4,998	4,754
Budgeted FTEs	295.98	282.23	303.4	319.75	354.36

Sources:
Revenues and Expenses are from CDS audited financial statements in MacDonald Page & Co, LLC Single Audit Reports for fiscal years 2007 – 2011.

Children Served figures are from CDS and are as of December 1st in each year.

Budgeted FTEs are from OPEGA analysis of budget data for CDS regional sites provided by CDS. Many direct service positions in the regional sites are part-time positions, therefore the actual number of individuals employed by CDS exceeds the count of budgeted FTEs. Budgeted positions for the CDS Central Office for each year were not readily available and are not included in these figures. At the time of this report, the Central Office had 15 employees and three contracted positions.

Legislative interest in reviewing this program stemmed from recurring supplemental budget requests and private provider complaints.

Recent legislator interest in a review of the CDS program stemmed primarily from recurring supplemental budget requests for the program over the past several years. Changes made to the CDS System in 2006 were projected to result in several million dollars of General Fund savings and appropriations were reduced accordingly. In fact, however, program costs did not go down. Even with multiple supplemental budget appropriations over the five years, annual revenues have consistently been insufficient to cover actual expenses. As a result, the CDS program was carrying forward a deficit of over $3 million by the end of fiscal year 2011. CDS' independent financial auditor noted this and, in November 2011, the Governor approved a Financial Order shifting $3.6 million in General Purpose Aid to the CDS program to cover the deficit.

In addition, over the same period, legislators heard a number of concerns from private service providers who contract with the CDS. These concerns included, but were not limited to, timely payment of invoices, issues regarding both central and regional management of CDS offices, and a perceived shift toward CDS using its own employees for the delivery of services rather than using private providers.

OPEGA's review focused on costs and fiscal management of the program. Compliance with IDEA, quality of services, and appropriateness of children's service plans were not examined.

The focus of OPEGA's review was on costs and fiscal management of the program. OPEGA did not examine compliance with IDEA, the quality or results of the services provided, or the appropriateness of specific services included in individual children's service plans. The Committee approved the scope questions addressed by OPEGA prior to the review's initiation. See Appendix A for complete scope and research methods.

Questions, Answers and Issues

1. What entities have a role in overseeing and managing the CDS program and what is each role? Which entities have responsibilities with regard to budget development and monitoring? How effectively does each carry out those responsibilities? Are there any gaps or overlaps/duplications in oversight or management that could negatively impact finances, or transparency and accountability?

see page 10 for more on this point

The organizational structure of the CDS System is unlike any OPEGA has encountered in Maine State Government, and is particularly atypical for State-administered, federal programs that require such significant General Fund support. MDOE is the lead agency responsible for the CDS program. The program is managed and implemented, however, by other entities with varying degrees of statutorily defined independence from MDOE.

OPEGA identified a number of issues that hinder the clear and comprehensive management of the CDS program on a statewide basis. These issues include: lack of strong accountability mechanisms; blurring of roles and responsibilities; weaknesses in processes for developing and monitoring the program budget; and weaknesses in key management functions resulting from limited reliable data, as well as limited analytic and fiscal management capabilities. These same issues also impair transparency and effective oversight, particularly at the legislative level.

Recent statutory changes approved by the Legislature in April 2012 address some of the structural and accountability issues OPEGA noted in this review. However, additional systemic changes are needed to improve the management and oversight of the CDS program and the System through which it is implemented.

2. What processes and controls does CDS use to manage and contain program costs when establishing plans and providing services to children? Are they sufficient to assure that services are reasonable and necessary to produce the desired outcome, and that related billings are accurate and appropriate? Do they assure CDS' human and financial resources are utilized efficiently and productively, and that costs are otherwise minimized to the extent possible?

see page 21 for more on this point

Defining what is appropriate and necessary for producing desired outcomes can be challenging as each child's situation is unique. The federal Individuals with Disabilities Education Act requires that "appropriate" services be provided. Under the law, there is a broad range of what might be considered an appropriate level of service in any particular case. IDEA also requires a child's service plan be established through consensus of the child's "Team" which must include the child's parents or guardians, a CDS representative with authority to commit funds, and certain other specialists depending on the child's needs.

The level of planned services agreed to, and decisions about how they will be delivered, are key cost drivers in the CDS program. Consequently, the culture and philosophy at CDS, as well as the knowledge and skill level of the CDS Team members and the level of guidance provided to them are important factors for ensuring the provision of appropriate services and responsible stewardship of State and federal resources.

OPEGA found the culture throughout the CDS System is appropriately focused on compliance and quality service for children, but does not place sufficient emphasis on fiscal impacts in the provision of services. Adequate support mechanisms are not in place to help ensure that reasonable desired outcomes for children are achieved in an efficient and cost-effective manner. Processes and controls are generally adequate to ensure that payments to providers and insurance billings for CDS staff time are accurate and appropriate. However, processes and controls are not adequate to ensure the efficient and productive use of financial and human resources. Therefore, CDS does not minimize costs to the extent possible in determining and delivering appropriate services.

3. How much of the funding for CDS is expended on administrative costs versus service delivery costs? What are the primary components of service delivery costs for direct delivery of services? How do administrative and service delivery costs compare among CDS sites? What are the reasons for any significant trends or differences in costs and do they suggest any opportunities to reduce costs?

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OPEGA determined that administrative expenses accounted for 16.9% of all CDS program expenses in the time period FY2009 - FY2011.[1] Expenses associated with service delivery accounted for 78.4% during the period, encompassing expenses for both case management and direct service, which accounted for 12.5% and 65.9% of total expenses respectively.

[1] The scope of this review was FY07 – FY11. Limited detailed financial data for FY07 and FY08 confined OPEGA's analysis of expenses to the three year period FY09 – FY11.

The direct services expense category is not only the primary cost component, but also the component that increased the most over the three year period. The two largest expense lines within the direct services category, and for CDS program expenses overall, were contracted provider services and salaries and benefits. Expenses for contracted provider services, not including transportation, increased by $3.8 million, or about 44%, between FY09 and FY11 and most of that increase appears related to a 2010 MaineCare rule change. Salaries and benefits expenses for direct services increased $3.7 million, or about 50%, in that same time period with the increase primarily due to additional CDS direct services staff.

OPEGA conservatively estimates the annual fiscal impact of the MaineCare rule change on the CDS program as at least $7.6 million given impacts on both revenue and expenses. Our analyses show that revenue and/or expenses for four of the nine CDS regional sites were not as significantly impacted by the change as the others. While this may be due to factors that are unique to these sites and types of services they provide, further exploration of the reasons why these four were not as impacted may identify some opportunities to mitigate the financial impact to the CDS program system-wide.

OPEGA identified the following issues during the course of this review. See pages 42 - 59 for further discussion and our recommendations.

- Organizational structure and limited capabilities in key management functions hinder comprehensive management, transparency and oversight of program.
- MDOE and CDS have not placed sufficient emphasis on ensuring efficient and cost-effective use of resources in the implementation of the CDS program.
- MDOE has not adequately monitored CDS' finances nor ensured that CDS' biennial budgets reflect projected actual resource needs.
- CDS does not track actual service units provided by its direct service staff against children's Plans and does not consistently monitor staff productivity.
- Electronic data needed, or useful, for managing the program is not always reliable or captured in a consistent manner.
- Contract management is decentralized and professional administrative services are not always competitively procured.
- Program revenue sources have not been maximized.
- Lack of coordination between MDOE, CDS and DHHS creates risk of potential fraud and abuse in the MaineCare program associated with billing for CDS program services.

In Summary

Maine receives federal funding for the CDS program and, therefore, must comply with IDEA requirements to serve all eligible children in a timely manner.

The Individuals with Disabilities Education Act (IDEA) is the federal law under which states provide early intervention and special education and related services to infants, toddlers, and children with disabilities. Part B of IDEA provides for a Free Appropriate Public Education (FAPE) for all eligible children ages 3 – 20 with disabilities. Part C of IDEA provides for early intervention services for children with developmental delays from birth up to 3 years. Maine, like all other states, has chosen to receive the federal funds available for IDEA and, therefore, must comply with specific federal regulations. These regulations include requirements to determine eligibility and provide services to all eligible children within specified timeframes.

MDOE is responsible for ensuring Maine's compliance but the program is implemented, and services provided, through other entities with statutorily established independence from MDOE.

The Maine Department of Education (MDOE) is responsible for ensuring Maine complies with the federal IDEA regulations and related requirements as specified in Maine statue 20-A MRSA Chapter 303. However, the program is actually implemented, and services are provided, through other entities. Implementation of the Part B program for children ages six through 20 is the responsibility of, and accomplished through, Maine's public schools. The Part B program for children ages three through five and the Part C program for infants and toddlers from birth through age two are implemented through the Child Development Services System.

IDEA originated from a movement to ensure that students with disabilities receive an appropriate public education. It began as the *Education for All Handicapped Children Act* in 1975 and was renamed the Individuals with Disabilities Education Act in 1990, becoming an entitlement program at that time. As an entitlement program, IDEA guarantees all eligible children access and rights to the services defined in the law, and thus requires states to serve all eligible children.

At the time of OPEGA's review, the CDS System, in addition to MDOE, consisted of a Central Office (aka SIEU) supervised by MDOE and nine regional sites (aka IEUs) with independent governing boards. Administrative functions are centralized in the SIEU.

Like the federal IDEA law, Maine's CDS program and the System through which it has been implemented has evolved over time. At the time of OPEGA's review, in addition to MDOE, the CDS System consisted of an entity designated in statute as the State Intermediate Educational Unit (SIEU) and nine local organizations designated as Intermediate Educational Units (IEUs), also referred to as CDS regional sites. The SIEU, also known as the CDS Central Office, is established in statute as a body corporate and politic to provide centralized administrative functions and coordination among the local organizations delivering services. Statute designates the head of the SIEU as the State Director of Early Childhood Education appointed and supervised by the MDOE Commissioner. The IEUs, while defined as part of the CDS System, were until recently organizationally independent from the SIEU, with each having an independent governing Board and a Site Director hired by the Board to manage the provision of services in the regional area.

As the State worked to comply with changing IDEA requirements, it became necessary to better control implementation of the program and the resources being used. Over time, administrative functions previously performed by each IEU have been centralized within the SIEU and the SIEU has introduced more standardized

processes for the IEUs to follow. As a result, the actual authority and responsibilities of the Regional Site Boards have diminished. In addition, the 16 original IEUs were consolidated into nine IEUs between FY09 and FY11.

Federal and State funds are administered by MDOE. The State is obligated to provide the funding necessary to serve all eligible children.

The federal IDEA funding Maine receives and the General Fund the Legislature appropriates to the CDS program is administered by MDOE as a program within MDOE's budget. MDOE passes this funding through to the SIEU, which in turn passes it through to the individual IEUs. When Maine began implementing child development services as a federal entitlement program in the 1990's, the State relinquished the ability to restrict its caseload and to some extent its resulting expenditures. The State was now required to provide services to all eligible children, which also meant being obligated to provide whatever funding was needed to do so. Federal funds made available through IDEA cover only a small percentage of the actual costs of the CDS program and State General Fund is needed to cover nearly all the rest.

CDS program expenses were $25.6 million in FY07 increasing to $35.4 million in FY11. Regular IDEA funds were about $4.5 million each year. The program also received a total of about $3.2 million in federal ARRA funds in FY10 and FY11.

In fiscal year 2007, CDS program expenses were $25.6 million. Costs increased steadily each year to a total of nearly $35.4 million in fiscal year 2011. The regular federal IDEA funding received was consistently about $4.5 million over that period. Additional one-time federal funds of roughly $.5 million and $2.7 million were received in fiscal years 2010 and 2011, respectively, through the American Recovery and Reinvestment Act (ARRA). State General Fund appropriations have consistently been the primary source of CDS program revenue, representing about 80% of total non-ARRA funds in fiscal year 2011. Even with supplemental General Fund appropriations, there were insufficient annual revenues to cover actual annual expenses for fiscal years 2007 through 2011.

Over the past couple of years, the SIEU and MDOE have been trying to address ongoing financial concerns by implementing centralized controls such as requiring their approval for new positions, programs and non-standard rate contracts with providers. OPEGA found such mechanisms designed to address the fiscal management of resources to be weak. We attribute the apparent ineffectiveness of these new controls to several overarching issues that have been hindering the effective management of fiscal and human.

State General Fund (GF) appropriations have consistently been the primary revenue source representing about 80% of non-ARRA revenues in FY11. Even with supplemental GF appropriations, there was insufficient program revenue to cover expenses in each of the five years FY07 – FY11.

Specifically, OPEGA found the organizational structure for the CDS System to be problematic because:

- authority and responsibility are not well aligned;
- roles and responsibilities between MDOE, the SIEU and the IEUs have blurred over time; and
- there are no strong accountability mechanisms in place.

Our experiences in obtaining information and data throughout this review also indicate a lack of capacity and capabilities in key management functions at the SIEU. In addition, we observed a culture throughout the CDS System that was appropriately focused on compliance and providing quality services for children, but which did not place sufficient emphasis on fiscal considerations and impacts. This is likely a result of a strong compliance focus by the federal Department of Education for at least the last 15 years.

OPEGA noted several overarching issues hindering comprehensive program management on a system-wide basis. These include the structure of the CDS System, a lack of capabilities and capacity in key management functions, and insufficient emphasis on responsible stewardship of resources.

MDOE and CDS are responsible for ensuring children receive appropriate, quality services and complying with pertinent laws and regulations, but they are also responsible for being good stewards of State and federal resources while doing so. CDS has been working to control costs for administration and case management where it can, but there is a general mindset that expenses associated with direct service, representing nearly 66% of all CDS program expenses, cannot be controlled as they are driven by the unique needs of children in the program as required by IDEA. OPEGA understands that opportunities to control direct service costs may be somewhat limited, however, we believe more consideration could be given to ensuring services are delivered with the most efficient and cost-effective combination of resources. The question is not whether to provide services, but rather what is the most appropriate, efficient and cost-effective way to achieve reasonable desired outcomes for each child.

The details of the overarching concerns we identified, as well as several other issues that stem from them, are discussed in the Recommendations section of this report. OPEGA finds that, taken together, they significantly hinder the comprehensive, system-wide management of this entitlement program, particularly from a fiscal perspective. They are also some of the factors that have contributed to recurring appropriation overruns.

We identified opportunities to improve fiscal and human resource management, transparency, oversight and accountability. MDOE addressed some of the structural issues through statutory changes approved in the most recent legislative session. More action is needed to bring about systemic, meaningful improvements.

OPEGA has identified a number of significant opportunities to improve fiscal and human resource management, transparency, oversight and accountability within the CDS program and System. MDOE began addressing some of the structural and accountability issues through proposed statutory changes that the Legislature passed in April 2012 as Part OO of the Governor's Supplemental Budget for fiscal years 2012 and 2013[2]. As a result, the IEUs' governing boards have been eliminated and the CDS regional sites are now reporting directly to the State Director of Early Childhood Education at the SIEU. As outlined in our recommendations, however, there is much more to be done to bring about the systemic changes required for meaningful improvements to the fiscal management of this program.

Individuals with Disabilities Education Act

The Individuals with Disabilities Education Act (IDEA) is the federal law under which states provide early intervention, and special education and related services to infants, toddlers, and children with disabilities in exchange for federal funds. States are not required to seek IDEA funding and bind themselves to the significant requirements of the law, but all states have chosen to take the funds and comply with IDEA.[3]

[2] LD 1903, An Act to Make Additional Supplemental Appropriations and Allocations and to Change Certain Provisions of the Law for the Fiscal Years Ending June 30, 2012 and June 30, 2013.

[3] States choose to participate in IDEA because there are overlapping or similar requirements in other federal laws, such as Section 504 of the Rehabilitation Act and the Americans with Disabilities Act, which apply to the delivery of public education and come with no funding to achieve compliance.

IDEA focuses on improving educational outcomes for children with disabilities beginning at birth through age 20. Part B of IDEA requires special education and related services for eligible children ages three through 20. Part C of the law requires early intervention services for eligible children ages birth through two.

IDEA focuses on improving educational outcomes for children with disabilities, beginning from birth through age 20. The purpose of the law is to ensure that all school-age children with disabilities have available to them a free appropriate public education (FAPE) and to provide early intervention services for infants and toddlers with disabilities so they are developmentally ready to participate in public education. IDEA began as the *Education for All Handicapped Children Act* in 1975 and was renamed in 1990 with revisions that also made it an entitlement program by guaranteeing all eligible children access and rights to the services defined in the law. According to MDOE, there have been seven federal reauthorizations of IDEA, most recently in 2004, each of which brought more complex regulations.

IDEA currently has four distinct sections:

- Part A defines the terms used within IDEA as well as providing for the creation of the federal Office of Special Education Programs, which is responsible for administering and carrying out the terms of IDEA.
- Part B requires states to provide special education and related services for children with disabilities who are three through 20 years of age and lays out the educational requirements for these school age children.
- Part C establishes the Early Intervention Program for Infants and Toddlers with Disabilities and provides requirements for services to be provided to children from birth through 2 years of age.
- Part D describes national activities to be undertaken to improve the education of children with disabilities, including grants to improve the education and transitional services provided to students with disabilities.

Maine's CDS System administers Part C services and Part B services for children ages three through five. Maine's public school districts administer Part B services for children ages six through 20.

Parts B and C of IDEA contain the substantive responsibilities of all states who receive IDEA funds, the entitlement of all children (Parts B and C) and their families (Part C) to receive services, and the related procedural protections meant to ensure that the rights of children with disabilities and parents of such children are protected throughout the process.

Maine's CDS System specifically administers Part C of IDEA services for eligible children from birth through age two, and §619 of Part B for children ages three through five. Maine public school districts administer Part B for six through 20 year olds. Because Maine receives federal IDEA funds, the State is required to ensure that each school district and CDS regional site comply with the core requirements of IDEA that are listed in Table 2.

Table 2. Core Requirements for Part B and C of the Individuals with Disabilities Education Act	
The Part B requirements for each child are: • a multi-faceted, non-discriminatory evaluation in all areas of suspected disability for any student who is potentially eligible under IDEA; • an eligibility determination made by a team of individuals including the parent; • if eligible, an Individualized Education Plan (IEP), developed by the student's IEP Team that includes the parent, that contains measurable annual goals and the specific special education and related services to be provided to assist and enable the student to meet those goals; • a free appropriate public education, FAPE, (special education and related services provided at public expense, under public supervision, in a manner consistent with the state's education standards and in accordance with the IEP) provided in the least restrictive environment (LRE); and • notice provided to the parents of their procedural rights, including how to contest decisions made about the identification, evaluation, provision of FAPE, or educational placement of the student.	**Under Part C infants, toddlers and families are entitled to the following:** • appropriate, timely, and multidisciplinary identification and, if eligible, intervention services for their infant or toddler with a disability; • an Individualized Family Service Plan (IFSP) that lays out the priorities, resources and concerns of the family as well as the desired outcomes for the child, the early intervention services to be provided to the child, and steps for eventual transitioning of the child into formal education; and • the parental right to participate in the creation of the IFSP, and to give consent prior to the initiation of early intervention services.

Part B special education services must be provided to a child in the Least Restrictive Environment appropriate and may be delivered in preschools and other community settings with non-disabled peers.

The special education and related services provided under Part B are intended to provide an appropriate education for a school-age child with disabilities. They focus on a child's ability to function and make progress in an educational setting. Services are provided by qualified professionals and must be delivered in the least restrictive environment (LRE). To the extent possible, this must be in settings with children who do not have disabilities. Part B services for children ages three through five may be delivered in a preschool or other community setting. Examples of the types of disabilities that qualify for IDEA Part B services include:

- Autism;
- Deafness and Blindness;
- Hearing, Vision, Speech and Orthopedic Impairments;
- Emotional Disturbance;
- Intellectual Disability; and
- Traumatic Brain Injury.

Part C early intervention services must be provided in the child's natural environment to the extent possible, including the home and community settings in which children without disabilities participate.

The early intervention services provided under Part C are developmental services designed to meet the needs of an infant or toddler with a developmental delay in one or more of the following areas: physical, cognitive, communication, social, emotional, or adaptive. Services are provided by qualified professionals under public supervision at no cost except where federal or state law provides for a system of payments by families.

Part C services are to be provided, to the maximum extent appropriate, in natural environments, including the home and community settings in which children without disabilities participate. Examples of services that may be included in a child's plan are:

- family training, counseling, and home visits;
- speech-language and vision services;
- occupational and physical therapy;
- assistive technology devices services;
- health services necessary to enable the infant or toddler to benefit from other early intervention services; and
- transportation and related costs that are necessary to enable an infant or toddler and the infant's or toddler's family to receive the other services.

Management and Oversight of CDS

Overview of the CDS System

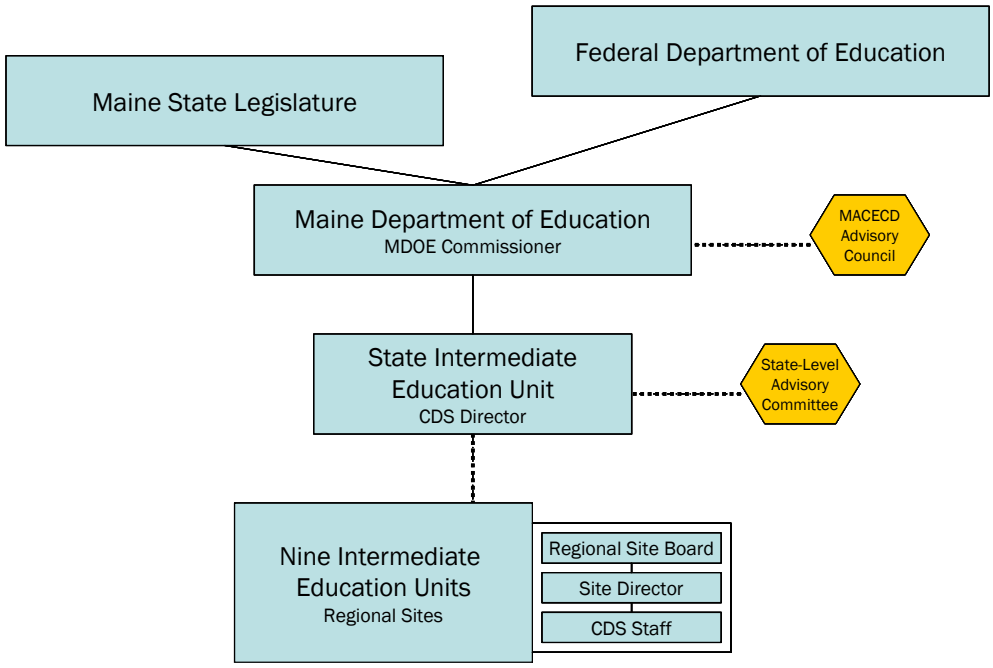
Maine's CDS program is administered and implemented through the CDS System established in statute at 20-A MRSA §7209. The System is governed by rules established by MDOE as approved by the Legislature.

Maine's Child Development Services program for children with disabilities from birth through age five is administered and implemented through a System established in Maine statute at 20-A MRSA §7209 and illustrated in Figure 1. The CDS System is overseen by the Maine Department of Education (MDOE) and governed by the Department's 05-071 Chapter 101 Rules, Maine Unified Special Education Regulation for Children from Birth to Age 20 (MUSER).

The CDS System is responsible for:

- identifying and evaluating children with disabilities from birth through the age of 5 as required by IDEA – also referred to as child find activities;
- ensuring the provision of early intervention services for eligible children from birth through age 2 – also referred to as Part C services;
- ensuring a free, appropriate public education (FAPE) for eligible children from age 3 through age 5 - also referred to as Part B services; and
- developing and adopting statewide policies for meeting the requirements in Maine statute and federal IDEA Part C and Part B, Section 619.

Figure 1. Organization of CDS System as of March 2012



Under statute, MDOE is the lead agency for the CDS System and establishes the State Intermediate Educational Unit (SIEU). The SIEU is established as a body corporate and politic but does not have an independent governing body. The SIEU Director is hired and supervised by the MDOE Commissioner.

Statute identifies the MDOE as the lead agency for the State-wide CDS System and directs the Commissioner of MDOE to establish and supervise the State Intermediate Education Unit (SIEU), also known as the CDS Central Office. The SIEU is a body corporate and politic, and a public instrumentality of the State, but it does not have an independent governing body. The MDOE Commissioner is responsible by statute to appoint and supervise a director of early childhood special education who is the administrator of the SIEU and is commonly referred to as the CDS Director. The SIEU is co-located with MDOE's administrative offices.

The SIEU is responsible for statewide coordination and several centralized administrative functions.

The SIEU is responsible for performing several statewide coordination and centralized administration functions associated with the CDS services that are managed and provided through nine CDS regional sites. These centralized functions include:

- establishing standard human resource policies and procedures, including a statewide salary and benefits administration system, and performing payroll functions;
- administering centralized fiscal administration and data management systems;
- establishing standard contracts to be used by regional sites in contracting with private service providers;
- coordinating and conducting CDS staff training; and
- monitoring regional site performance for compliance with federal requirements.

At the time of OPEGA's review, statute also established Intermediate Educational Units (IEUs) as entities independent of MDOE and the SIEU. Each IEU had its own regional Board of Directors and a Site Director that reported to the Board.

At the time of OPEGA's review, the CDS regional sites were identified in statute as Intermediate Educational Units (IEU) and established as organizations independent from both the SIEU and MDOE. Table 3 is a listing of the nine existing regional sites. Each site had a Regional Site Board of Directors generally responsible for management and oversight of the IEU's general operations and finances. Each IEU also had a Site Director, hired and supervised by the Board, with statutorily defined responsibilities. These responsibilities included:

- administering regional site offices including disseminating policy and procedural directives from the CDS Central Office and MDOE;
- preparing regional site budgets;
- hiring, supervising and terminating regional site staff;
- screening, selecting and contracting with private service providers;
- reviewing children's service plans; and
- resolving issues identified by CDS staff, parents or providers.

Table 3. CDS Regional Sites as of 2011

Site Name	Location	Satellite Office	Number of Children Served 2011	Budgeted FTEs 2011*
CDS First Step	Lewiston	none	680	39
Aroostook County	Presque Isle	none	227	17
CDS Reach	Falmouth	none	810	78
Midcoast Regional CDS	Rockland	Damariscotta	538	42
Opportunities	Norway	Rumford	455	29
Project PEDS	Waterville	Farmington	557	38
Two Rivers	Brewer	Sangerville	496	52
CDS Downeast	Machias	Ellsworth	264	16
York County	Arundel	none	727	44

Source: Budgeted FTEs are from OPEGA analysis of budgeted position data provided by CDS. All other information provided directly by CDS.
* Many direct service positions in the CDS regional sites are part-time positions therefore the actual number of individuals employed by CDS exceeds the count of budgeted full-time equivalent positions.

This CDS System structure had evolved over time as a result of changes in federal laws and regulations, and Maine initiatives for child development services as described in Appendix B. Of particular importance were changes in IDEA that led to the State implementing CDS as an entitlement program in the 1990s and the need for the State to comply with changing IDEA requirements. These changes prompted a need for the State to exercise more control over the regional sites. Regional sites which had historically contracted with private providers to deliver most direct services also began adding more staff to provide services in an effort to improve compliance with IDEA.

OPEGA noted several concerns about the CDS System structure that we shared with MDOE. MDOE began addressing these concerns through statutory changes while our review was in progress. The regional site Boards have now been eliminated and regional Site Directors report to the SIEU Director.

The organizational structure of the CDS System is different than any other OPEGA has encountered in Maine State Government and seems to hinder the clear and comprehensive management of the CDS program on a statewide basis. We noted a weak alignment of authority and responsibilities and a lack of strong accountability mechanisms that are problematic for an entitlement program that consumes such significant federal and State resources. (See Recommendation 1.)

We shared our concerns about the structure with MDOE during the course of our review. Department management was also frustrated by the fact that MDOE is responsible and accountable for CDS activities, but the regional sites were not under the Department's direct control due to the IEUs' statutory independence and the role of the Regional Site Boards. MDOE began addressing these concerns, while our review was in progress, by proposing statutory changes as part of the Governor's Supplemental Budget which the Legislature passed as amended in April 2012. Part OO of 2012 Public Law Chapter 655 eliminated Regional Site Boards and regional sites lost their status as IEUs. As a result, the regional sites and the CDS Central Office together are now the State Intermediate Educational Unit with Regional Site Directors reporting directly to the CDS Director.

Oversight Entities

Entities with oversight responsibilities for the CDS program and System include FDOE, MDOE, the Maine Legislature and the Regional Site Boards. The SIEU also oversees the activities of the regional sites and their compliance with IDEA.

The Federal Department of Education (FDOE) oversees the State's implementation of IDEA and compliance with the laws' requirements. The federal IDEA funding for the CDS program flows through MDOE so MDOE is held responsible for ensuring compliance. Maine is required to submit annual performance reports to FDOE and the FDOE's response to those reports for both Part B and Part C are addressed to the Commissioner of the MDOE.

Consequently, in addition to supervising the SIEU, MDOE has several other statutorily defined oversight responsibilities in its role as the lead agency for the statewide CDS System. These include:

- developing and adopting agency rules;
- reviewing and approving CDS regional site entitlement plans and budgets;
- auditing program records for legal and policy compliance;
- auditing program records for fiscal compliance; and
- developing action plans to achieve compliance with State or federal law if needed.[4]

Other entities with an oversight role in the provision of CDS services are:

- **The Maine Legislature** creates the statutes and approves the Rules that direct the CDS program and CDS System operations. The Legislature also approves and appropriates for the CDS program budget.

- **The SIEU, aka CDS Central Office**, while also having implementation responsibilities, directs and oversees the activities of the regional CDS sites. The SIEU reports to MDOE and the Legislature.

[4]MDOE is authorized under statute to assume temporary responsibility for regional sites that fail to meet compliance requirements.

- **Regional Site Boards of Directors** in the past had powers and duties similar to a local school board. However, with the consolidation of administrative functions and the strengthening of the SIEU, the Boards have seen a reduction in their duties and responsibilities. At the time of our review, Board members saw themselves as serving in a mostly support and advisory capacity. As previously mentioned, these Boards have been eliminated in Part OO of 2012 Public Law Chapter 655.

Two other entities have some influence over CDS activities in their advisory capacities. These are the CDS State Level Advisory Committee and MACECD.

Though not accountable for any particular oversight responsibilities, there are two other entities that, at the time of our review, had some influence over CDS activities. They are:

- **State Level Advisory Committee** made up of the Chairperson of each site board, the CDS Director, and the early childhood education consultant. Meetings are held monthly and are mostly informational in nature. CDS' financial position is discussed, and schedules for training provided or arranged by SIEU are announced. It is also an opportunity for the sites to provide feedback to the CDS Central Office on issues impacting them.
- **Maine Advisory Council on the Education of Children with Disabilities (MACECD)** required by Parts B and C of IDEA. MACECD provides policy guidance with respect to early intervention and special education and related services, and advises and assists the MDOE regarding interagency coordination and the provision of appropriate services for children with disabilities aged birth through 20. While MACECD's focus goes to age 20, beyond CDS' jurisdiction, and they do not advise CDS directly, their actions can impact CDS through advice they give the MDOE.

Funding and Budget Process for the CDS Program

The CDS program receives federal IDEA funds and State General Fund (GF). GF appropriations represented between 67% - 80% of the non-ARRA program revenues in FY09 – FY11. There are also some revenues from other sources, such as MaineCare reimbursements.

The CDS program is incorporated in MDOE's budget and receives federal IDEA funds and State General Funds that flow through the Department. The program also has some revenues from other sources. Figure 2 and the accompanying table show the program's revenue mix by source. Over fiscal years 2007-2011, the mix of this funding has been very consistent, with the General Fund making up 67% - 80% of the non-ARRA revenues in the period FY09 – FY11.

Some costs for direct service provided to children are covered by MaineCare and private insurers. IDEA requires that CDS draw on these other funding sources, when they are available, before using federal funds or State funds[5]. Also pursuant to IDEA regulations, however, parents have the option of disallowing CDS access to their MaineCare or private insurance coverage. IDEA

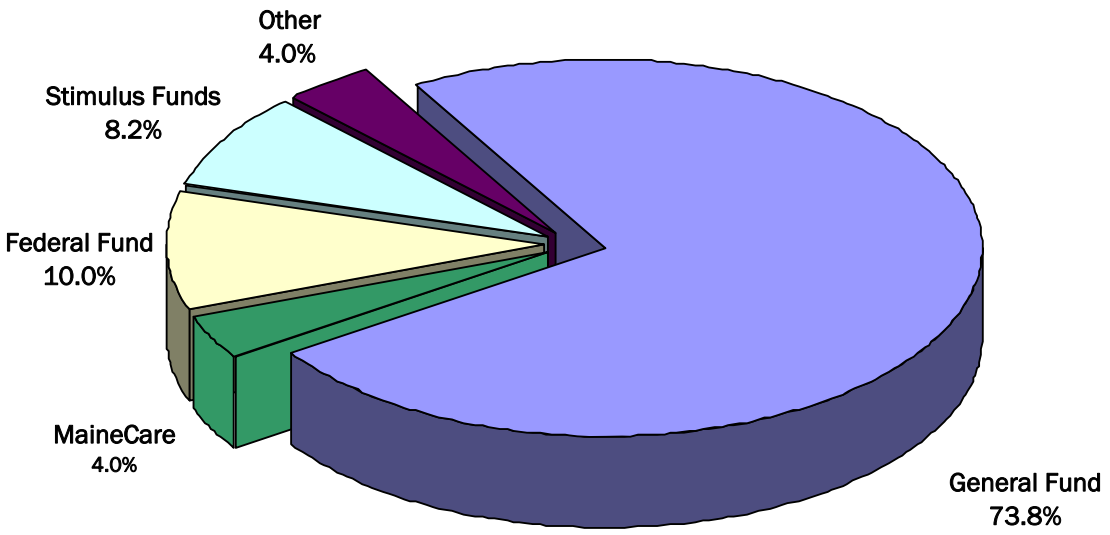
[5] Federal IDEA statute 20 USC §1412(a)(12) requires that in ensuring a free appropriate public education to children with disabilities "the financial responsibility of public agencies, including the state Medicaid agency and other public insurers of children with disabilities, shall precede the financial responsibility of the local educational agency."

IDEA requires that CDS draw on available public and private insurance before using other public funds. However, IDEA gives parent(s) the right to deny access to their insurance coverage. States are also allowed to require family contributions toward Part C services only. Maine has a Part C sliding fee scale but OPEGA learned that families are seldom asked to contribute.

also allows states to require families to contribute toward the cost of Part C services only. Maine has an established sliding fee scale for Part C services, based on the parents' ability to pay. However, OPEGA learned that parents were rarely asked to financially contribute according toward services even when they had the financial means. (See Recommendation 7.)

When a child has public or private insurance coverage, and parents have allowed access, private providers bill MaineCare or private insurers directly for eligible services. These costs are not borne by the CDS program nor captured in the CDS program budget or records of expenditures. CDS also bills MaineCare and private insurers seeking reimbursement for the cost of eligible services provided by CDS staff to insured children. Payments received constitute an additional revenue stream for the CDS program. OPEGA noted a lack of coordination between MDOE and Maine's Department of Health and Human Services (DHHS) on services billed directly to MaineCare that creates risk of potential fraud and abuse in the MaineCare program. (See Recommendation 8.)

Figure 2. CDS Revenue by Source FY2011



Revenue Source	FY09	FY10	FY11
General Fund	$16,263,261	$18,125,921	$24,741,722
MaineCare	$3,970,935	$3,483,638	$1,325,520
Federal Fund	$3,202,983	$3,310,347	$3,348,290
Stimulus Funds	$0	$563,236	$2,779,557
Other	$734,269	$554,432	$1,345,562
Total	**$24,171,448**	**$26,037,574**	**$33,540,651**

Note: Funds categorized as "Other" include additional General Funds associated with allocations CDS receives from the Hearing Impaired Children's Program (HICP) and Chapter 676 Funds funds used to pay for services to children who stay in the CDS System for an additional year at age 5. "Other" funds also include tuition paid by families at CDS preschools, Maine Indian Affairs funds and some funds received from private insurers..
Source: OPEGA's analysis of revenue date provided by CDS from the Great Plains financial system.

MaineCare rule changes in 2010 impacted CDS expenses and program revenue being received from MaineCare reimbursements. OPEGA noted issues with the reliability of CDS data on children's insurance eligibility that raises questions as to whether CDS has adequate information to use in fiscal planning for such impacts.

CDS estimates that approximately 50% of children served are eligible for MaineCare. This statistic is consistent with the percent of children that had MaineCare coverage in the sample of children reviewed in the most recent Single Audit conducted of the CDS program (44%).[6] Forty-five percent of the children in that sample had private insurance coverage and about 7% had both. These statistics differ considerably from those derived by OPEGA in analyzing a data file of information on children's insurance coverage provided by CDS from its case management system. OPEGA estimated that 75% of the children with planned services as of the end of fiscal year 2011 had MaineCare coverage and 30% had private insurance.

These differences may be due to the insured status of the children tested in the sample being different than the total population of children served. The independent auditor's sample was drawn from payments made by the CDS program and children for whom all services were directly billed to MaineCare or other insurance would not have been included in the sample. The differences may also be due to the unreliability of the insurance eligibility data in Case-e noted by both OPEGA and CDS' auditor. (See Recommendation 5.) Either way, the difference we observed between CDS' estimate of children with MaineCare coverage and the estimate resulting from our analysis of CDS data begs the question as to whether CDS has good information to use in fiscal planning and management for the CDS program. (See Recommendation 1.)

In September 2010, DHHS instituted changes to MaineCare rules that made certain services previously covered by MaineCare ineligible for MaineCare reimbursement. As a result, some costs for services from private providers previously covered by MaineCare through direct payments to those providers are now billed to, and covered by, General Fund resources in the CDS program. Similarly, there has been a reduction in revenue CDS receives from MaineCare as some services that CDS staff provide are no longer eligible for MaineCare reimbursement. See page 39 for more detail on the fiscal impact of the MaineCare rule change.

Since at least FY08, budgeted program revenues, including GF appropriations, have been insufficient to meet actual costs. MDOE's biennial budget process for the program is one root cause as actual expenditures in prior years and program changes that might impact funding needs are not considered in developing the budget request put before the Legislature.

Since at least FY08, the amount in the budget request submitted by MDOE and approved by the Legislature for CDS program has not been sufficient to cover program costs. As a result, CDS has needed supplemental appropriations and has been carrying operating losses forward from year to year. Exactly how MDOE determines how much to request for CDS is unclear. OPEGA observed that CDS does not submit a formal budget request for the entire CDS function or program to MDOE before the Department develops its biennial budget proposal. Instead MDOE develops each CDS budget based on what was included in the immediately preceding baseline budget rather than actual expenditures, and without considering whether changes in policy, service delivery, or the number of children being served will drive the program's funding need up or down.

After the State level budget has been approved by the Legislature, each individual CDS site is notified by MDOE what their individual funding allocation. They are required to submit an itemized budget based on that amount back to MDOE for approval as part of their entitlement plan. This means that instead of being asked what they expect to need for the coming budget cycle prior to MDOE's budget

[6] See page 20 for more information on the CDS Single Audit.

submittal, they are told after the budget has been passed what they will be allocated. OPEGA was told by Site Directors that they often know the allocated amount will not be adequate, but they are always able to get extra as needed to meet actual costs as the year progresses. (See Recommendation 3.)

Computer Systems Used by CDS

CDS uses four computer applications that contain all the detailed financial and service data for the program. These systems are independent from any State agency system and not supported by the State's Office of Information Technology.

CDS uses three primary computer applications, operated centrally from the SIEU, to support the CDS program. The SIEU also contracts with a payroll services provider and there is an electronic time reporting system associated with the payroll process. Together these systems contain all of the financial and service information for the CDS program. They are all independent from any State agency system and are not supported by the State's Office of Information Technology.

The Case-e application is a database used for managing children's cases and recording information on children served, the specifics of their individual service plans, and the services provided. Originally developed by a contractor, Case-e has become a hybrid system incorporating modifications made over time by CDS and the contractor. Examples of data entered in Case-e for each child by CDS regional site staff include:

- the type, frequency and intensity of planned services;
- the provider(s) selected to provide each service;
- dates for events such as evaluations and team meetings; and
- eligibility for third party health insurance, including MaineCare, and name of insurer.

The regional sites also enter service rates from provider contracts in Case-e and SIEU accounts payable staff enter billing information from invoices submitted by private outside providers.

Reports generated from the computer applications are used for tracking compliance, producing budget reports for regional sites, and federal reporting.

Reports generated from Case-e are used to track compliance with IDEA timelines, children in need of plans for transitioning from Part C to Part B, number of children with open plans, child demographic data and other program related information. The data used for federal reporting is also generated from the Case-e system. The CDS Case-e system is not the same as the school system of the same name.

Great Plains is the primary accounting software CDS uses for General Ledger and accounting functions. Great Plains also has accounts payable functionality and the SIEU uses it to process invoices and generate checks, including those to contracted providers. Monthly financial reports for each CDS site are prepared using data from Great Plains. However the data is manually entered into an Excel spreadsheet - a time consuming process with risk of error.

Lastly, CDS uses purchased software, from a company called Peak Knowledge, to process its MaineCare billing. Peak Knowledge is also CDS' contractor for IT services. The company also supports the Great Plains system and the interfaces between Peak Knowledge, Case-e and the Great Plains.

CDS continues to address issues noted by the independent financial auditor regarding the degree of manual processing and controls associated with these systems.

CDS' computer systems have been evolving since the SIEU began to provide centralized financial and administrative services to CDS regional sites. As noted by CDS' independent financial auditor, progress has been made, over time, in enhancing systems and improving the processes and procedures that feed into them. Some issues remain, however, such as continued reliance on manual processes that are time consuming and weaken financial controls. CDS is continuing to address related independent auditor recommendations for increased automation. OPEGA also noted several issues related to CDS computer applications and the data contained within them. These are discussed in the Recommendations 1 and 5:

OPEGA also noted issues with the State's limited access to data in these systems, limited in-house capabilities for ad-hoc queries and analysis, and inconsistent data entry affecting data reliability and usefulness.

- the State's limited access to financial and program data residing the independent systems;
- CDS' limited in-house capabilities for querying and performing ad hoc analyses of data stored in the Case-e and Great Plains systems; and
- inconsistencies in the way data is captured and formatted in the Case-e and Great Plains systems that affects data reliability and usefulness for analysis.

CDS Program Reporting and Compliance

Federal Reporting and Monitoring

Following the 2004 reauthorization of IDEA, states were required to have an annual performance plan and report for the FDOE Office of Special Education Programs (OSEP). CDS prepares Maine's Annual Performance Report (APR) for Part C and gives its 3-5 year old Part B information to MDOE who submits the complete Part B APR. There are a number of performance indicators the State reports on such as meeting timelines for evaluations, individual plan development, transition plans, complaint resolution and service delivery, as well as achieving measurable improvements in children's skills and behaviors. OSEP evaluates the State's compliance and performance annually and determines if the State:

- meets the requirements of IDEA;
- needs assistance;
- needs intervention; or
- needs substantial intervention.

Maine must report annually to the federal OSEP on indicators that measure performance and compliance with IDEA. From its review of Maine's reports for federal FY09, OSEP determined Maine "needs assistance" in implementing both Parts B and C.

In its Part B response letter dated June 20, 2011, OSEP looked at federal fiscal year (FFY) 2009 data and determined that Maine "needs assistance" in implementing the following Part B indicators specifically applicable to CDS:

- 84.9% compliance with Indicator 11, the percent of children evaluated within 60 days of receiving parental consent for initial evaluation or, if the State establishes a timeframe within which the evaluation must be conducted, within that timeframe. The State also did not demonstrate that it corrected previously identified findings of noncompliance.
- 91.7% compliance with Indicator 12, the percent of children referred by Part C prior to age 3, who are found eligible for Part B, and who have an IEP developed and implemented by their third birthdays. The State also did not demonstrate that it corrected previously identified findings of noncompliance.

- 42.4% compliance with Indicator 15, the general supervision system (including monitoring, complaints, hearings, etc.) identifies and corrects noncompliance as soon as possible, but in no case later than one year from identification. OSEP was unable to determine that Maine met requirements for FFY09.

OSEP's Part C response letter dated June 20, 2011 indicated that Maine also "needs assistance" in implementing Part C of IDEA. The specific factors based on FFY09 data affecting OSEP's determination were:

- 92.9% compliance with Indicator 1, which measures timely provision of services;
- 64% compliance with Indicator 7, which measures the 45-day timeline requirement for plan development;
- 86.6% compliance with Indicator 8A, which measures the transition plan requirement; and
- 15.79% compliance with Indicator 9, which measures the timely correction of findings of noncompliance identified in FFY08 OSEP Memorandum 09-02, dated October 17, 2008.

In addition, while not a factor in the determination, OSEP noted that the State did not publicly report on the FFY 2008 performance of each early intervention service program or the targets in its performance plan for four indicators. For these reasons, OSEP stated it was unable to determine that Maine met requirements for FFY 2009.

OSEP conducted its first verification visit to Maine in 2006 and, thereafter, began regularly looking at Maine's Part B and C compliance indicators. The SIEU also resumed monitoring the regional sites for compliance and providing training to improve performance.

Prior to 2006, Maine like many other states had not had a site visit by OSEP. The State's centralized monitoring of the CDS regional sites had also lapsed after 2003. OSEP conducted a verification visit in Maine in 2006 and, thereafter, began looking regularly at the compliance indicators for Part B and Part C. SIEU staff began to again monitor regional sites for compliance with the federal requirements and provide training to improve performance.

The SIEU does not currently monitor sites for performance on any fiscal indicators.

Monitoring by the SIEU includes visiting each site every other year and selecting a sample of both Part B and Part C files for compliance review. Generally, records for children who have gone through the process from intake to service delivery and who came to CDS in the last year are reviewed. The SIEU also looks at file data in Case-e and gives Site Directors a monitoring form with items to review in their files. Currently, monitoring consists primarily of making sure timelines have been met and all services called for in a child's plan are being timely provided.

There are two types of findings the SIEU's monitoring may identify: child-specific, such as not completing an evaluation, and systematic, such as inconsistent documentation. Deficiencies result in a letter of findings that the site must correct with documentation of its corrective actions. The SIEU verifies corrections and maintains a spreadsheet to track findings for all sites.

The SIEU's monitoring function is evolving. While there are plans to expand the areas monitored, the SIEU does not currently monitor financial information, classroom activities, or eligibility of services and recipients. The individuals responsible for monitoring have several other responsibilities including developing

the annual training program, providing technical assistance to sites, responding to inquiries from parents, providers and site staff, reviewing preschool programs for site, curriculum, and ADA compliance and reviewing requests for non-standard rates by contractors.

Independent Financial Audits

Federal and State law requires CDS to have an annual independent Single Audit. The scope of the Single Audit encompasses financial processes and federal compliance areas. The Audit also provides assurances over the accuracy of CDS' financial reporting process.

CDS is required to have an annual independent financial and compliance audit under Maine and federal law, also known as the Single Audit. Title 20-A §7209 requires the MDOE Commissioner to ensure legal, policy and fiscal compliance throughout the CDS System by reviewing or performing regular audits of program records. The firm of MacDonald Page & Co., LLC has audited CDS activities for over 20 years as a sole source contractor with MDOE, and more recently with CDS. (See Recommendation 6.) The Single Audit covers allowable costs and activities, controls over financial processes, and assurances over the accuracy of the financial reporting process. For each regional site and the SIEU, the auditor tests internal controls, compliance and the fund disbursement process.

According to the auditor, CDS is a public instrumentality of the State and as such is not required to have its own legally adopted budget. Instead CDS, "in conjunction with the State of Maine DOE, formally adopts an operating budget that encompasses its entire system-wide operations." Although CDS has one operating budget for system-wide operations, the auditor told OPEGA that three regional sites receive enough federal funding to require an independent federal audit of their own. State law requires all nine sites to have an audit. The MacDonald Page audit reports describe CDS as one system and at the same time as multiple entities based on whether site boards are advisory or governing. From the auditor's perspective, two of the boards are advisory and seven are governing. The auditor's description of CDS reflects the structural complexities that OPEGA found concerning. (See Recommendation 1.)

MacDonald Page has performed the CDS Single Audit for the last 20 years. Audit reports OPEGA reviewed recommended increased automation and standardization in invoice processing and a mechanism for allocating indirect costs associated with CDS-run preschools.

OPEGA reviewed CDS' independent audits by MacDonald Page and interviewed the audit team. The auditor found no issues regarding serving eligible children, testing and evaluating children, and providing eligible services. The previous two audit reports identified a deficit of $1.58 million in FY09 and $3.11 million in FY10. However, the deficit was not highlighted in the most recent audit report for FY11. MacDonald Page auditors told OPEGA this was because of a letter received from the State Controller's Office stating the shortfall would be covered. In November 2011, the Governor signed a $3.6 million Financial Order reallocating General Purpose Aid to CDS.

For the past few years, MacDonald Page has recommended automating the highly manual procedure used to process invoices. In its audit of various CDS procedures and processes, MacDonald Page found inconsistencies between sites with regard to how well documented and robust those procedures are. The auditor recommends increased standardization. With regard to CDS operated preschools, MacDonald Page found CDS needs, but does not have, a way to allocate indirect costs or calculate the cost of space utilized for them. (See Recommendation 1.)

The FY11 Management Letter also noted several recommendations made in previous years that had not been fully acted on.

The Management Letter from the most recent Single Audit also includes a status update of previous recommendations not fully acted on in the previous year, such as separation of duties within the payroll system, timely review of journal entries, manual invoice processing, software access, vendor contracts, payroll allocation and integration of the accounting software, Great Plains, with monthly fiscal Excel reports for each site.

Processes and Controls in Providing Services

Process Overview

The CDS regional sites follow standardized processes based on IDEA requirements in providing services. The SIEU has been working to improve compliance through increased standardization since 2006.

The nine CDS regional sites (IEUs) follow standardized processes in providing services to eligible children. These processes are based on the requirements in IDEA and the focus is on compliance with that law, including meeting required timelines associated with particular points in the process. The processes and procedures CDS staff must follow are described in the Maine Unified Special Education Regulation for children from Birth to Age 20 (MUSER), the agency rules established by MDOE and approved by the Legislature.

Improving compliance through increasing standardization has been a goal of the SIEU since 2006. Based on descriptions provided by Site Directors, it appears the standard processes are being consistently followed in the three IEUs OPEGA visited and there is specific awareness of the major milestones and timelines associated with compliance. In the past year, the SIEU has continued to push for consistency by developing and implementing standardized forms and file organization across CDS for documenting case activity and compliance with IDEA.

The basic process steps CDS follows for providing Part B and C services are similar although specific considerations and timelines for each Part differ considerably. Other key CDS processes are those associated with paying for the services delivered.

The basic steps in processes for determining and delivering services under IDEA Parts B and C are similar, though the specific considerations and requirements, including timelines, involved with each Part differ considerably. The basic steps include:

- identifying children with potential developmental delays and disabilities and determining their eligibility for the CDS program;
- establishing service plans for eligible children;
- delivering the planned services;
- monitoring service delivery and children's progress; and
- transitioning children from Part C to Part B, and from the CDS program to public school, as appropriate.

Other key CDS processes are those associated with paying for the services provided. These include processing invoices and making payments to outside providers, as well as processing payroll and billing health insurers, including MaineCare, for services provided by CDS staff.

OPEGA reviewed CDS' processes with a focus on assessing mechanisms in place to ensure that resources were being used in the most efficient and cost-effective manner possible.

The focus of OPEGA's review was primarily on fiscal management of the CDS program and key cost areas. Consequently, we were seeking to determine whether CDS had adequate mechanisms embedded in its processes to assure that resources, both financial and human, were being used in the most efficient and cost-effective manner possible. The process steps and our assessment of the relevant controls within them are detailed in the report sections below.

There are several control points meant to ensure compliance that also help to ensure resources are not spent on ineligible children or services, or excessive payments to providers. Aside from these, we found no effective mechanisms established primarily to ensure efficiency and cost-effectiveness.

Overall, we identified several control points throughout the service provision processes that primarily serve to ensure compliance with IDEA, but which also help to ensure that CDS resources are not spent on ineligible children, ineligible services or inappropriate or excessive payments to private providers. The regional sites OPEGA visited also combine two or more steps in the Part C process from referral to plan development in order to meet compliance timelines. This reduces the number of visits that must be made to a family thus increasing efficiency and productivity as an added benefit.

Aside from these, however, OPEGA found no effective mechanisms established for the primary purpose of ensuring the efficient and cost-effective use of resources at the SIEU or the three regional sites we visited. We attribute this to the overall culture existing throughout the CDS System that appropriately focuses on compliance and providing quality services for children, but does not emphasize or reinforce the responsibility to be good stewards of State and federal resources while doing so. (See Recommendation 2.)

Step 1: Identifying Children with Potential Disabilities and Determining Eligibility

Referrals for children that may be eligible for CDS services are received from a variety of sources. The referrals come in directly to the regional sites or to a coordinator at the SIEU who passes them on to the appropriate sites.

IDEA requires that the State conduct Child Find activities as part of the CDS program. Child Find is described as a continuous process of public awareness activities, screening and evaluation designed to locate, evaluate, and refer, as early as possible, all young children with disabilities who are in need of early intervention (Part C) or preschool special education (Part B) services. Child Find activities are conducted by the CDS regional sites and differ somewhat between Parts B and C.

As a result of Child Find activities, CDS receives referrals for children with potential developmental delays or disabilities that may be eligible for services. Referrals for infants and toddlers from birth up through age two come from a variety of sources such as doctors, neonatal intensive care units, family members and programs for children with special health needs administered by DHHS. Referrals for children age three through five typically come from physicians and preschool and Head Start teachers. Parents also self-refer.

Referrals come in either directly to a regional site or through a Central Referral Coordinator at the SIEU that passes them along to the appropriate regional sites. A CDS Case Manager then makes initial contact with the family to gather additional information about the child and the family's concerns, explain the CDS program and services, and determine the family's interest in proceeding with the process. In some cases, no further action beyond completing the intake form and initial contact with the family may be necessary because the child is age ineligible, the family is not interested, or the family's concern is resolved to their satisfaction. If a child is age

A CDS Case Manager contacts the family to learn more about a referred child, explain the program and determine the family's interest. If the child is age eligible and the family is interested, CDS proceeds to determine if the child meets other eligibility criteria.

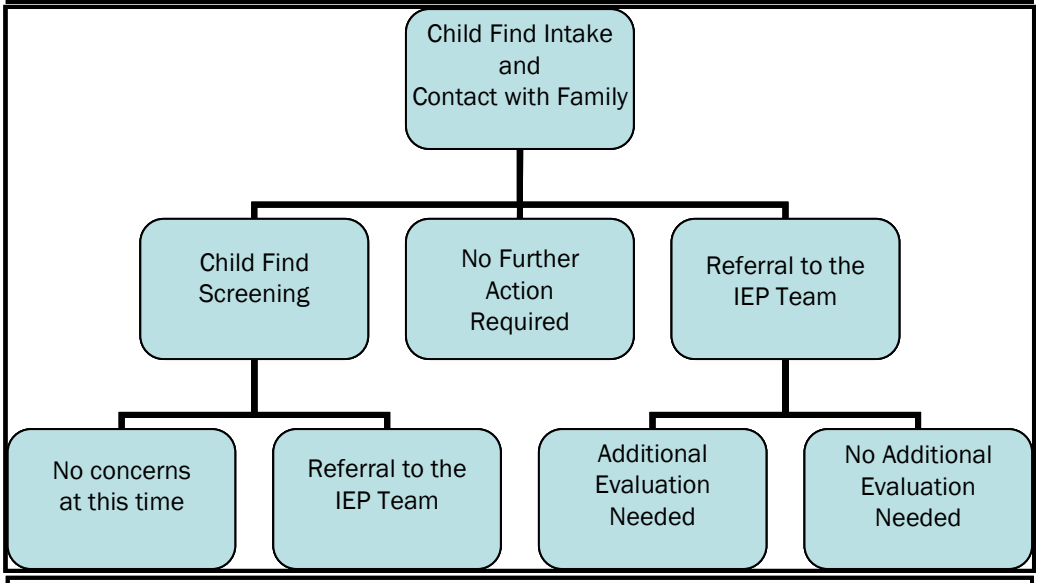
eligible and the family is interested in the program, CDS proceeds to determine the child's eligibility for services based on developmental and disability criteria. The means for determining eligibility and the specific criteria that must be met differ between Parts B and C.

Infants and toddlers are eligible for Part C services if they have a certain level of developmental delay, even if a particular diagnosis or reason for the delay has not been established. Some children are automatically eligible based on a diagnosed physical or mental condition with a high probability of resulting in developmental delay. Other children need to be screened or evaluated to determine the degree of their delay.

Infants and toddlers are eligible for Part C services if they have a certain degree of developmental delay. To be eligible for Part B services, children must have a disability designated under IDEA that adversely affects educational performance.

Children ages three through five are only eligible for CDS services under Part B if they have a disability designated under IDEA, as listed on page 9, adversely affecting their educational performance. For some children, there may be sufficient information and current evaluations already on hand to indicate that special education and related services may be required. In these cases, further assessment and evaluation of the child may be forgone. For other children, additional developmental screening and formal evaluations may be necessary before there is enough information to determine whether a child is eligible for Part B services. Figure 3 is an overview of the CDS process for determining Part B eligibility.

Figure 3. Overview of CDS Process for Part B Eligibility Determinations



Source: CDS training materials.

Eligibility determinations are made by a child's Team. As prescribed by IDEA, the Team includes the child's parent(s), a CDS representative, qualified professionals, and others appropriate to the child's situation. Screenings or formal evaluations may be needed to assess developmental delays and disabilities.

Ensuring only eligible children receive services is important for compliance with IDEA and also for preventing the unnecessary expenditure of resources. There are several controls in this step of the process designed to achieve this goal including:

- use of standardized screening and evaluation tests and protocols administered by qualified professionals; and

- determination of eligibility made by a team that includes the child's parent(s), a CDS representative, qualified professionals like evaluators and teachers, and others appropriate to the child's situation such as service providers, advocates or other family members.

MacDonald Page, CDS' independent financial auditor, tests a sample of children served for eligibility each year as part of its annual Single Audit of CDS and had reported no eligibility issues in the audit reports that OPEGA reviewed.

Step 2: Establishing Children's Service Plans

The child's Team also develops the service Plan for an eligible child and determines the setting in which services will be delivered. IDEA requires Part C services be provided in the "natural environment" and Part B services be provided in the "least restrictive environment" that is appropriate.

The formal plan for services that CDS will provide for an eligible child is developed by the child's Team. As previously described, this Team includes the child's parent(s) and a CDS representative, as well as others with relevant, specialized knowledge. Each plan is specific to the unique developmental circumstances and needs of the child for whom it is developed.

Part C Plans are known as Individual Family Service Plans (IFSPs). Part B Plans are called Individual Education Plans (IEPs). The context in which the Plans are developed and the types of services included differ, but both types of plans include desired outcomes or goals for the child and specify the type, frequency, intensity and duration of services that will be provided toward achieving those outcomes and goals. Each child's Plan also specifies the settings in which services will be delivered as determined by the Team. Under IDEA, Part C services are to be delivered in a child's "natural environment" to the extent possible and Part B services are to be delivered in the "least restrictive environment" that is appropriate. Details about the services and setting established in the Plan are entered to the child's file in the Case-e system.

Duration of service – period of time over which the service is provided, e.g. a three month period.

Frequency of service – how often the service is provided, e.g. three sessions per week.

Intensity of service – how long each session lasts, e.g. one hour per session.

IDEA requires CDS to provide "appropriate" services and CDS is obligated to deliver services in children's Plans. Consequently, the level of services included in Plans is a significant factor in CDS' costs.

IDEA requires CDS to provide "appropriate" services and CDS is obligated to deliver the services that are included in an IFSP or IEP. Consequently, the level of services defined in the Plans, in terms of both the types of services and the frequency and intensity of each service, factor significantly into CDS costs. It is a challenge to define what level of service may be considered appropriate and necessary in any given Plan as each child is unique. IDEA gives no specific guidance and there is a broad range of service levels that would be considered appropriate under IDEA. Defining what may be appropriate and necessary in terms of the desired outcomes for the child can also be challenging as parents, CDS representatives, and private providers or other experts on the Team can have differing perspectives on the frequency and intensity of services required to meet those outcomes.

Ultimately, the control to ensure Plans include appropriate types and levels of service is the fact that they are developed by a Team and must be consented to by the parent(s) and authorized by CDS. Under IDEA, there must be a Team member from the public agency who is authorized to expend public funds. The CDS staff

member who participates in the Team meetings, typically the CDS Case Manager, is that authorized person. CDS Site Directors designate the staff that are authorized to commit funds and those commiting funds for Part B Plans (IEPs) are required to hold a special certification related to their qualifications in special education.

Determining the level of service that is appropriate and necessary for achieving desired outcomes for any given child can be challenging due to his/her unique needs and differing perspectives of Team members.

The make-up of the Team prescribed by IDEA means that the Team may include parties that are self-interested, i.e. those that stand to gain from providing services, in one way or another. With no specific guidance available on what is an appropriate level of service for a child's particular circumstance or desired outcomes, there is significant judgment involved in establishing the services in the Plan. The Team is expected to work toward consensus. Therefore, the knowledge assertiveness and persuasiveness of each Team member can influence what is included in the Plan. If the Team cannot reach consensus, parents have the right to seek resolution of any disagreements by initiating an impartial due process hearing or a State complaint investigation.

The control to ensure Plans have appropriate levels of service is that they are established by Team consensus, and must have parental consent and CDS authorization. OPEGA noted several factors that create risk Plans will contain higher service levels than necessary to achieve reasonable desired outcomes.

OPEGA noted that these factors, combined with a mindset we observed throughout CDS that direct service costs could not be controlled, creates risk that children's Plans have greater levels of service in them than needed to achieve reasonable outcomes. OPEGA heard anecdotal comments during this review about Plans that some perceived to have higher than necessary service levels when compared generally to other Plans across the System, or compared to the service levels provided by public schools, for children with similar needs. (See Recommendation 2.)

Conversely, there is also risk that Plans include, or are perceived to include, inadequate service levels. OPEGA also heard anecdotal comments that CDS may avoid including services that cannot be delivered within the timeframes required for IDEA compliance. MDOE and the CDS Director also described parents taking children out of the CDS program to instead work with private providers who would provide a higher level of service and were able to bill those services directly to MaineCare and private insurers.

Step 3: Delivering the Planned Services

CDS regional sites select the provider(s) that will deliver the planned services. Services may be provided by contracted private providers or by staff employed in the regional sites.

Once the Plan has been developed and approved by the parents, CDS selects the service provider(s). Services are provided by qualified personnel including special educators, speech-language pathologists and audiologists, occupational therapists, physical therapists, psychologists, social workers, nurses, registered dieticians, family therapists, vision specialists, orientation and mobility specialists, and pediatricians and other physicians.

Each CDS regional site has contracts with a number of private providers for services such as physical, speech and occupational therapy and preschool education. Each CDS regional site also employs its own mix of staff, and most sites operate one or more preschool programs. Consequently, the various therapists involved in a child's IFSP or IEP Team, or that are providing services to the child, may be either CDS' own therapists or private providers, depending upon staff capacity and availability at the regional site. Similarly, preschool special education services may be provided by staff in the CDS regional sites or preschool programs,

or through placement in a preschool program run by a public school district or a contracted private provider.

Most services are delivered by private providers, but OPEGA noted several trends indicating that CDS has gradually been delivering more of the services with its own staff.

Although CDS regional sites have employed their own staff since 1989, most services have historically been delivered by private providers. OPEGA's analysis of program expenses and service unit data from the Case-e system indicates that private providers are still delivering the bulk of services to children. OPEGA noted several trends, however, that indicate CDS has been gradually providing more services with regional site staff and relying less on private providers. These trends, which are described in more detail beginning on page 36, include:

- an increasing number of direct service staff being employed by CDS regional sites;
- CDS regional sites establishing more of their own preschools; and
- CDS staff providing slightly more service units while private providers deliver slightly less.

According to CDS, this shift in provision results from efforts to improve compliance with IDEA on timeliness of service and the settings in which services are delivered.

According to MDOE and CDS, this shift in provision results from efforts to address compliance with IDEA federal performance indicators on timeliness of service, and federal requirements for serving children in "natural" and "least restrictive" environments. Other reasons given for using CDS staff and preschools to provide services include a lack of private providers in particular regions of the State, and inability or unwillingness of private providers to accommodate the requirements to serve children in the most appropriate environments.

Examples of CDS initiatives to increase the number of children being served in "natural" and "least restrictive" environments include:

Examples of efforts to increase the number of children served in "natural" and "least restrictive" environments include the 2006 move to a new service delivery model for Part C services and placing more Part B children in public and CDS-run preschool or childcare programs. There are 12 CDS-run programs and six of those have been added since 2006.

Providing Part C services through a Primary Service Provider (PSP) model. In 2006, CDS began implementing a new service delivery model referred to as the Primary Service Provider (PSP) model. Part C services were traditionally provided primarily by therapists either in their offices or at the child's home. Parents might have needed to bring a child to more than one provider more than once a week to implement their child's Plan. In the PSP model, a primary provider, or coach, is selected based on what the family desires for outcomes as put forth in the IFSP. The PSP works with the child's family in the "natural environment" which is typically the child's home or daycare setting. CDS describes PSP as an evidence-based model that is less invasive to families in their homes. While other service providers may visit the family occasionally to address specific needs, most of the time only the primary coach works directly with the child and family.

The Primary Service Provider approach is defined in CDS training materials as:

"a family-centered process for supporting families of young children with disabilities in which one member of an identified multidisciplinary team is selected as the primary coach who receives coaching from other team members, and uses coaching as the key intervention strategy to build the capacity of parents and other care providers to use everyday learning opportunities to promote child development."

Providing Part B FAPE in public and CDS-run preschool programs. Historically**,** CDS has primarily delivered a free appropriate public education to children under Part B of IDEA through placements in special purpose preschools and programs operated by private providers. According to CDS, these are not integrated settings as non-disabled children are not enrolled in these programs. CDS is working to improve its compliance with IDEA by placing children with disabilities in settings with their typically-developing, non-disabled peers when appropriate. CDS explained that this requires placing children in public preschool programs run by school districts or other integrated settings unless the IEP Team determines they are not appropriate for the child.

CDS must provide, and bear the cost of, any supports needed by a child placed in a public preschool or community program. These supports often include special education technicians that are employed by CDS. CDS regional sites have also been establishing their own preschool programs which are listed in Table 4. According to CDS, some of these preschool programs were established because contracted providers were closing their special purpose provider programs and there were no other options for providing FAPE to the children with disabilities in that particular region. In other instances, however, the CDS-run preschool programs are being established in order to place children in a more integrated setting and the regional sites are seeking to also enroll non-disabled students in these programs. There are a total of 12 preschool or childcare programs being operated by six CDS regional sites. Six of these were established in five regional sites prior to 2007 with the others having been added since.

Table 4. CDS Preschool and Childcare Programs as of 2011

Site Name	Office Location	Program Name - Location	Year Established
CDS First Step	Lewiston	none	NA
Aroostook County	Presque Isle	none	NA
CDS Reach	Falmouth	Reach School I-South Portland	1999
		Reach School II-Topsham	2010
Midcoast Regional CDS	Rockland	MidCoast Regional CDS Preschool Program - Rockland	2001 (Expanded 2007 - 2009)
Opportunities	Norway	Baby Steps/Giant Steps-Rumford	1994
		CDS Opportunities Preschool-Oxford	2011
Project PEDS	Waterville	Project Peds Farmington Program	1990
		Language Enhancement Groups-Farmington	2008
		Language Enhancement Groups-Belgrade	2008
		Language Enhancement Groups-Canaan Elementary	2008
Two Rivers	Brewer	Learning Tree-Brewer	2003 (Expanded 2010)
		Stepping Stones-Sangerville	2006
CDS Downeast	Machias	none	NA
York County	Arundel	Children's Journey-Arundel	2008

Source: CDS.

Program costs are impacted by service delivery choices. MDOE and CDS believe using CDS staff is more cost-effective, but CDS does not have adequate processes and data for assessing cost impacts of choices made or cost-effectiveness of delivery options.

OPEGA offers no opinion on the advantages or disadvantages of providing services through CDS regional staff versus private providers. We observe, however, that program costs are no doubt impacted by service delivery models the regional sites implement and choices those sites make in the selection of service providers. The SIEU and MDOE have historically had little authority or control over decisions regional sites made with regard to how services are delivered and the related cost impacts of those decisions. MDOE and CDS expressed a general belief that serving children with CDS staff and preschool programs is more efficient and cost-effective than using private providers. We note, however, that CDS does not have effective, formal processes for considering the cost impacts of service delivery choices at either the regional site or State level. Nor does CDS have adequate, reliable program and cost data, or sufficient information about the activities and productivity of CDS direct service staff to properly assess the efficiency and cost-effectiveness of various service delivery options. (See Recommendations 1, 2, 4 and 5.)

Step 4: Monitoring Service Delivery and Children's Progress

CDS Case Managers monitor the delivery of services and children's progress. Team meetings are set up to review Plans, and make adjustments if needed, in accordance with timeframes required by IDEA or more frequently as necessary. Case Managers rely on progress reports submitted by providers and parent involvement to monitor whether all planned services are being provided.

CDS Case Managers coordinate and monitor the delivery of services for children, and participate in monitoring children's progress, as Plans are implemented. Case Managers periodically review Plans and required progress reports submitted by children's service providers. When necessary, the Case Manager will set up Team meetings to consider and approve adjustments or amendments to Plans. Case Managers are responsible for ensuring all procedures are followed and fully documented as per State and federal rules in both hard files and the Case-e database.

IDEA requires a review of IFSPs (for children birth through age 2) every 6 months to see how children are progressing and if any amendments are needed. CDS regional sites OPEGA visited reported reviewing plans much more frequently, about once a quarter, because children at this age are developing rapidly and Plans need to change accordingly. To amend an IFSP the entire Team, including parents, must meet and approve service changes. Similarly, IDEA requires that IEPs (for children ages three through five) be reviewed at least annually. Staff at CDS regional sites OPEGA spoke with reported also reviewing these Plans more frequently than annually and making amendments to plans, with the consent of the full IEP Team, as needed.

Ensuring providers, whether CDS staff or private providers, are not delivering a level of services that exceeds the Plan is important for managing costs. Invoice processing controls identify excessive service levels when private providers bill CDS.

Regularly monitoring whether services are being provided at levels established in Plans and whether children are progressing is important to ensuring the effective services and best outcomes for children. CDS relies on progress reports from service providers and parent involvement to gauge whether planned services are being provided and benefiting the child.

An equally important objective is to ensure that service providers, whether they are private providers or CDS staff, do not provide more than the level of services in the Plans as this impacts costs. CDS has controls for processing invoices from private providers to detect and correct if providers are billing for services that exceed those established in Plans. MacDonald Page audits these controls each year and has generally found them adequate.

Similar controls do not exist when services are provided by CDS staff or when private providers bill directly to MaineCare or other insurances.

OPEGA notes, however, that similar controls do not exist when services are provided by CDS staff, or when private providers are billing directly to MaineCare or private insurance for the services in children's IFSPs or IEPs.[7] In those instances, there is risk that more services than planned could be provided and paid for, through salaries or invoices, without being readily detected. (See Recommendations 4 and 8.)

Step 5: Transitioning Children Between Part C, Part B and Public School

CDS Case Managers are responsible for developing transition plans as children age in accordance with timeframes required by IDEA.

IDEA contains requirements for transitioning children from Part C to Part B, and from Part B to public school, as they get older. CDS Case Managers are responsible for developing a transition plan for each child in accordance with specific timeframes required by IDEA. Children in Part C are not automatically eligible for Part B due to the difference in eligibility requirements and types of services provided under each Part. Consequently, those transition plans need to provide for children to go through the Part B eligibility process. Transition planning for school-age children moving from the CDS program to public school must include the receiving school district. CDS obtains parental permission, notifies the public school district and begins sharing information about the child prior to developing a transition plan in a joint IEP meeting with the receiving school.

Transition planning for children entering public school must include the receiving school district. A child's Team may opt to delay the child's entry to public school and keep the child in the CDS program for an extra year. This option is not required by IDEA.

Parents with children whose birthdays fall between July 1 and October 15 have historically been able to opt to keep their child out of public school and in the CDS program for an extra year. This option is not a federal requirement. MDOE has previously proposed the elimination of this option to the Legislature as a cost saving measure, but it was not adopted. A statutory change was recently made, however, in the Streamlining Bill[8] passed by the Legislature in April 2012 that now requires the IEP Team, rather than just the parents, to make the determination on whether the child should be kept in the CDS program an additional year.

Paying for Delivered Services

Payments for Contracted Providers

Each CDS regional site contracts with a number of private service providers. Providers may have separate contracts with more than one regional site.

Each CDS regional site enters into contracts with a number of private providers primarily for evaluations, speech, physical and occupational therapy, educational and transportation services. Providers may have separate contracts with one or more CDS sites. Site Directors work with contractors to initiate new contracts or to renew existing ones. CDS usually pays contracted providers the MaineCare rate for the service unit provided. CDS also reimburses contractors for mileage, but will not pay for time spent traveling to and from an appointment. Site Directors, and at some sites Board Directors, sign each contract.

[7] Private outside providers may appropriately provide, and bill health insurers for, more services than called for in a child's IFSP or IEP if those services are medically necessary and the child needs them for non-educational reasons.

[8] LD 1816, enacted as Public Law 2011 Chapter 477, An Act To Implement the Recommendations of the Streamline and Prioritize Core Government Services Task Force for the Fiscal Years Ending June 30, 2012 and June 30, 2013 and To Make Certain Other Allocations and Appropriations and Changes to the Law Necessary to the Operation of State Government.

CDS usually pays the standard MaineCare rate for the service units provided. There is a standard contract used by all sites for providers who will accept MaineCare rates.

The SIEU has developed a two year standard contract used by all sites for providers who will accept standard MaineCare service rates. Contractors who do not accept MaineCare rates may negotiate with individual regional sites for a non-standard rate. Non-standard rates must be approved by the SIEU and Site Directors submit requests along with supporting justification before entering into a non-standard contract. Directors report using non-standard rates to contract with specialized providers who will prioritize CDS clients, or in rural areas of the state where there are very few providers and home visits necessitate significant travel time. Site Directors OPEGA spoke with cited non-standard rates as being necessary in order to have service providers willing to provide services within timeframes require by IDEA.

Providers may negotiate with individual regional sites for non-standard rates. Contracts with non-standard rates must be approved by the SIEU before Site Directors can execute them.

The contracted rates agreed upon are entered into the Case-e system by the regional sites and a copy of the contract signature page and rate sheet, at a minimum, is forwarded to the SIEU. OPEGA noted inconsistencies and inefficiencies associated with the decentralized process for establishing and managing contracts for direct service providers. (See Recommendation 6.)

Individual Site Directors have the authority not to enter into a contract with a private provider due to performance issues; however, that does not preclude a provider having contracts with one or more other regional sites. Site Directors OPEGA spoke with indicated that provider performance can be an issue and is difficult to address because the providers are independent contractors not CDS employees. They explained that sometimes providers choose not to travel to certain parts of a region or cancel appointments with little or no notice. Contracted providers may feel justified in doing so when there is risk of parents cancelling unexpectedly or not being at home when a visit has been scheduled.

If a child has MaineCare or private health insurance coverage, and parents are allowing access to it, then private providers bill those insurers directly for eligible services provided in accordance with the child's Plan. Otherwise, private providers bill CDS. Providers also bill CDS for unpaid portions of claims submitted to the insurers.

CDS informs private providers if a child is eligible for MaineCare and/or private insurance and the parents are allowing access to those insurances. If so, providers bill MaineCare and/or private insurance directly for services they deliver that are eligible for coverage. Private providers bill CDS directly when services delivered in accordance with an established Plan that are not eligible for insurance coverage, the child does not have insurance, or the parents have denied access to insurance. Private providers may also bill CDS for the unpaid portion of any claims rejected in whole, or in part, by private third party insurance or MaineCare. They must send documentation of the denial with the bill to CDS.

Private providers typically submit invoices to the CDS Central Office on a monthly basis. Information included on the invoice includes the child's name, date of birth, and the type and amount of service provided in the billing period. An Accounts Payable Processor (APP) at the CDS Central Office reviews the invoice and compares it to pertinent information in the child's electronic file in Case-e and the contracted rates established in Case-e for the provider. If all the information matches, the APP processes the provider invoice for payment.

Provider invoices are processed in the CDS Central Office. Information on an invoice is checked against the child's data and planned services in Case-e before the invoice is paid. When information doesn't match, the invoice is held for review and resolution by the responsible regional site.

Sometimes the child's data or services billed on the invoices do not match the child and/or the planned service data in Case-e. In these cases, the APP enters a note in the child's electronic Case-e file describing what does not match and puts the invoice in a holding bin pending review and resolution by the responsible CDS regional site. Reasons private provider invoices may need site review include:

- the provider not being listed in the child's file;
- the child's Plan has expired; or
- the services on the invoice differ in frequency, intensity or duration from those specified in the child's Plan as shown in Case-e, possibly because the Plan has not been updated to reflect a recent amendment changing services in some way.

Administrative personnel at each CDS site are expected to regularly check Case-e for invoices needing site review and the CDS Central Office tracks the invoices in site review status. Invoices remain in site review until someone with authority, usually the Site Director, sends an email to the APP stating that the issue has been resolved.

The Central Office also checks the billing rates on the invoice against the contracted rates for the provider in Case-e and corrects the invoice amount as necessary before it is paid.

If the services on the invoice match the child's Case-e file but the rate charged is incorrect, the APP will correct the invoice amount, note the correction in both Case-e and directly on the invoice, and process the invoice for payment. The APP will also compare any insurance information for the child in Case-e with the invoice to see if services are eligible for payment by another source. If the invoice is for services that have been partially paid by insurance, the APP verifies that the correct amount is being billed to CDS. If there is any question with regard to insurance, the invoice is held pending site review and a notation is made in Case-e.

Reimbursements for Service Provided by CDS Staff

CDS direct service staff are paid on a salary or hourly basis through a regular time reporting and payroll process. CDS uses a contracted payroll provider for this purpose. The regular time reports completed by CDS employees each pay period do not include a breakdown of the amount of time spent providing particular service(s) or the specific children that were served.

CDS seeks reimbursement of costs associated with eligible services provided by CDS staff from MaineCare and/or private health insurers if a child has insurance coverage and parents allow access to it. Services billed to MaineCare are occupational, physical and speech therapy and rehabilitative services.

CDS seeks reimbursement of costs associated with services provided by CDS staff from MaineCare and/or private insurers if:

- a child has MaineCare and/or private insurance coverage;
- the parents allow CDS access to their insurance coverage; and
- the services being provided are eligible for coverage.

CDS program services that can be billed to MaineCare, in accordance with the MaineCare Benefits Manual, without any MaineCare pre-authorization process are occupational therapy billed under Section 68, physical therapy under Section 85, and speech therapy under Section 109. CDS also seeks reimbursement for rehabilitation services under Section 28.

Section 28 requires that the services be medically necessary, and provided by qualified staff in qualified settings. Pre-authorization by the DHHS Office of MaineCare Services is also required for services billed under Section 28. Four CDS regional sites are currently providing Section 28 services being billed to MaineCare. These are: Reach, Two Rivers, Downeast and Mid-Coast.

Services eligible for private insurance coverage vary by insurer and the child's insurance plan. If a child has private insurance, CDS bills all services and then tracks what is denied and why. When OPEGA began this review, CDS was only capable of billing one private insurer. Capability to bill more insurers is being added.

Coverage of specific services by private insurance varies by insurance company and the insurance plan a child is covered under. If a child has private insurance coverage and parents are allowing access, the CDS Central Office staff bill the private insurer for all services and then track what is paid or denied and why. Often denials are because the deductible for the child's plan has not been met. CDS will often cover the deductible in these instances. When OPEGA began this review, CDS was only billing one private insurance company, Anthem Insurance, but had plans to begin billing others. OPEGA understands that CDS now has the capability to also bill Aetna Insurance, has received approval to bill Tri-Care and is beginning the approval process with Harvard Pilgrim. (See Recommendation 7.)

The CDS Central Office bills MaineCare and private insurers using service information provided by regional sites on therapist or classroom billing sheets. OPEGA noted that data about service units provided by CDS staff are not entered to Case-e nor compared against children's Plans at any point in the regular time reporting process or the insurance billing process.

The billing of MaineCare or private insurers for CDS staff services is handled by the CDS Central Office. Individual CDS therapists in the regional sites complete and sign billing sheets, separate from regular time reports, specifying the services they have provided by child. A monthly summary cover sheet for each therapist is prepared and signed by the respective therapist's Site Director. These billing packets are sent monthly to CDS staff in the Central Office who do the billing. Services provided in CDS-run preschool or childcare programs eligible for Section 28 MaineCare coverage are recorded on classroom billing sheets which show the number of eligible service units received by each eligible child per day. The program director approves the classroom billing sheets before they are sent to the CDS Central Office. Two of the four CDS regional sites currently billing under Section 28 send paper billing sheets while the other two send them electronically. The classroom billing sheets do not specify the name or job title of the CDS staff member providing the service but detailed notes must be in the child's file for every unit billed.

Prior to billing either MaineCare or private insurance, CDS Central Office staff check the insurance eligibility and parent consent information for each child in Case-e and/or the MaineCare eligibility system. If the child is eligible and parents are allowing access, billing data is entered to the appropriate computerized system and a billing file is created and uploaded to the insurer's claims payment systems. OPEGA noted concerns about the reliability of the insurance information maintained in Case-e. We also noted that at no point in the time reporting or insurance billing processes is specific data about the service units provided by CDS staff entered to children's Case-e files. Nor is there any comparison of service units actually provided by CDS staff to the service units required in the children's service Plans. (See Recommendations 4 and 5.)

Analysis of CDS Costs

Overview of Financial Data Availability

OPEGA's analysis of CDS program costs was limited to FY09 – FY11 due to unavailable or unreliable detailed electronic financial data prior to FY09. We also noted issues with inconsistent account coding in the financial data we received. As a result, expense and revenue totals generated from our analyses should be considered reasonable estimates rather than exact figures.

The SIEU has centrally maintained all CDS revenue and expense data for fiscal year (FY) 2009 and forward. Prior to that, before the consolidation of administrative functions into the SIEU, each regional site had its own accounting staff and maintained its own financial records. Consequently, the detailed electronic financial data OPEGA requested for each regional site was either unavailable or unreliable prior to FY2009. For this reason, OPEGA's detailed financial analysis of CDS program costs was limited to fiscal years 2009 through 2011.

In reviewing the data, OPEGA noted issues concerning inconsistent application of account codes — an issue also noted by MacDonald Page during their Single Audits of CDS. This situation, and the account structure in general, led OPEGA to assign each CDS expense account to expense categories and subcategories we designated, and to analyze data based on those assignments in order to address the questions posed for this review. Due to this judgmental process, expense category totals generated from our analyses should be considered reasonable estimates rather than exact figures. The inconsistent account coding also affected revenue totals in our analysis so those should be considered reasonable estimates rather than exact figures as well. (See Recommendation 5).

Analysis of Administrative vs. Service Delivery Costs

In performing our analysis, we assigned each CDS expense account to one or five expense categories: administration; case management; direct service; facilities; and other.

OPEGA assigned CDS expense accounts to one of the following five expense categories:

- Administration — expenses related to the overall operation of the CDS program which are not clearly and easily connected to the delivery of specific services, and which are not associated with trainings or facility maintenance:
- Case Management — expenses associated with management of children's cases, including salaries and benefits for CDS employees that have these responsibilities;
- Direct Service — expenses associated with the direct provision of all services to children, including amounts paid to external and internal therapists and other costs related to specific treatments and services for individual children;
- Facilities — expenses related to owning, renting, maintaining and operating CDS buildings and properties, regardless of whether the buildings house administrative staff or are sites where services are provided; and
- Other — other expenses not readily assigned to the four categories above, including the costs of trainings provided to CDS staff, private providers and families.

For the period FY09 – FY11, administrative expenses were 16.9% of total expenses and declined overall by just over $1 million. FY11 administrative expenses were about $4.1 million.

Table 5 shows how administrative costs compared to the other four expense categories over the past three fiscal years and Figure 4 illustrates the trends in the four primary categories. For the period FY09 – FY11, administrative expenses were 16.9% of total expenses and declined overall by just over $1 million (21.1%). OPEGA observes that 16.9% is a reasonable administrative overhead level and the trend reflects CDS' efforts to reduce administrative costs. In FY11, total CDS administrative expenses were about $4.1 million with 58.8% (about $2.4 million) attributed to the regional sites and 41.2% (about $1.7 million) attributed to the SIEU.

Table 5. CDS Expenses FY2009 - FY2011 by Expense Category

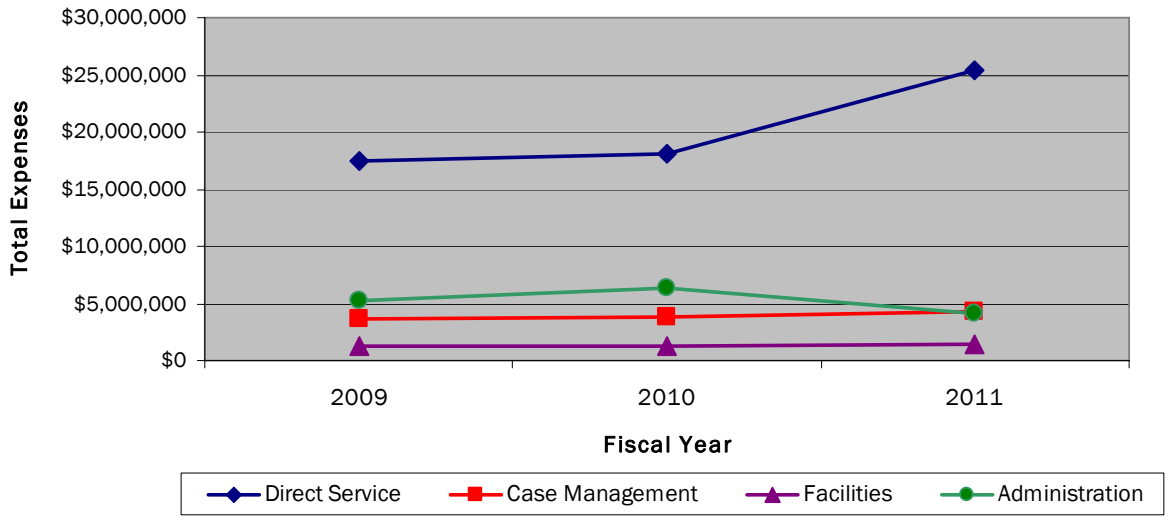
Expense Category	FY11 Expense	Total Expenses FY09 - FY11	% of Total Expenses FY09 - FY11	$ Change FY09 to FY11	% Change FY09 to FY11
Direct Service	$25,467,364	$61,038,607	65.9%	$7,988,268	45.7%
Administration	$4,100,822	$15,697,727	16.9%	-$1,094,724	-21.1%
Case Management	$4,251,304	$11,622,760	12.5%	$630,014	17.4%
Facilities	$1,463,676	$4,008,072	4.3%	$178,338	13.9%
Other Expenses	$94,301	$309,833	0.3%	$24,432	35.0%
Total	**$35,377,466**	**$92,676,999**	**100.0%**	**$7,726,328**	**27.9%**

Source: OPEGA's analysis of expense data provided by CDS from Great Plains system.

Service delivery expenses comprised 78.4% of total expenses for the three year period. FY11 service delivery expenses totaled about $29.7 million, an increase of about $8.6 million over FY09.

For the purposes of this review, OPEGA considered "service delivery" expenses to be those directly associated with providing services to children and were categorized by OPEGA as direct service and case management expenses. The expenses in both categories combined comprised 78.4% of total program expenses for the three year period FY09 to FY11, with direct service expenses constituting 65.9% of all CDS expenses for the period and case management accounting for another 12.5%. These service delivery expenses totaled about $29.7 million in FY11 and had increased about $8.6 million (or 40.8%) since FY09.

Figure 4. Trends in Primary Expense Categories FY2009 - FY2011



Most administrative expenses in the period FY09 – FY11 were for salaries and benefits for CDS Directors and administrative support staff. Both administrative salaries and benefits decreased over the period but about $1 million of the decrease in health benefits is due to a 2010 accounting change that shifted these costs to other expense categories.

OPEGA performed additional analysis of the costs within the administrative expense category to identify the primary areas where administrative dollars were being spent. The results of this analysis are summarized in Table 6 which shows that most of the administrative expenses for FY09 – FY11, roughly $10.3 million, are for salaries and benefits for CDS Directors and administrative support staff. The administrative expense types that changed most substantially in dollar amount between FY09 and FY11 were Directors' salaries, which decreased by $335,633, and employee benefits, which dropped by $984,755 over that period.

The decrease in salaries for Directors is most likely due to the consolidation of regional sites from 16 to 9 between 2009 and 2011. The decrease in employee benefits is not actually a reduction in costs, but simply a shift in the accounting of costs from the SIEU to regional sites. In FY09, health insurance costs for regional site employees were recorded as a SIEU administrative expense. For FY10 and FY11, those costs were instead attached to employees and recorded as direct service and case management expenses at the regional site level. OPEGA noted the concurrent rise in employee benefits expenses in the direct service and case management expense categories.

Table 6. Breakdown of CDS Administrative Costs by Expense Type FY2009 - FY2011

Administrative Expense Type	FY11 Expense	Total Expenses FY09 - FY11	% of Total CDS Expenses FY09 - FY11	$ Change FY09 to FY11	% Change FY09 to FY11
Salaries - Support Staff	$1,437,611	$4,283,292	4.6%	$23,909	1.7%
Employee Benefits	$569,534	$3,895,134	4.2%	($984,755)	-63.4%
Contracted Prof Services - Administrative	$726,636	$2,973,858	3.2%	$21,709	3.1%
Salaries - Directors	$568,438	$2,365,292	2.6%	($335,633)	-37.1%
Equipment	$396,513	$1,039,130	1.1%	$155,535	64.5%
Supplies	$154,445	$526,370	0.6%	($33,581)	-17.9%
Other Expenses	$247,644	$614,652	0.6%	$58,091	6.5%
Total Administrative Expenses	**$4,100,822**	**$15,697,727**	**16.9%**	**($1,094,724)**	21.1%

Source: OPEGA's analysis of expense data provided by CDS from Great Plains system.

Primary Components of Service Delivery Costs

Service delivery costs are those associated with the provision of services to children and in our analysis were those expenses assigned to the case management and direct service expense categories.

As previously described, service delivery expenses are those associated with provision of services to children and categorized by OPEGA as direct service or case management expenses. Table 7 shows the breakdown of direct delivery expenses by expense type. Analysis and observations on the expense types associated with the two categories – case management and direct service – are further discussed below.

Table 7. CDS Service Delivery Expenses by Expense Type, FY2009 - FY2011					
Service Delivery Expense Type	FY11 Expense	Total Expenses FY09 - FY11	% of Total Service Delivery Exp. FY09 - FY11	$ Change FY09 - FY11	% Change FY09 - FY11
Case Management					
Salaries and Benefits - Case Management	$4,096,986	$11,259,925	15.5%	$576,857	16.4%
Transportation/Travel - Case Management	$154,318	$357,172	0.5%	$58,481	61.0%
Other - Case Management	$0	$5,663	0.0%	($5,323)	-100.0%
Sub-total Case Management	**$4,251,304**	**$11,622,760**	**16.0%**	**$630,014**	**17.4%**
Direct Service					
Contracted Services - Direct Services	$12,303,517	$28,183,236	38.8%	$3,781,019	44.4%
Salaries and Benefits - Direct Services	$11,077,029	$27,256,718	37.5%	$3,694,383	50.0%
Transportation/Travel - Direct Services	$1,935,492	$5,108,026	7.0%	$499,531	34.8%
Other Expenses - Direct Services	$151,326	$490,627	0%	$13,335	9.7%
Sub-total Direct Service	**$25,467,364**	**$61,038,607**	**84.0%**	**$7,988,268**	**45.7%**
Total Service Delivery Expenses	**$29,718,667**	**$72,661,367**	**100.0%**	**$8,618,283**	**40.80%**
Source: OPEGA analysis of expense data provide by CDS from Great Plains system.					

Nearly all case management expenses are associated with salaries and benefits for case management staff. These salaries and benefits totaled just over $4 million in FY11 and had increased by $576,857 over the three year period.

Case Management Expenses

Total case management expenses increased by about $630,000 (17.4%) from FY09 to FY11. Nearly all expenses in this category are from employee salaries and benefits, which totaled just over $4 million in FY11 and increased by $576,857 over the three year period. The increase in case management salaries and benefits can be attributed to the following factors:

- Salary expenses increased by $221,343 or about 3.9% annually, which is likely explained by typical annual salary increases as our analysis of CDS staffing shows a decrease of three full-time equivalents (FTEs) budgeted for case management from FY09 to FY11.
- Employee benefits expenses increased by $357,613 with most of that increase, $281,849, being in health benefits. The increase in expenses for case management health benefits is mostly due to the shift in how CDS accounted for employee health benefits as described earlier with regard to the decrease in administrative expenses.
- Payroll taxes increased by $81,256 over the three year period as can be expected given the increased salary levels.
- Some minor decreases, about $22,000, in the retirement and dental benefits areas, offsetting a small portion of the increases in other benefits expenses.

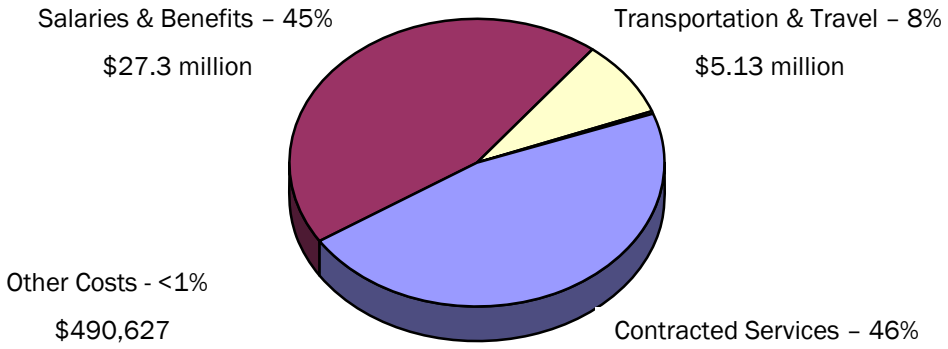
Direct Service Expenses

Total direct service expenses increased by nearly $8 million (45.7%) over the three year period and totaled nearly $25.5 million in FY11. As shown in Table 7, contracted services and employee salaries and benefits are the two largest expense types in the direct service category and respectively accounted for about 46% and

45% of total direct service expenses from FY09 – FY11. (See Figure 5.) Transportation and travel costs made up about another 8% of total direct service costs, and less than 1% of expenses are in other areas like assistive technology.

Direct service expenses totaled nearly $25.5 million in FY11 and had increased by nearly $8 million from FY09 to FY11. The two largest expense types in this category are contracted provider services and employee salaries and benefits.

Figure 5. Direct Service Cost Areas, FY2009 - FY2011



These two direct service expense types were primarily related to three types of service provided to children: developmental therapy (DT), speech therapy and occupational therapy. DT is the service type with the most expenses, and greatest increases, over the three year period.

Contracted services expenses in the direct service category are payments to private providers that are delivering therapy and educational services to children. Direct service salaries and benefits are for CDS employees who provide those services. OPEGA further analyzed these direct service expense types and found they were primarily related to three service types: Developmental Therapy (DT), Speech Therapy (ST) and Occupational Therapy (OT). Together they represent about $50.8 million of the total $61 million in direct service expenses for FY09 – FY11 (Table 5); 55% of all CDS expenses in that period. As shown in Table 8 below, DT is the service type with the most expenses, and greatest increase in expenses, over the three year period.

Table 8. CDS Direct Service by Service Type FY2009 - FY2011

Therapy Type	Total Expenses FY11	Total Expenses FY09 – FY11	% of Total CDS Expenses FY09 - FY11	$ Change FY09-FY11	% Change FY09-FY11
Developmental Therapy (DT)	$15,888,602	$35,574,824	38.4%	$5,895,479	59.0%
Speech Therapy (ST)	$3,818,786	$10,428,824	11.3%	$612,963	19.1%
Occupational Therapy (OT)	$1,766,995	$4,778,375	5.2%	$285,439	19.3%
Physical Therapy (PT)	$454,179	$1,321,773	1.4%	$5,000	1.1%
Social Work	$380,989	$918,043	1.0%	$137,349	56.4%
Psychology	$171,341	$648,996	0.7%	-$37,897	-18.1%
Medical/Nutrition	$45,025	$109,117	0.1%	$27,282	153.8%
Audiology	$38,817	$108,438	0.1%	$7,294	23.1%
Ophthalmology	$6,566	$12,146	0.0%	$4,185	175.8%

Contracted services totaled about $12.3 million in FY11 which was an increase of about $3.8 million (44.4%) over FY09. These expenses actually declined by about $1.2 million between FY09 and FY10, but then had a significant increase of nearly $5 million between FY10 and FY11. This trend may reflect one, or both, of two factors affecting costs at that time: 1) a shift toward providing more direct services with in-house staff rather than using private providers; and 2) MaineCare rule

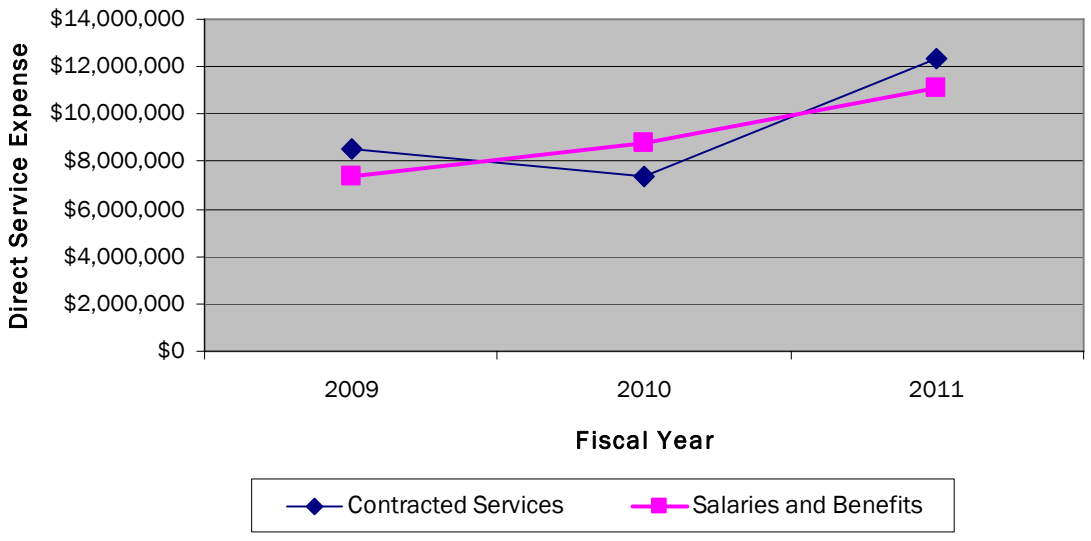
Contracted service expenses, which totaled about $12.3 million in FY11, declined by about $1.2 million between FY09 and FY10, but then increased by nearly $5 million between FY10 and FY11. The trend may reflect both the impact of CDS providing more services with its own staff and the impact of the 2010 MaineCare rule change.

changes in 2010 that resulted in providers billing more services to the CDS program rather than MaineCare. The shift in service provision is discussed below, and the impact of the MaineCare changes is described in detail in a separate report section beginning on page 39.

OPEGA calculated planned service hours based on Case-e data and performed an analysis of the data to further understand the distribution of service hours planned to be delivered by CDS staff versus private providers. Planned service data in Case-e should represent the services that have been agreed to in children's service Plans (IFSPs and IEPs). According to CDS, however, planned service data from Case-e is not very reliable as regards expected provider and the nature and quantity of hours planned when services are expected to be provided by CDS staff (See Recommendation 4.) Nonetheless, the analysis of this data provides some indication of the shift to providing more services with CDS staff rather than private providers. Our analysis of planned service hours shows the portion of services CDS planned to provide itself increased from 10% to 18% from 2007 to 2011, as the portion expected to be delivered by outside providers dropped.

CDS' move to provide more services with its own staff is also evidenced in the increase in staff costs over the past five years. Salaries and benefits expenses for CDS direct service staff have been steadily increasing year to year over the period. As shown in Figure 6, this trend is in contrast to contracted services expenses which decreased between FY09 and FY10 before rising sharply between FY10 and FY11 as a result of a change in MaineCare rules.

Figure 6. Trend in Direct Service Expense Types FY2009 - FY2011



Expenses for direct service salaries, without benefits, increased about $2.4 million, for an average of 19.5% per year, in the period FY09 – FY11. Some of this increase is likely due to typical annual salary increases. However, OPEGA's analysis of staffing shows it is also due to an increase in the number of CDS direct service employees. CDS budgeted positions in the direct service function increased by 64 FTEs, or 37.6%, between FY09 and FY11. Some of the additional FTEs have been

budgeted for therapist type positions, i.e. speech, occupational and physical therapy. However, most of the additions have been for positions that provide services in a preschool setting, mainly teachers of children with disabilities and educational technicians.

Trends shown in OPEGA's analyses of planned service hours, direct service salaries and benefits, and budgeted FTE's for direct service positions also reflect CDS' shift toward providing more services with its own staff. We also noted that several CDS regional sites have opened or expanded preschool programs since 2007.

Several CDS sites have opened or expanded preschool programs since 2007 which added teachers and educational technicians to their staffs. Sites have also added education technicians to work with individual children placed in public and private preschools as per their individualized education plans. CDS explained that many of the new positions and new CDS-run programs are being added for two reasons. One reason is to improve CDS compliance with placing children, and providing services, in the least restrictive environments as required by IDEA. The other reason is that more of the children CDS serves are being diagnosed with Autism Spectrum Disorder. These children typically require developmental therapy services which are often provided by CDS teachers and educational technicians in classroom settings at private, public or CDS-run preschools.

As expected with increasing salaries and staffing, direct service employee benefits have also risen — doubling from FY09 to FY11 with an increase of about $1.3 million. The direct service benefits increases break down as follows:

- Health benefits accounted for the majority of the change with an increase of $907,887. This increase is partly due to increased staff and typical increases in health care costs. The change in accounting for health benefits that also affected case management expenses as previously described contributed to the increase in health benefit expenses for direct service as well.
- Payroll taxes increased by $372,864 and, in general, can be expected to increase in correlation with increased salary levels.
- Minor increases, about $59,000, in the retirement and dental benefits areas which were partially offset by a decrease of about $21,000 for disability benefits.

Fiscal Impacts of MaineCare Rule Change

In September 2010, DHHS repealed Section 27 of the MaineCare Benefits Manual and established Section 28. As a result, education-related DT services previously billable to MaineCare under Section 27 were no longer eligible for coverage. Medically necessary rehabilitative services provided through the CDS program could still be billed under Section 28.

The federal Centers for Medicare & Medicaid Services have required states to update Medicaid claims systems to be compliant with new Health Insurance Portability and Accountability Act (HIPAA) requirements. As part of this effort, DHHS looked at the State's rules governing Medicaid for children birth through five years of age and determined that CDS services must be medically necessary in order to be eligible for MaineCare coverage. They concluded that services educational in nature, such as developmental therapy services that had been eligible for coverage under Section 27 of the MaineCare Benefits Manual, were not billable. In September 2010, DHHS repealed Section 27 and established Section 28 which continued to allow coverage of medically necessary rehabilitation services provided through the CDS program.

This rule change affected both CDS program expenses for contracted services and program revenue received from MaineCare reimbursements for services provided by CDS staff.

This change in MaineCare rules affected CDS program expenses as CDS had to start paying private providers for services that were previously billed directly to MaineCare. In addition, CDS was no longer able to bill MaineCare for developmental therapy (DT) services provided by its staff, which meant those costs had to be covered by General Fund dollars instead.

OPEGA conservatively estimates the cumulative fiscal impact to the CDS program at about $7.1 million per year (based on FY11), with just over $5 million in additional expenses being combined with about a $2.1 million drop in MaineCare revenue. The impact has been a contributing factor in CDS supplemental budget requests for FY11 and FY12. However, it does not fully explain CDS' ongoing need for additional funds beyond their appropriated budget (See Recommendation 3.)

OPEGA conservatively estimates the cumulative fiscal impact to the CDS program at about $7.1 million per year. We noted that several regional sites were not as significantly impacted as the others.

The basis for OPEGA's impact estimate is discussed below. As noted in that discussion, our analyses also showed that four of the CDS regional sites did not have their expenses and/or revenue as significantly impacted by the MaineCare rule change. MDOE has offered some explanation for this, but it might be worthwhile for MDOE and the SIEU to further explore the reasons each site was not as impacted so any appropriate ideas for mitigating the impact can be shared with other sites. (See Recommendation 7.)

Impact of MaineCare Change on CDS Expenses

The CDS service type affected by the MaineCare rule change was developmental therapy (DT). As previously mentioned, DT is the service type that had the most significant increase in expense over the three year period and was the primary driver of the increase in direct service expenses overall.

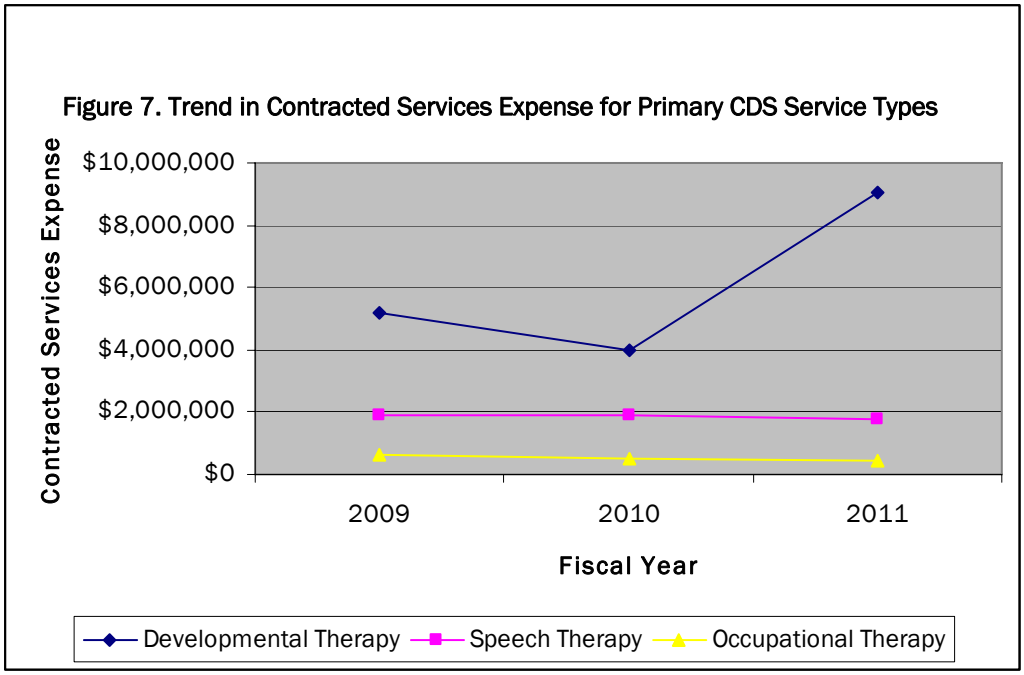
Program expenses for contracted services increased as a result of the rule change as private providers could no longer bill MaineCare for DT services and began billing the CDS program for these services instead.

Contracted services expenses for DT were about $9 million in FY11 and had increased nearly $3.9 million since FY09. As illustrated in Figure 7, however, contracted DT services actually declined by about $1.2 million from FY09 to FY10 and then rose sharply by about $ 5 million from FY10 and FY11 coinciding with the change in MaineCare rules.

It is difficult to assess exactly how much of the increase in DT contracted services is connected to the MaineCare rule change. Decreases in DT contracted services expenses between FY09 and FY10, combined with CDS providing a greater portion of direct services with CDS staff, suggest that private providers may have been delivering less total DT service units in FY11 than FY10, but billing more of them to CDS because of the MaineCare rule change. This would mean that the impact of the MaineCare rule change on CDS expenses may actually be greater than the increase reflected in the DT contracted services expense line.

Developmental therapy services for children in Part B include Specially Designed Instruction - the service type most impacted by the MaineCare rule change.

Specially Designed Instruction addresses the unique needs of an eligible child by adapting the content, methodology, or delivery of instruction to ensure the child can access the general curriculum, and meet the educational standards that apply to all children in the jurisdiction.



We conservatively estimate the fiscal impact on CDS program expenses to be about $5 million per year which is the amount of increase in the DT contracted services expense line between FY10 and FY11.

Further analysis of DT contracted services expenses by CDS regional site indicates these expenses were not as significantly impacted for at least three of the sites, if at all. PEDS actually had a small decrease in DT contracted services costs between FY10 and FY11, and Reach and Two Rivers experienced increases in this expense line of only 4.9% and 32.9% respectively. Meanwhile, all other sites had increases of more than 100% for DT contracted services between FY10 and FY11.

OPEGA's conservative estimate of the financial impact of the MaineCare rule change on CDS expenses for outside providers for FY11 is $5,023,588. The estimate is based on the total amount of increase seen in the DT contracted services expense line for CDS as a whole between FY10 and FY11. It is important to note, however, that the MaineCare rule change did not occur until partway through FY11 and, therefore, that year did not reflect a full year's worth of the increased expense.

Impact of MaineCare Change on CDS Revenue

The rule change also affected CDS' ability to get MaineCare reimbursements for DT services provided by CDS staff.

The MaineCare rule change also had an effect on CDS revenues. CDS can be reimbursed at the standard MaineCare rate for eligible direct services provided by its own staff for children that are enrolled in MaineCare and whose parents give permission to access that insurance coverage. In FY09, CDS received revenue in the form of MaineCare reimbursement totaling $3.9 million representing 16.4% of revenue received from all sources. MaineCare reimbursement to CDS for FY11 dropped to $1.3 million - a decrease of $2.6 million, or 67%, over the three year period.

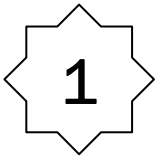
Most of the decrease, about $2.1 million, occurred between FY10 and FY11 coinciding with the MaineCare rule change that went into effect part way into FY11. Consequently, we have based our conservative estimate of the FY11 financial impact to CDS program revenues on this amount. CDS has continued to provide the services affected by the MaineCare change, but now the cost of those

We conservatively estimate the impact to CDS program revenue to be about $2.1 million which is the amount CDS MaineCare revenue decreased between FY10 and FY11.

services has to be funded by a different revenue source, primarily State General Fund.

Analysis by CDS regional site indicates that all sites were not equally impacted by reductions in MaineCare reimbursement revenue. Most CDS regional sites had reductions of 70% or more in their MaineCare revenue from FY09 to FY11. Three sites lost more than 80% of their MaineCare revenue, with one of these sites losing almost all of it with a reduction of 93%. Two sites fared better, however. MidCoast, lost only 55% of its MaineCare revenue over the three year period, and Reach had a reduction of only 25%.

Recommendations



Organizational Structure and Capabilities in Key Management Functions Should be Reassessed and Adjusted as Necessary

OPEGA identified several concerns with the CDS System organizational structure, and limited capabilities in key management functions at the SIEU, that hinder effective management of fiscal and human resources on a comprehensive, system-wide basis. These same issues also impair transparency and effective oversight, particularly at the legislative level.

The organizational structure of the CDS System is different than any other OPEGA has encountered in Maine State Government, and is particularly atypical for State-administered, federal programs receiving General Fund support. MDOE is the lead agency responsible for the CDS program and administers both the federal and State funding. The program is managed and implemented, however, by the SIEU and nine regional CDS sites (IEUs) which, at the time of our review, were established as entities independent of MDOE and each other. OPEGA noted a weak alignment of authority and responsibilities within this structure, as well as a blurring of roles and responsibilities and a lack of strong accountability mechanisms that are problematic for an entitlement program that consumes such significant federal and State resources.

The SIEU is established in statute as a body corporate and politic, but it has no governing board of its own as is typical of other entities the Legislature has established with this legal status. Rather, the SIEU is supervised and overseen by MDOE with the MDOE Commissioner responsible for appointing and supervising the CDS Director who heads up the SIEU. The nine IEUs are established as completely independent entities under the statute. At the time of our review, most regional sites had their own Board of Directors which hired, supervised and terminated the Site Directors. The IEUs, however, are not incorporated as non-profits or any other legally-recognized organizational form. Their relationships with the SIEU are not really like that of either a typical contractor or grantee. As a result, the SIEU and MDOE have limited authority over the IEUs and limited means to hold them accountable for policy and fiscal decisions they make. This structure

makes determining the IEUs actual legal status and the State's responsibility difficult when IEU decisions and actions are challenged. [9]

Statute also assigns specific roles and responsibilities to MDOE, the SIEU and the IEUs. OPEGA notes the delineation of these responsibilities in practice has become less clear over time as MDOE has recognized a need to have more control over the implementation of the CDS program. The authority and responsibilities of the Regional Site Boards have decreased as financial, human resource, policy and administrative functions formerly performed in the IEUs have been centralized in the SIEU.

While the SIEU is a separate entity by statute, in many ways it appears to be part of the Department with MDOE taking on some responsibility for managing, rather than just supervising, the CDS System. SIEU staff are physically located within MDOE's offices and have State e-mail addresses and telephone numbers. The CDS budget is an appropriation program within MDOE's budget and the SIEU and MDOE collaborate on budget requests. Policies, procedures and administrative directives for the program are also issued jointly by the SIEU and MDOE.

At the same time, however, MDOE cannot readily access critical information for planning, monitoring and managing the program's finances. The CDS program is almost completely funded with State General Fund and federal funds flowing through MDOE, but records of financial transactions and accounts for the program exist in financial and accounting systems independent of the State's accounting system. Consequently, MDOE is reliant on the SIEU to provide fiscal data and has very limited ability to analyze it, or verify its completeness and accuracy, on an ongoing basis. MDOE is similarly reliant on the SIEU for access to, and analysis of, program data on children served and the services provided which resides in the Case-e system.

In addition to the structural issues, OPEGA also notes concerns with a lack of capacity and capabilities in key management functions at the SIEU as a result of our experiences in obtaining information and data throughout this review. The weaknesses identified are associated with data availability and reliability, as well as analytic and fiscal management capabilities.

We had difficulty getting complete, reliable, system-wide information from the SIEU that could be readily reviewed and analyzed. For example, it took several iterations of data requests and associated explanations from SIEU accounting staff before we obtained detailed revenue and expense data that could be verified as complete and accurate through reconciliation to CDS' audited financial statements. The data was provided in 69 separate spreadsheet files broken out by IEU that required combining and refining before it was useful for OPEGA's analysis. SIEU staff was reliant on generic reports from the Great Plains system and unable to perform ad hoc queries of the accounting database for detailed fiscal data. Manual processing was thus required to respond to our data requests. This limitation, plus

[9] During the time of OPEGA's review, the regional sites were identified in statute as Intermediate Educational Units (IEU) and each regional site had a Regional Site Board of Directors and a Site Director. Part OO of Public Law 2012, Chapter 655 eliminated regional boards and the regional sites lost their status as IEUs. The regional sites and the CDS Central Office are now combined as the State Intermediate Educational Unit and the Site Directors report directly to the CDS Director at the SIEU.

the lack of technical support available for CDS' Great Plains software, may be partly to blame for the difficulty OPEGA experienced in obtaining reliable fiscal data from CDS in a timely fashion. However, we also came to lack confidence in explanations of the data provided by some SIEU accounting staff who seemed to have limited financial analysis skills and experience.

Similarly, the SIEU was unable to readily provide comprehensive, reliable and useful data on the human resources planned for, and in use, throughout the CDS System including:

- the number and types of positions budgeted;
- which positions were filled versus vacant;
- the number of individuals actually employed, which positions they had filled and for how long.

Human resources data OPEGA received came in multiple spreadsheets that had been created by copying and pasting from other SIEU spreadsheets and reports. Inconsistencies in the data within and between the files were problematic for analysis. OPEGA had to perform separate calculations on the information provided to determine the number of CDS budgeted full-time equivalents for each year. OPEGA also found there was a general lack of awareness regarding the number of employees added to the System in recent years and it was clear that the SIEU has not fully developed a centralized human resources function.

Other data reliability issues noted that affect the SIEU's ability to assess program effectiveness and financial trends, even if there was staff capability to do so, are discussed in Recommendation 5. Other information OPEGA requested that the SIEU could not readily provide included:

- annual revenues and expenses specifically associated with CDS-run preschools and child care programs;
- annual budgets for the SIEU;
- total number of private providers contracted to deliver direct services and the number of standard and non-standard rate contracts existing for each; and
- number of provider invoices requiring regional site review each year.

The structural and capacity issues described above, combined with issues described in the subsequent recommendations, impair not only the ability to comprehensively manage the CDS program, but also the Legislature's ability to effectively fulfill its appropriation and oversight roles. For example, legislative fiscal staff are unable to independently review and analyze detailed financial information for the CDS program since such detail is not maintained in the State's accounting system. Consequently, the Legislature is reliant on MDOE and the SIEU for information. We find this somewhat problematic as MDOE is not well positioned to respond to legislative inquiries with reliable details about the program and its finances, and the SIEU's ability to respond is somewhat limited as well.

Recommended Management Action:

MDOE has taken steps to begin addressing the structural and accountability issues noted through recently enacted statutory changes. As a result, the regional sites and the CDS Central Office together are now all considered one State Intermediate Educational Unit with Regional Site Directors reporting directly to the CDS Director.

MDOE and the SIEU should continue to re-assess the CDS System structure and relationships among the entities involved. MDOE should initiate additional changes as necessary to create clear lines of authority and defined roles and responsibilities that facilitate sound program management, accountability and quality service delivery. MDOE and the SIEU should also determine the data, systems, tools and staff skill sets needed for more comprehensive, system-wide management of the CDS program and take steps to expand those capabilities in the SIEU. MDOE and the SIEU should specifically:

- improve financial and analytic (fiscal and programmatic) capabilities and information technology functionality and support in general;
- strengthen the human resources management function such that complete and current data on the number and status of CDS positions system-wide, and the employees filling them, is captured, maintained and monitored;
- review the effectiveness of mechanisms established at the CDS Central Office intended to control the number of positions and employees; and
- establish account codes that will allow the capture, analysis and reporting of all costs and revenues associated with operating and staffing the pre-school and child care programs run by regional sites.

Recommended Legislative Action:

If any of the above actions require statutory change, the Legislature should consider revising statute, in coordination with MDOE, to further refine the structure of the CDS System and relationships among the entities such that there are clear lines of authority, and well-defined roles and responsibilities. Changes should support transparency, oversight and accountability and ensure that children receive the services they need and are entitled to.

Greater Emphasis Needed on the Responsible Stewardship of Resources in the Delivery of Appropriate, Quality Services

The culture throughout the CDS System focuses primarily on compliance and provision of quality services to children. This is appropriate given the nature of the CDS program, the specific requirements of IDEA, and annual feedback received from the federal Office of Special Education Programs on compliance-based indicators. We consistently heard from CDS and MDOE management about the importance of compliance, and how the need to improve compliance is driving changes in how CDS services are delivered at the regional sites. We also observed considerable efforts by the SIEU in establishing policies, procedures, standardized forms and training to help ensure compliance and reinforce the importance of that objective.

We did not find a similar level of emphasis placed on fiscal considerations and impacts related to direct service expenses. Directors and staff at both regional sites and the Central Office have worked hard to reduce administrative costs, but direct service expenses make up the great majority of program costs and little has been done to explore controlling them on a system-wide basis. We observed a mindset throughout the CDS System, and among MDOE staff, that direct service costs cannot be controlled. OPEGA heard repeatedly that direct service costs, unlike administrative costs, are uncontrollable because they are driven by individual children's needs and, under IDEA, CDS cannot deny services based on cost. MDOE's success in obtaining supplemental appropriations from the Legislature when needed reinforces this mindset.

Direct service costs represented roughly 65.9% of total CDS program expenses for the period FY09 – FY11. These expenses were $25.5 million in FY11, an increase of nearly $8 million since 2009. While the majority of that increase came between FY10 and FY11 and is related to the 2010 MaineCare rule change, direct service costs were increasing before the rule change. Other global factors causing higher direct service costs for the program include:

- the need to improve compliance with IDEA requirements for timeliness and natural or least restrictive environments; and
- increases in diagnoses of certain conditions such as Autism Spectrum Disorder and children born with drug addictions which require more, and/or more costly, services.

Meanwhile, the number of children being served has not increased, and in fact has been on a declining trend according to figures provided by CDS and OPEGA's own analysis of Case-e data.[10].

Within the context of these system-wide factors, the needs and situations of individual children served are also important factors driving direct service costs. However, from OPEGA's perspective, the decisions being made about the level of

[10] OPEGA has noted concerns with the reliability of certain Case-e data, see Recommendation 5. We considered the data generally sufficient, however, for identifying overall trends.

services in individual Plans, as well as how, where and by whom services are delivered, are the real cost drivers. These decisions are being made throughout the CDS System without much consideration of associated cost impacts, and without sufficient emphasis on the need to use resources efficiently and cost-effectively to deliver services. While MDOE and the SIEU have recently tried to establish some mechanisms to better control direct service costs, like required State-level approvals, we consider these mechanisms to be fairly ineffective. Additionally, neither MDOE nor the SIEU have closely examined how to increase cost effectiveness in service delivery, or reduce the risk of Plans including more services than necessary to meet the needs of children, on a more comprehensive, system-wide basis.

For example, several factors create risk that the service plan developed for any particular child will include a greater level of services than necessary to comply with IDEA and achieve reasonable desired outcomes for the child. IDEA requires that each Plan be appropriate to meet a child's unique needs. However, appropriate plans exist along a continuum of service levels often referred to by CDS as "Chevy versus Cadillac". Individual plans can vary considerably in service frequency and intensity and still meet IDEA requirements. Determining reasonable desired outcomes and an appropriate level of services to meet them involves a significant amount of judgment on the part of the child's Team.

Site Directors OPEGA spoke with described Plans with higher service levels than they thought necessary, and the challenges associated with designing reasonable Plans acceptable to a child's Team. Team members, as dictated by IDEA, include the child's parents and may include assertive advocates and self-interested service providers that could be pushing for unreasonable outcomes and/or higher service levels. The CDS representative on the Team authorized to commit CDS funds may be influenced by these perspectives as well as his/her own preferences for higher service levels and/or a desire to avoid appeals.

OPEGA observed that these inherent tensions are not well mitigated by mechanisms that support or encourage the CDS Team member to also bring a fiscal perspective to their role in the Team. CDS representatives on Teams need support to balance what might be unrealistic expectations for outcomes, or the push for higher service levels, with a more moderate approach also effective and appropriate for compliance with IDEA. We noted varying levels of supervisory review or guidance among the sites we visited, and a lack of guidance from the SEIU, that is specifically intended to encourage and support CDS staff in advocating for IDEA-compliant approaches that are also an efficient and cost-effective use of resources.

The cultural focus on compliance coupled with evolving service needs has also led CDS regional sites to adjust service delivery models and the settings in which services are delivered. Examples include the move to a Primary Service Provider model for Part C services and efforts to place children receiving Part B services in less restrictive environments as described on page 26.

These changes in service delivery approaches, as well concerns about the ability to comply with required service timeframes when using private providers, have resulted in sites adding direct service staff and CDS-run programs. We noted an increase of 78 budgeted FTEs in the direct services category system-wide between

2007 and 2011, with 64 of those FTEs added between 2009 and 2011. A few of these have been therapist positions, but the majority has been Educational Technicians and Teachers of Children with Disabilities. Some of the positions are associated with the eight CDS-run preschool or child care programs that have been opened or expanded at several regional sites since 2006, while others are related to providing supports to children placed in public or private preschools and child care settings.

OPEGA believes these service delivery changes are being made without fully evaluating or understanding the fiscal implications for planning purposes or to assess whether they are the most efficient and cost-effective options. Individuals we spoke with at MDOE, the SIEU and the regional sites expressed a general belief that the changes were cost-beneficial for the CDS program. We noted, however, that there were few formal cost impact analyses or cost-benefit evaluations to support this belief. We questioned the reliability of the attempts at such evaluations that had been made, because of the methodologies used and weaknesses in available, relevant data as described in Recommendations 1, 4 and 5. In addition, we found recent approval processes established to control the addition of employees or programs at the sites to be fairly ineffective. For example:

- OPEGA reviewed a 2010 time study conducted by the SEIU to compare the cost of contracted provider services with CDS employee provided services. We questioned the reliability of the results of this study, which found CDS employees to be more cost-effective than contractors. The time period analyzed was very short and the study methodology did not allow an accurate comparison of costs. For example, some of the hours counted as productive service hours for CDS employees were for activities that private providers cannot bill for, such as cancelled appointments, staff meetings and data entry.

- Sites must submit a request and receive approval from the SIEU and MDOE Commissioner to fill vacant positions and add new positions. OPEGA observed, however, that direct service positions, in particular educational technicians, are routinely approved with little cost justification or assessment of cost impacts because they are directly related to services required by a child's Plan.

- CDS regional sites are required to get approval from the SIEU to add new programs, which may be a small classroom, or a complete preschool program. Justifications for new programs include compliance with federal requirements, filling un-met needs (i.e. children waiting for services), filling a community need (such as when another program closes), and cost-effectiveness. Conditions related to location, physical safety, and building and staffing requirements all must be met to obtain approval. However, the SIEU and MDOE review of fiscal impact and cost-benefit justifications is not robust and cost impacts are not considered by them to be a reason to deny a new program. Individuals at MDOE and CDS indicated that CDS-operated programs may be less expensive to operate than special purpose schools, but did not cite specific cost analyses or comparative studies to support this perspective. As noted in Recommendation 1, costs associated with these programs are not segregated in regional site budgets or financial accounts so it is difficult to assess whether serving children in CDS-operated programs is more or less cost effective than private preschools.

CDS should better balance compliance and service objectives with the objective of being a responsible steward of public resources. There should be a greater awareness among all those involved in managing, implementing and overseeing this program of this responsibility and the true cost implications of choices being made.

Recommended Management Action:

MDOE and the SIEU should emphasize the responsible stewardship of State and federal resources in delivering appropriate services to children. This adjustment in culture and mindset should be promoted and supported throughout the CDS System when establishing the service levels in children's Plans and considering the most efficient and cost-effective means of providing those services. CDS should consider incorporating supports such as training, mentoring and supervision for employees authorized to commit CDS funds to help ensure desired outcomes for children are reasonable and service levels are not higher than needed to produce those outcomes. Similarly, those making decisions about where, how and by whom those services will be delivered should consider efficiency and cost-effectiveness as part of those decisions. Regular monitoring of regional sites conducted by the SIEU should include fiscal management activities and compliance with fiscal administrative directives issued by SIEU and MDOE. New program and staffing requests should be submitted as clear budget initiatives by sites as part of an improved annual budget process to assure fiscal impacts are appropriately planned for.

MDOE Should Adjust CDS Budget Processes and More Actively Monitor CDS Program Finances

Until recently, MDOE's supervision and oversight of fiscal management for the CDS program has been inadequate. MDOE has not instituted formal processes for monitoring the program's financial position. The Department has also released funding allocations requested by the SIEU without receiving or reviewing any written supporting documentation detailing how CDS program funds are being spent. Additionally, budgets developed and appropriations made have not reflected the amount of resources actually needed to properly administer and implement the program. MDOE allowed the resulting continuing deficits in the CDS program to roll forward for several years before beginning to examine the budget and finances more closely.

State and federal funding for the CDS program is appropriated by the Legislature through a specific appropriation program within MDOE's larger budget. It did not appear to OPEGA, however, that MDOE has had a sufficient understanding of what financial resources the program would need when determining the amount requested in the Governor's Biennial Budgets. The SIEU was unable to provide OPEGA with an itemized budget for the SIEU or for the CDS program as a whole. The itemized budgets we did receive for each CDS regional site were referred to by Site Directors as "fake" budgets as they did not represent what Site Directors actually anticipated for expenditures – particularly in the direct services category. OPEGA learned that neither the CDS regional sites nor the SIEU develop and submit a formal budget request based on projected needs to MDOE

before the Department develops its budget proposal, although Site Directors said they could provide that information if asked. Instead, MDOE notifies each CDS regional site what its allocated funding will be after the State budget has been approved by the Legislature. Each CDS site then prepares an itemized budget matching this amount to accompany the entitlement plan that it must submit to MDOE for approval.

Appropriations for the CDS program were reduced by about $6.5 million in 2006 in anticipation of savings from structural changes made at that time. Those savings were not realized and the level of appropriations in subsequent biennial budgets was not re-adjusted accordingly. CDS program appropriations have been inadequate to sustain the program and MDOE has repeatedly returned to the Legislature with supplemental budget requests. Even with the supplemental appropriations, CDS program expenditures have exceeded program revenues since at least 2007 resulting in deficit balances rolling forward each year. The budget process is likely a contributing factor to this situation – making it appear that CDS expenditures are out of control when, in fact, appropriation requests are not based on well planned and projected resource needs. Without an accurate, realistic budget MDOE and CDS management are also unable to conduct meaningful budget to actual analysis on either a system-wide or regional site level. OPEGA found that, overall, the current budget and appropriation process does not provide adequate transparency of the fiscal situation or program resource needs for policy and decision-makers, especially at the legislative level.

We also reviewed documentation supporting MDOE's transfers of funds to the SIEU and found that funds were being released based on periodic SIEU requests for a particular amount. MDOE treated these as allotments of amounts that had been appropriated for the program and did not require that the SIEU provide any detailed information on how CDS funds had been expended since the last transfer. MDOE also did not require the SIEU to regularly submit any budget to actual expenditure reports or other information allowing MDOE to monitor the overall fiscal situation for the CDS program or what types of expenses the program was incurring. The lack of formal mechanisms for monitoring and overseeing CDS program finances may be partly due to the close relationship between the SIEU and MDOE described in Recommendation 1. We saw this situation as concerning, however, given the significant funding involved and the fact that the records of financial transactions for the CDS program are maintained in an accounting system separate from the State that MDOE cannot readily review on its own.

Recommended Management Action:

MDOE and the SIEU should improve budget and fiscal monitoring processes. A system-wide budget that accurately reflects projected program resource needs should be developed and used as the basis for the Governor's Biennial Budget proposal to the Legislature. MDOE should require formal written financial reports from the SIEU comparing actual to budgeted expenses including explanations for budget variances. MDOE should also require additional written detail on expenditures, or explanation of current fiscal situation as necessary, to adequately support the release of funds to the SIEU. Lastly, MDOE should consider its need for independent and better access to the financial detail for the CDS program and, if desired, take steps to obtain that access.

CDS Should Improve Monitoring of Staff Resources Used in Delivering Services

4

There are no formal, standard mechanisms for capturing the service hours CDS staff actually provide each child, or for regularly comparing the service units provided by CDS staff to what was called for in the child's Plan. The productivity of CDS direct service staff (i.e. time spent providing services versus travel time, attending meetings, filing paperwork and reports, etc.) is not tracked routinely or consistently system-wide. Currently there are no system-wide methodologies and standards for supervisors to use in assessing employee productivity. Consequently, there is insufficient information and understanding of activities and costs of CDS staff involved in direct delivery of services to ensure resources are being used in the most efficient and cost-effective manner. Available information is also insufficient to accurately assess the cost implications of using CDS staff to deliver services.

When private providers bill CDS, details on the service units being billed are entered to the child's electronic record in Case-e and checked against the child's Plan by staff in the SIEU. This ensures the provider is not billing for more service units than are in the Plan and also provides for some automated monitoring by the regional site, if desired, of how well the child's Plan is being met. This data is not recorded in the same way, however, when service units are being provided by CDS employees. Regular time reporting by CDS employees is not broken down to either a child or service unit level. CDS therapists in the regional sites do submit service summaries, separate from regular time reporting, to the SIEU specifying hours of service provided by child and service type for the purposes of CDS billing to MaineCare or private insurance. However, there is no comparison of services provided against the child's Plan, and service unit data is not entered in Case-e, as part of this billing process.

The lack of complete and easily accessible data on service units provided makes it difficult to determine whether CDS staff are providing more or less services than are in children's Plans and to monitor productivity levels. It also makes it difficult to accurately calculate costs of actual services provided by CDS staff for use in cost-based assessments such as determining:

- the degree to which actual CDS staff costs for delivering services are being covered by MaineCare and private insurance reimbursements;
- how costs of delivering services with CDS staff compare to costs of using private outside providers; or
- what the fiscal impact would be of proposed changes in service delivery models involving CDS staff.

Having an accurate and automated record of all actual service units provided, whether by CDS staff or private providers, could also allow CDS to begin assessing what service levels are producing the best results in terms of achieving desired outcomes for children.

We did note that one CDS regional site we visited had been monitoring the productivity of employees providing therapeutic services by tracking hours of direct service and mileage for each therapist. The information was used to calculate a

productivity rate and target as a supervisory tool, but the service hours data was not entered in Case-e or compared with individual children's Plans.

Recommended Management Action:

CDS should develop standard methods to track and monitor CDS direct service staff time by activity and services provided, as well as related costs. Data on service units provided by CDS employees should be compared against children's Plans and entered in Case-e. CDS should establish a consistent and appropriate process for calculating and monitoring staff productivity and costs per unit of service provided. CDS should use that data to develop site and system-wide budgets, understand the true cost of services provided by CDS staff and to make choices about the most cost-effective ways to deliver quality services.

Key Data Important for Managing Program Should be More Reliable and Consistent

As part of our review, OPEGA analyzed data maintained in CDS' Case-e and Great Plains systems. Case-e is used for managing children's cases and services and Great Plains is CDS' financial and accounting system. We found that some key data maintained in those systems that is needed, or could be used, to manage the CDS program and its costs is not always complete and reliable. Even when the data is accurate, it is sometimes rendered unusable for analysis because it is recorded or formatted inconsistently.

One example is the data maintained in the Case-e system regarding a child's MaineCare and private insurance coverage, including whether the child is eligible for coverage and whether the parent is allowing access to that coverage. Eligibility information is entered in Case-e when a child first begins to receive CDS services but, although eligibility may change often, there are no control points built into the CDS process to ensure it is regularly updated. When insurance information in Case-e is not current, inaccurate information about a child's eligibility may be passed on to private providers. CDS Central Office staff may also spend time billing the wrong insurer to collect recoupment for services provided by CDS staff or may not bill for children who are eligible. We also noted inconsistencies in which data fields were used to record eligibility information and parental consent, as well varying names in Case-e for the same insurer.

Another example of key data that should be maintained more reliably is Case-e data regarding services planned for children. Details on planned services for each child including type, frequency, intensity and duration are entered in Case-e based on the agreed upon Plan for the child. There is also a data field for the name of the provider that will be delivering each service. As described in Recommendation 4, this planned service data is used by accounts payable staff in the SIEU to verify that the services billed to CDS by private outside providers are actually called for in the child's Plan. As a result, most of the data about services the child is expected to receive from private providers is complete in Case-e. However, it appears that the detail on services expected to be provided by CDS staff are only entered into the system sporadically, if at all. OPEGA also found inconsistencies in whether and

how the provider name was recorded in Case-e when CDS staff was the provider and there were a significant number of service units with the planned provider listed in the system as "Unknown".

The shortcomings we noted in the planned service data do not interfere with verifying the appropriateness of private provider billings, but they do render the data unusable for some analyses that could prove beneficial to management. If the planned service data were complete and accurate, analyses could be performed to:

- identify whether CDS staff are fully utilized based on the number of service hours planned in-house;
- examine trends in the use of CDS staff versus private providers to deliver services; and
- identify emerging changes in demand for specific services that might require additional resources or shifts in existing resources.

Examples of data issues we noted in the Great Plains system included multiple names for the same vendor and inconsistent application of account codes for revenues and expenses. The inconsistent coding complicated OPEGA's attempt to analyze CDS program expenses by category, and revenues by source, over time and made it necessary to view our results as estimated rather than exact figures.

Incomplete, outdated and non-uniform data not only limits the ability to analyze fiscal and program data for better managing a program, but also can weaken financial controls. Independent financial auditor, MacDonald Page, also noted issues with inconsistent account coding in Great Plains and with insurance eligibility information not being updated in Case-e during their Single Audits of CDS.

Recommended Management Action:

The SIEU should improve or establish necessary policies, processes and procedures to ensure that critical data captured in CDS' computer applications is current, standardized and accurate. The following data, in particular, should be addressed: Case-e planned services data when CDS staff is to be the provider including service type, frequency and intensity of service units, and service provider name; Case-e MaineCare and insurance eligibility information; vendor/provider names in both Case-e and Great Plains; Great Plains account codes, and Case-e contracted provider rates. Access to view and change this data should be limited to only those CDS employees who need such access to perform their jobs.

6 *Contract Management for All Contracts Should be More Centralized and Professional Administrative Services Should be Competitively Procured*

Contracts with private providers for direct services are established and managed in a decentralized manner that seems administratively inefficient and allows for inconsistency in provider rates and performance expectations across the System. In addition, CDS' procurements of professional administrative-type services are not competitive nor always supported by current, proper contracts. This increases the risk that unnecessary services could be provided and paid for, services paid for may not meet CDS expectations for quality or price, payments to vendors may be higher than necessary, or that CDS may not have adequate legal remedies available to address vendor performance or billing issues.

Specifically, OPEGA noted that each individual regional site is establishing and managing its own direct service contracts and choosing which private providers it will contract with. The same provider often has multiple contracts with different CDS regional sites and it is possible those contracts have different rates and/or performance expectations for the same services.

CDS usually pays contracted providers standard MaineCare rates and the SIEU has developed a two year standard contract used by all sites for providers who will accept those rates. However, some providers will not accept MaineCare rates and may negotiate with the CDS regional site for a non-standard rate. Non-standard rates must be approved in advance by the SIEU. Site Directors submit requests along with supporting justification before entering into a non-standard contract.

Contracts are signed by the Site Directors or Board Chairpersons. Original contracts are kept in the regional site offices. Although copies of the cover page and Rider A of contracts are sent to the SIEU, the SIEU could not provide OPEGA with a list of all the contracted providers, the number of contracts they had system-wide, which sites they had contracts with and how many of them had non-standard rates. The contract copies that SIEU receives from the sites are not numbered, filed or tracked in a systematic way, and there does not seem to be any way to confirm that the sites are providing copies of all contracts.

OPEGA also noted the following issues with CDS' contracting practices for professional administrative-type services at the SIEU:

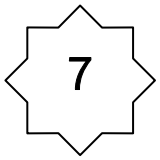
- two major contracts between the SIEU and long time providers for audit and payroll services have not been recently competitively bid;
- the agreement with the independent financial auditor is formalized in engagement letters written by the vendor rather than a formal contract established by the SIEU;
- the current CDS Director is not an employee of CDS or MDOE but also has no contract;
- the contract for the former CDS Director was actually a contract between the SIEU and the school district that employed the former Director, and

was signed on behalf of the SIEU by the current CDS Director whose employment status, as previously mentioned, is not well established; and

- the SIEU is contracting for administrative personnel that have now been working for CDS over a span of years and are more like employees than contractors.

Recommended Management Action:

Contract management for contracted direct service and transportation providers should be centralized. This function includes selecting providers that CDS will establish contracts with, negotiating rates and establishing one system-wide contract for each provider (acknowledging that contracts may contain varying rates for services provided in different locations or conditions), ensuring contracts contain standard performance expectations for providers, maintaining a master list of contracted and pre-qualified providers, maintaining the central file of all contracts and coordinating with Sites to monitor provider performance against the contract terms and conditions. Professional services should be contracted for via competitive procurement processes. CDS should also employ, rather than contract with, individuals who provide regular, ongoing administrative services in order to ensure compliance with federal labor and tax laws.



CDS Should Explore Potential Opportunities to Maximize Revenue and Mitigate Fiscal Impact of MaineCare Rule Change

The CDS program has several sources of revenue other than federal IDEA and State General funds. CDS is permitted by IDEA and State rules to collect family contributions toward Part C services. Reimbursements of cost can also be collected through CDS billing the insurance providers of insured children, including those covered by MaineCare, for Part B and C services provided by CDS employees.[11] At the time of OPEGA's review, CDS was not doing all it could to maximize either of these revenue sources or otherwise mitigate the fiscal impacts of the elimination of Section 27 of the MaineCare Benefits Manual as described on page 39.

As allowed by federal and State law, the CDS program has an established sliding fee scale for family contributions toward the cost of Part C services only. The scale ranges from $0 to $200 per year depending on a family's financial position. OPEGA observed that CDS does not currently appear to collect any contributions from parents and that the current fee scale seems very low. OPEGA's limited research into fee scales used by other states indicates that some states have found this to be a valuable source of revenue. However, other states have found the limited revenue gathered from families was not worth the resources required and the negative feelings generated for families around fee collection.

[11] Federal IDEA regulations require parental consent to access a family's public or private health insurance coverage.

An area where there is definite opportunities for CDS to increase non-General Fund revenue is in reimbursement from private insurers. CDS has had limited capability for billing insurance companies for eligible services provided by CDS staff. At the time our review began, CDS was only billing one private insurer in addition to MaineCare. More insurers have been added since then and additional revenue is being collected. The additions are happening slowly, however, as getting set up to bill each different private insurer seems to be a resource intensive effort for the SIEU.

We note that the set up and ongoing billing process for each separate insurer is an extra administrative cost for the CDS program so the SIEU should prioritize which insurers might result in the most additional revenue, and consider whether potential revenue to be received outweighs these extra administrative costs. Alternatively, steps could be taken to use, as much as possible, private providers who are already set up to bill particular insurers for whom CDS has not yet established billing processes.

The SIEU should also ensure that the CDS program is set up to take advantage of additional revenue from private insurers resulting from recently passed State legislation requiring private insurers to provide coverage of early intervention services for children with Autism Spectrum Disorder. According to CDS, the State Board of Insurance needs to establish billing codes in order for CDS to bill as allowed under the legislation. CDS is prepared to bill private insurers once these codes are developed. [12]

Lastly, there may be opportunities to mitigate some of the fiscal impact to the CDS program experienced when Section 27 of the MaineCare Benefits Manual was repealed and Section 28 was established. OPEGA's analysis of expenses and revenues by CDS regional site showed there were several sites whose expenses or revenues, or both, were not significantly impacted by this change.

According to MDOE, rehabilitative services can only be billed under Section 28 if they are considered medically necessary and providers, including CDS sites, have the qualified staff and service delivery settings required by Section 28. MDOE explained that certain CDS sites and private providers already had specialized programs that were billing under Section 27 but which also met the specialized criteria established in new Section 28. Consequently, those private providers and CDS sites were able to continue to bill MaineCare for those services. MDOE explained that other private providers and CDS sites may be unable or unwilling to do what is necessary to be authorized providers even if the services they are providing could be authorized as medically necessary. Nonetheless, OPEGA suggests it would be worthwhile for MDOE and the SIEU to further explore the reasons why some regional sites were not as impacted so that any appropriate efforts might be replicated in other regional sites.

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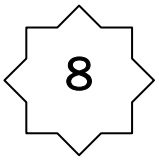
[12] Two pieces of legislation passed in 2010 required private health insurers to cover certain additional services provided by the CDS program. These were Public Law 2009 Chapter 635, *An Act To Reform Insurance Coverage To Include Diagnosis and Treatment for Autism Spectrum Disorders*, and Public Law 2009 Chapter 634, *An Act To Require Private Insurance Coverage for Certain Services for Children with Disabilities.*

Recommended Management Action:

CDS should maximize all potential revenue sources by improving its capability for billing various individual insurance companies where additional revenue would justify the additional administrative expense. It should also research the sliding fee scales being used for Part C in other states and assess whether Maine's scale should be restructured to be more like those of other states and implement the sliding fee scale more consistently system-wide. If there is no intent to more consistently obtain family contributions for Part C services, then MDOE and the SIEU should consider abolishing this potential revenue stream altogether so that families across the State are treated equitably.

CDS should also explore opportunities for maximizing revenue from MaineCare/insurance companies within the requirements of existing Medicaid/insurance laws and regulations. Billing to MaineCare for Section 28 services and new laws allowing services to be billed to private insurers are areas to be explored.



DHHS and MDOE Should Address Risks of Potential Fraud and Abuse in MaineCare Program Associated with Claims for CDS Services

There has historically been a lack of coordination between MDOE and DHHS on MaineCare claims being paid for services specified in children's CDS service plans. These include:

- services such as physical, occupational and speech therapy eligible for MaineCare coverage under Sections 85, 68, and 109 of the MaineCare Benefits Manual;
- medically necessary rehabilitative and community support services eligible under Section 28; and
- education-related developmental therapy services eligible for coverage under Section 27 up until the repeal of that Section in 2010.

The CDS regional sites contract with private providers who bill MaineCare directly for these services when children have MaineCare coverage, and the parents have allowed access to that coverage. However, DHHS does not know what services are in children's Plans and MaineCare claims information is not shared with CDS. Consequently, unlike provider invoices submitted directly to CDS, services billed directly by providers to MaineCare are not compared against children's Plans either before or after claims are paid.

While outside providers may deliver and bill MaineCare for more service units than called for in a child's Plan because they are considered medically necessary, there is opportunity for providers to intentionally or inadvertently bill MaineCare for more service units than are called for and which are not justified by the child's medical needs. The claims submitted to MaineCare may be for extra services that were actually provided, or potentially for services that were not provided at all.

It seems unlikely that these possible instances of fraud, abuse or error would be detected other than through monitoring of MaineCare claims activity by DHHS' Program Integrity Unit. OPEGA has previously reported concerns about the capacity within that Unit to conduct regular, systematic monitoring of claims. We do not know at this time if that function has been significantly bolstered as expected with the implementation of the new MaineCare Claims system in September 2010. During the course of our review, MDOE requested from DHHS detail on MaineCare claims paid to CDS contracted providers. That data has just recently been provided to MDOE. Although a full analysis of the data has not been performed, MDOE noted from its initial review that paid claims were substantially more than expected.

Additionally, we noted a risk of potentially ineligible services being paid by MaineCare under Section 28 of the MaineCare Benefits Manual. Education-related developmental therapy services were previously billable to MaineCare under Section 27, but are no longer eligible for MaineCare coverage and must be billed directly to CDS instead. Rehabilitative services that are considered medically necessary remain eligible for MaineCare coverage under Section 28 and can be billed directly to MaineCare. The distinction between Part B developmental therapy services that are education-related versus medically necessary rehabilitation services may be somewhat ambiguous at times and require some judgment to discern.

The control to ensure that only eligible services are being paid for under MaineCare Section 28 is the preauthorization process conducted by DHHS' Office of MaineCare Services. Whether MaineCare is at risk of paying for ineligible services (and thus potentially having to repay the federal government in the future) depends on the robustness of the preauthorization process and whether there is clear guidance from federal Centers for Medicare and Medicaid Services on what is eligible under Section 28, neither of which OPEGA examined in this review.

Lastly, we note that the lack of coordination between MDOE and DHHS, along with any ambiguity as to whether services for particular children are education-related versus medically necessary, presents risk that providers may bill both CDS and MaineCare for the same service without CDS or DHHS detecting the duplication.

Recommended Management Action:

DHHS' Program Integrity Unit, in conjunction with MDOE, should analyze MaineCare claims paid for services provided to children in the CDS program to determine whether there are indicators of fraud, abuse or error associated with the risks OPEGA identified. OPEGA will share with DHHS and MDOE our suggestions for specific analysis and tests that we believe would be worthwhile. The Program Integrity Unit should then follow up with an investigation of any potential fraud or abuse identified.

Additionally, we recommend that the DHHS Internal Audit group assess the effectiveness of the preauthorization process conducted by the Office of MaineCare Services with regard to Section 28 providers and services associated with children in the CDS program. We believe this assessment would be worthwhile to guard against the possibility that federal funds are being used for

services that might ultimately be viewed as ineligible by federal CMS and, therefore, have to be repaid in the future.

Lastly, we recommend that MDOE and DHHS continue with their current efforts to improve coordination and ultimately establish policies, processes and procedures that would serve to mitigate the risks we have identified on an ongoing basis.

Agency Response

In accordance with 3 MRSA §996, OPEGA provided both the Maine Department of Education (MDOE) and Child Development Services (CDS) an opportunity to submit additional comments on the draft of this report. We also offered the Department of Health and Human Services an opportunity to comment on Recommendation 8 that called for action by that Department. Response letters from MDOE and DHHS can be found at the end of this report.

In addition, OPEGA discussed the preceding issues and recommendations with MDOE and CDS management in advance and they have devoted significant attention to developing action plans to address those issues that are their responsibility. Some of OPEGA's recommendations provided further impetus for implementing ideas they had already been considering, and since receiving OPEGA's results they have already begun implementing some actions. We note that some actions being taken by CDS go beyond the scope of OPEGA's recommendations and will provide for additional improvements and efficiencies.

The detailed action plan provided by MDOE and CDS management is included in Appendix C and summarized below. The responses are numbered to correspond with the issues described by OPEGA in the Recommendations section of the report.

1

Organizational Structure and Capabilities in Key Management Functions Should be Reassessed and Adjusted as Necessary

The new organizational structure for CDS only recently became law. The intent on the part of both CDS and MDOE is, in the near term, to fully implement the new organization model, and continue to find ways to more fully standardize CDS' operating procedures and more fully integrate them with MDOE's operating procedures. Moving forward, CDS and MDOE will assess how well these new structures are working, and will seek to make additional adjustments to the structure as needed.

2

Greater Emphasis Needed on the Responsible Stewardship of Resources in the Delivery of Appropriate, Quality Services

The SIEU will revise polices/ procedures, and provide training to CDS personnel and stakeholders (i.e. parents, contracted providers), on making appropriate determinations of services based on consistent standards that meet IDEA and MUSER requirements in the most cost-effective way.

3

MDOE Should Adjust CDS Budget Processes and More Actively Monitor CDS Program Finances

CDS will create a system-wide budget using Zero Based Budget procedures comparable to those used by State agencies. Further development of fiscal reports will allow for actual system-wide costs to be compared to the budget. The SIEU will provide monthly budget to actual reports to the Commissioner and Deputy Commissioner to support the release of funds.

4

CDS Should Improve Monitoring of Staff Resources Used in Delivering Services

CDS will investigate human capital management options and will adopt a new process to more closely manage human resources costs. CDS will develop a procedure to compare planned services to actual services delivered by CDS employed staff. CDS will develop a set of uniform standards that are to be used by site managers to determine if a site needs additional direct service staff.

5

Key Data Important for Managing Program Should be More Reliable and Consistent

The SIEU agrees with the recommended actions which have been part of our ongoing quality improvement strategies. The SIEU will continue reinforcement of policies and procedures through training and monitoring to increase timeliness, consistency and reliability of information entered into the data systems.

6

Contract Management for All Contracts Should be More Centralized and Professional Administrative Services Should be Competitively Procured

CDS is currently defined as a quasi-independent State entity under the recently enacted legislation stemming from LD 1843. To comply with the requirements now established in 5 MRSA §12022(3), the SIEU must develop a request for proposal process by December 31, 2012 and will fully implement a centralized competitive contracting process by July 1, 2013.

7

CDS Should Explore Potential Opportunities to Maximize Revenue and Mitigate Fiscal Impact of MaineCare Rule Change

The SIEU has developed a draft Family Cost Participation Policy with sliding fee scale to be reviewed by MDOE and the Attorney General's Office and submitted for proposed rule making. The SIEU continues to collaborate with MaineCare and private insurance companies to determine appropriate reimbursement/ billing polices and procedures for third party payors.

8

DHHS and MDOE Should Address Risks of Potential Fraud and Abuse in MaineCare Program Associated with Claims for CDS Services

CDS will continue to collaborate with DHHS to ensure that risks of fraud and abuse in the MaineCare program associated with children served by CDS are mitigated to the extent reasonable.

Acknowledgements

OPEGA would like to thank the management and staff of both Child Development Services and the Maine Department of Education for their cooperation during this review. We would also like to thank the management and staff in the Legislature's Office of Fiscal and Program Review, Office of Policy and Legal Analysis, and Law and Legislative Reference Library for their assistance in providing information.

Appendix A. Scope and Methods

The scope for this review, as approved by the Government Oversight Committee, included a number of questions covering a broad range of topic areas. In order to answer each question fully, OPEGA conducted work including:

- conducting interviews as needed with:
    - managers and staff of Child Developmental Services (CDS) Regional Sites;
    - managers and staff of Child Developmental Services State Intermediate Educational Unit (Central Office);
    - managers and staff of the Maine Department of Education involved in the management of Child Development Services;
    - regional site Board chairs;
    - management and staff of the external auditor;
    - staff in the Maine Attorney General's office;
    - other interested parties including staff at the Maine Disabilities Rights Center, and service providers;
- reviewing the legislative history of CDS;
- reviewing CDS' processes for plan development and service delivery;
- researching federal and state laws and regulations applicable to education of children with disabilities;
- assessing CDS' processes for compliance with Federal requirements;
- reviewing the results of the single audit of CDS conducted by MacDonald-Page & Co. LLC;
- reviewing CDS' processes for provider payment and billing for CDS-provided services;
- obtaining, verifying and analyzing a data file of CDS' expenditures;
- analyzing changes in CDS' staffing levels over time;
- reviewing provider contracts containing non-standard rates, and
- analyzing the impact of MaineCare changes on CDS' revenue and costs.

Appendix B. Evolution of CDS System in Maine

1978 - The Maine Legislature passed a law called "An Act Concerning Pilot Projects for More Effective and Efficient Delivery of Services to Children and Families". Three pilot sites were created to provide "special needs pre-school services" to screen children. Washington County Pre-School Services was one of three pilot sites, established as a separate non-profit with its own Employer Identification Number (EIN). Finances were contracted out to the Ellsworth Head Start program or SAD 77. Over the next approximately ten years a total 16 regional pilot sites were created.

1983 - The legal basis was established for Local Coordinating Committees to serve as the local governing Boards for each site.

1989 - Public Law 499 established the "CDS System", consolidating the 16 regional pilot sites under a common name with a state level office and a state level committee, known as the Interdepartmental Coordinating Committee for Preschool Handicapped Children (ICCPHC) to provide guidance and governance in the implementation of the System. The ICCPHC was the only Intermediate Education Unit (IEU) established in the system, and the sites were employees of the ICCPHC.

1991 - The State of Maine implemented federal entitlement of Free Appropriate Public Education of children 3-5 began July 1, 1991.

1992 - Public Law 843 contained language that retained the 17 regional sites as IEUs, each under control of a local governing Board, with a State Office known as the State IEU and a State Level advisory council. These three parts would make up the "CDS System".

1994 - In July 1994 Maine begins entitlement for children birth through two, Part C.

2006 - An Act to Improve Special Education provided for the centralization of fiscal, audit, data and human resources of the CDS System, and established the CDS Central Office continuing as the State Intermediate Educational Unit (SIEU).

2010 - As a cost savings effort, CDS sites were consolidated from the still existing 16 regional sites to 9 regional sites with 7 satellite offices.

2012 - Part OO of the Supplemental Budget bill passed in the spring of 2012 eliminates the regional Boards and gives responsibility for oversight of the operations of the regional sites to the CDS Director aka the Director of Early Childhood Special Education.

Appendix C. CDS Detailed Action Plan in Response to OPEGA Recommendations
(as submitted by the CDS State Intermediate Educational Unit)

CDS Strategies	**Timeline** (start date)	**Person(s) Responsible**	**Action/ Status**
1. Organizational Structure and Capabilities in Key Management Functions Should be Reassessed and Adjusted as Necessary			
New CDS organizational structure for the SIEU (inclusive of staff roles and responsibilities and identified staffing needs) approved by the Commissioner.	July 1, 2012	CDS Leadership Team	CDS Leadership Team has met and created a proposed organizational structure to increase SIEU capacity for the Commissioners review and approval. Meeting scheduled with Commissioner June 28, 2012.
Implement approved organizational structure.	October 2012		
Create cross department team to clarify CDS/DOE roles and responsibilities.	October 2012	CDS Leadership Team	Determine individuals to serve on team and create calendar and agenda for meetings. Finance Team is meeting regularly with DOE Finance Team. Jim Rier attends CDS Leadership Team as needed.
As the new organizational structure for CDS became law only weeks ago, the intent on the part of both CDS and DOE is, in the near term, to fully implement the new organization model, and continue to find ways to more fully standardize CDS's operating procedures and more fully integrate them with DOE's operating procedures. Moving forward, CDS and DOE will assess how well these new structures are working, and will seek to make adjustments to the structure as needed.	July 1, 2012	DOE Representatives CDS Leadership Team	CDS Leadership Team has met and created a proposed organizational structure for the Commissioners review and approval. DOE and CDS will meet to align the new structure. After implementation DOE and CDS will meet to evaluate the structure.

CDS Strategies	**Timeline** (start date)	**Person(s) Responsible**	**Action/ Status**
Improve data system integration with state reporting structure.	April 2012-October 2012	Finance Director	Upgraded accounting hardware. Upgraded accounting software. Training will be provided on upgrade.
Develop CDS Leadership Team meeting agenda to incorporate discussion of fiscal and programmatic issues.	May 2012	CDS Leadership Team	CDS Leadership Team participated in 2 day retreat facilitated by NERRC to determine priorities and action plan. Follow up with NERRC will continue throughout the year.
Monthly staff meeting with SIEU staff and Regional Site Directors.	August 2012	Ongoing	Conversations regarding each site will occur to determine site specific needs.
CDS Leadership Team will meet with Regional Site Directors monthly as a group and once individually.	August 2012		Regular schedule of CDS Leadership Team and SEIU personnel has been established.
Regional Directors will have monthly regional site staff meetings to communicate guidance determined at monthly meeting with SIEU Staff.	August 2012	CDS Leadership Team	
Develop and implement training for all staff to align with new public policy manual and standard operating procedures.	January 2013	Commissioner and CDS Leadership Team	
Finance staff will be trained on new software to provide the capacity to report and analyze fiscal data.	Summer 2012		Training is scheduled to begin in July.
Finance Department will create a system-wide alignment of chart of accounts.	Summer 2012	Finance Director	Collaborating with DOE Finance Department.

CDS Strategies	Timeline (start date)	Person(s) Responsible	Action/ Status
Implement approved organizational structure that re-aligns current and replacement staff to better utilize specific skill sets to increase analytic capabilities.	October 2012	Commissioner and CDS Leadership Team	Staff will be assigned to tasks that increase the ability to manage HR, Data, Finance and Policy in a more effective manner. Training will be on-going to insure staff are kept current on all required tasks.
CDS will investigate options and will adopt a new process to more closely manage human resources costs.	August 2012	IT and Human Resource Departments	Work with ADP to determine if time and billing is a feature of the software. If unavailable alternatives will be researched.
Development of productivity standards.	August 2012	CDS Leadership Team	
Determine standardized method to project staffing needs.	August 2012	CDS Leadership Team	
Develop public policy manual and internal standard operating procedures.	July 2013	CDS Leadership Team	CDS Leadership Team has developed a timeline for completion of Policy Manual.
Cost Centers for Preschool: SIEU Finance Department will develop specific cost centers for the itinerant and fixed preschool programs, in order to track the specific costs of each.	Spring 2012	Finance Director	
Develop budget requests to DOE that include projected staffing needs for coming year.	September 2012	Finance Director	
Develop annual report to Legislature.	January 2013	CDS Leadership Team	State Director will work with Commissioner on what is required in report.
Create document for Legislature that more fully explains what CDS is and how it works.	January 2013	CDS Leadership Team	
Create webpage for public reporting.	January 2013	Data Manager	Currently working with DOE webmaster to update CDS webpage.
2. Greater Emphasis Needed on the Responsible Stewardship of Resources in the Delivery of Appropriate, Quality Services			
Compare and analyze service plans across the system for consistency and equity.	July 2012	CDS Leadership Team	

CDS Strategies	Timeline (start date)	Person(s) Responsible	Action/ Status
Modes of service delivery are currently being evaluated through monitoring and the results will be analyzed. Guidance will be provided to Regional Site Directors to clearly define what services are appropriate and necessary and how they can be delivered in the most cost-effective way.	July 2012	Part C Early Intervention Development Coordinator Early Childhood Special Education Development Coordinator	Fill vacant positions for Part C Early Intervention Development Coordinator and Early Childhood Special Education Development Coordinator. SIEU will develop guidelines that assist Regional Sites to make appropriate determinations of services based on consistent standards.
Develop IEP Facilitator positions and shift current staff to those new roles. Determine how many positions are needed statewide to ensure consistent determination of services. IEP Facilitators will be provided ongoing structured training by the Part B Resource Coordinator and SEIU staff to ensure services are adequate for children.	August 2012	State Director	
Review and revise Case Management funding formula.	January 2013	CDS Leadership Team	
Establish a supervision structure between DOE and SIEU that demonstrates clear expectations for determining eligibility and appropriate levels of services for qualifying children and families.	July 2012		
Review forms periodically or as external mandates affect the forms.	2010 – ongoing	Policy, Human Resource, and IT Department	Forms were created and distributed in 2011; staff was trained in their use.
The data system is being modified to auto fill the State required Special Education forms.	2011- ongoing	IT Department	
Refine GSST monitoring to include fiscal, results indicators, and additional administrative directives.	Fall 2012- Spring 2013	CDS Leadership Team	Consistent communication has occurred with CDS Leadership Team and Regional Site Directors.
Incorporate Regional Site Directors response to effective and timely request for data into performance evaluations.	Fall 2012	State Director	

CDS Strategies	Timeline (start date)	Person(s) Responsible	Action/ Status
3. MDOE Should Adjust CDS Budget Processes and More Actively Monitor CDS' Finances			
Create system-wide budgets using Zero Based Budgeting Procedures comparable to those used by State agencies. Further development of fiscal reports will allow for actual system-wide costs to be compared to the budget. SIEU format will be changed to be uniform with site budgets.	June 2012	Finance Director	Template developed and used during FY13 budgeting to be the bases for FY14 and FY15 appropriation request.
CDS and DOE will collaborate to justify all new direct service positions using need and available funds as part of the overall justification process. CDS will develop a set of uniform standards that are to be used by site managers to determine if a site needs additional direct services staff.	April 2012 – October 2012	Finance Director	CDS Leadership Team planned monthly supervision with each Regional Site Director to review compliance with fiscal and programmatic functions as a key component in assessing the need for additional staff.
The SIEU will provide monthly budget to actual reports to the Deputy Commissioner and Commissioner.	October 2012	Finance Director	Reports are in development.
Determine necessary upgrades to financial software and server.	April 2012 – June 2012	Finance Director	Complete
Develop process to export CDS financial data to MEDMS.	April 2012 – October 2012	Finance Director	CDS will be assigned a MEDMS number.
The ongoing structural deficits in the CDS budget were addressed in (Need budget bill detail here…will talk with Jim)	April 2012 – October 2012	Finance Director	Finance Director has met with DOE to determine required reporting schedule. First quarterly report will be provided to DOE in October.
4. CDS Should Improve Monitoring of Staff Resources Used in Delivering Services			
CDS will investigate human capital management options and will adopt a new process to more closely manage human resources costs.	August 2012	IT and Human Resource Departments	Work with ADP to determine if time and billing is a feature of the software. If unavailable, alternatives will be researched.
Develop internal procedures to track position role/ duties to daily work performed.	July 2013	CDS Leadership Team	
Develop procedure to compare planned services to actual delivered services of CDS employed staff.	October 2012	IT, Finance and Human Resource Departments	

CDS Strategies	Timeline (start date)	Person(s) Responsible	Action/ Status
5. Key Data Important for Managing Program Should be More Reliable and Consistent			
Evaluate and refine Justification to Hire Process.	July 2012	Human Resource Director	Documents under review and revision.
Explore invoicing/ scheduling software that interfaces with current data system capabilities.	Fall 2012	Data Manager and Finance Director	Meeting will be scheduled to determine timeline.
Review current guidelines for data entry and the areas where the data originate to determine what changes are necessary to assure complete and reliable data and determine the need for any format changes.	September 2012	IT and Policy Departments	Working with the software vendor to develop better input controls.
Review the data controls and policies to ensure data entry is accurate and timely.	Ongoing	IT Department	Onsite monitoring and review of entered data and invoice processing provide increased reliability and consistency.
Continue reinforcement of policies and procedures through training and monitoring to increase consistency and reliability related to the determination of services and other subsequent entry into the data system.	Ongoing		Recently incorporated into the GSST monitoring process. Monthly unmet needs reports are provided to Regional Site Directors and highlight services with no provider.
Develop access roles and work with the software vendor to implement user roles.	October 2012-December 2012	IT and Human Resource Departments	Work with software vendors to develop the roles.
6. Contract Management for All Contracts Should be More Centralized and Professional Administrative Services Should be Competitively Procured			
Invoiced amounts are verified against existing contract rates.	Ongoing	Contract Manager Finance Department	Designate current staff as Contract Manager
Provider contracted rates will be entered by the Contract Manager and will be reviewed by finance director.	July 1, 2012	Contract Manager Finance Director	Review contracted rates for accuracy.
Will create centralized contracting process that also ensures no duplication of vendors.	July 2012	IT and Finance Departments	Ongoing clean-up of the legacy data from previous data systems.

CDS Strategies	Timeline (start date)	Person(s) Responsible	Action/ Status
Develop and implement RFP process (LD1843) to standardize all procurements within the CDS system.	August 1, 2012	State Director	
Develop standards for evaluating vendor performance on their adherence to the contract terms.	December 31, 2012	State Director	
Revise and align performance standards between providers/employed direct service staff.	July 1, 2013	State Director	
Review current contracts and, as necessary, make renewals subject to competitive bidding.	Ongoing	State Director	
7. CDS Should Explore Potential Opportunities to Maximize Revenue and Mitigate Fiscal Impact of MaineCare Rule Change			
Review and implement Part C sliding fee scale process. Centralized billing and collection from the SIEU office.	July 2012 – Sept 2012	Finance Director	Part C sliding fee scale has been reviewed and new draft will be presented to the Commissioner and AG for review.
Increase revenue from Maine Care and private insurance companies by reinforcement of policies and procedures of billing through training and monitoring of CDS direct service staff.	July 2012	Finance Director	AR Billing Specialist hired- individual is resource for expanding private insurance billing. Implement new productivity reports for CDS staff providers increase billable information presented to AR Billing Specialist Re-evaluate generated revenue in January 2013.
Provide ongoing training to therapists on any updated billing procedures.	September 2012	Finance Department	
Finance Department to receive updates and training on impact of insurance law changes.	Ongoing	Finance Department	
8. DHHS and MDOE Should Address Risks of Potential Fraud and Abuse in MaineCare Program Associated with Claims for CDS Services			
See Agency Response within report			

Maine
Department of
Education

Paul R. LePage
Governor
Stephen L. Bowen
Commissioner

23 State House Station Augusta, Maine 04333-0023 207-624-6600 www.maine.gov/doe

July 13, 2012

Beth Ashcroft, Director
Office of Program Evaluation and Government Accountability
82 State House Station
Augusta, Maine 04333

Dear Beth,

Thank you for providing me with the opportunity to comment on your review of Child Development Services (CDS). It is clear that OPEGA put a tremendous amount of work into its study of CDS and the complex and difficult work that it undertakes for the children and families of Maine. In my dealings with your office, I have found your staff to be extraordinarily professional and open to working with both the Department and CDS as the report was being prepared.

That significant changes to how CDS does its work need to be implemented is not news either to CDS itself or the Department. Since I took office in March of last year, we have undertaken a series of reforms designed to address the concerns OPEGA has outlined. This past legislative session, we proposed and saw enacted a significant restructuring of CDS, one that will strengthen state oversight of CDS and will help us to improve processes and procedures and contain costs. This new organizational structure will allow us to implement system-wide reforms that will mean more effective and efficient operations and better services to the children and families that CDS serves.

OPEGA's report will be helpful to us as we continue this work, and as the management response indicates, CDS intends to build on the work already done and plans to respond aggressively to address the concerns the report outlines.

We appreciate the hard work that OPEGA has done and can assure both you and the Government Oversight Committee that the OPEGA report will serve as a valuable resource as we move forward.

Sincerely,

Stephen L. Bowen
Commissioner of Education

Department of Health and Human Services
Maine People Living Safe, Healthy and Productive Lives

Paul R. LePage, Governor Mary C. Mayhew, Commissioner

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July 12, 2012

Ms. Beth Ashcroft, Director
Office of Program Evaluation and Governmental Accountability
State of Maine Legislature
82 State House Station
Augusta, Maine 04333-0082

Re: *OPEGA Report on Child Development Services*

Dear Ms. Ashcroft:

The Department of Health and Human Services (DHHS) appreciates the opportunity to respond to the above mentioned draft audit report. We offer the following comments in relation to the recommendations of this report.

For your convenience, below we include the summary finding and list each recommendation followed by our response. Each response includes the State's proposed corrective action plan which we believe will bring the State into compliance with Federal requirements.

Finding:
DHHS and MDOE should address risks of potential fraud and abuse in MaineCare program associated with claims for CDS services.

Recommendation:
DHHS' Program Integrity Unit, in conjunction with MDOE, should analyze MaineCare claims paid for services provided to children in the CDS program to determine whether there are indicators of fraud, abuse or error associated with the risks OPEGA identified. OPEGA will share with DHHS and MDOE our suggestions for specific analysis and tests that we believe would be worthwhile. The Program Integrity Unit should then follow up with an investigation of any potential fraud or abuse identified.

Response:
DHHS agrees with this recommendation. While Program Integrity has historically reviewed this service for medical necessity; the Department welcomes any analysis that OPEGA has conducted as part of their review. To the extent that any potential fraud or abuse is identified, the Program Integrity Unit will follow up.

Recommendation:
Additionally, we recommend that DHHS Internal Audit group assess the effectiveness of the preauthorization process conducted by the Office of MaineCare Services with regard to Section 28 providers and services associated with children in the CDS program. We believe this assessment would be worthwhile to guard against the possibility that federal funds are being used for services that might ultimately be viewed as ineligible by federal CMS and, therefore, have to be repaid in the future.

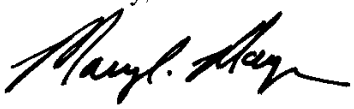
Response:
DHHS agrees with this recommendation. The Internal Audit Unit will work with the Office of MaineCare Services in regard to the preauthorization process for Section 28 providers and services associated with children in the CDS program. Recognizing that the Internal Audit Unit consists of one position; limited resources may affect our ability to respond to this recommendation quickly.

Recommendation:
Lastly, we recommend that MDOE and DHHS continue with their current efforts to improve coordination and ultimately establish policies, processes and procedures that would serve to mitigate the risks we have identified on an ongoing basis.

Response:
We continue our efforts to improve coordination and establish policies, processes and procedures.

We appreciate the time spent by OPEGA's staff reviewing this program. We believe this effort will enable us to perform this function more accurately in the future.

Sincerely,



Mary C. Mayhew
Commissioner

MCM/klv