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REPORT TO THE LEGISLATURE

TO: Joint Standing Committee on Health and Human Services
FROM: Maine Department of Health and Human Services
SUBJECT: Report pursuant to Resolve 2023, Ch. 182, *Resolve, to Review the Timeliness of Contract Payments by the Department of Health and Human Services*
DATE: February 14, 2025

Section 1 - Report

Introduction

This report is presented pursuant to Resolve 2023, Ch. 183, *Resolve, to Review the Timeliness of Contract Payments by the Department of Health and Human Services*. Section 1 requires the Department of Health and Human Services (DHHS) to review the reasons for delays of payment for behavioral health and housing assistance programs. For context, invoices for these services are processed with all other Department invoices, meaning there is not a separate/special process for behavioral health contract payments. As such, this report is written from a DHHS-wide perspective.

In general, invoices are paid timely and within the statutory requirement of 25 working days, which equates to 33 calendar days. Over the past twelve months, the average processing time was just under 27 calendar days from the time a proper invoice is received until the time the payment is released. During the past 12 months, DHHS processed over 14,000 invoices. Specific to behavioral health and housing assistance program payments, the turnaround times were similar, taking just under an average of 27 calendar days to pay an invoice once received with the volume for this group being just over 3,700 invoices.

This report will address the challenges faced by the Department making timely payments, the actions DHHS has taken to resolve these challenges, and the actions being taken to continue to improve timely payments to providers. It is expected that as the influx of pandemic and post-pandemic funding winds down, many of the issues resulting from this increased volume will subside, and DHHS will be able to increase turnaround time for making payments.

Statutory requirements

For reference, the following statutes have bearing on this topic:

- 5 MRSA §1553 requires that payments be made 25 business days (translating into 33 calendar days) after receipt of an error-free (proper) invoice. It also provides that in the event an invoice is deemed improper and returned for corrections, the date of receipt shall be the date of the updated invoice.

- However, DHHS (and DAFS) standard contract language states that payments will be made within thirty (30) calendar days after receipt of an error-free (proper) invoice; a higher standard than what is required by 5 MRSA §1553.
- 5 MRSA §1554 allows for an additional fifteen (15) days “following another date agreed to by the state agency and the business concern” before a late fee may be applied. In the case of service contracts, the thirty (30) days defined in the contract are the “another date agreed to”. The two periods added together total forty-five (45) calendar days.

Given this, DHHS is tracking both milestones: invoices paid within 30 days, and again within 45 days of receipt of a proper invoice. The following numbers are based on this premise.

Over the twelve-month period ending October 2024, DHHS is paying 82 percent of invoices within 30 days, the number increases to 91 percent within the 45 days. For invoices related to behavioral health and housing assistance program payments, DHHS is paying at the same rate—82 percent within 30 days and 91 percent within 45 days.

The main reason for delays in contract payments: Increased Contract Volume

The increase in contract volume in recent years is the primary reason for contract payment delays.

Generally, DHHS pays the majority of invoices within the statutorily required timeframes. Given the volume, and the increase in volume, in recent years in particular, this is a success. However, as a result of the pandemic and influx of federal funding, the number of contract documents processed annually by DHHS increased significantly, going from an average of 1,550 in the fiscal years leading up to the pandemic to 2,100 during fiscal years 2021-2024, an increase of 35 percent.

This increase in contract volume naturally caused an increase in invoices. Prior to the pandemic, DHHS was averaging roughly 850 invoices processed per month, or just over 10,000 annually. DHHS is now averaging over 14,000 invoices annually, an increase of 21%. As a result of such increases, DHHS took steps to reduce the number of invoices per contract, such as paying invoices on a monthly instead of a bi-weekly basis, where possible.

There was a period of time when DHHS faced more challenges in processing invoices. This was predominantly from the second half of Fiscal Year 2022 through the third quarter of Fiscal Year 2023. During this time, the number of days to process an invoice reached over 40 calendar days, on average. This time period was an outlier and skewed the data, due to the increase in contracts during the height and direct aftermath of the pandemic. As contract volumes subside, processing time became timelier, and it has continued to be since late 2023.

Additional reasons for delays in contract payments

The number of employees in the central contracting office (Division of Contract Management or DCM) has not increased in years, which has become an acute problem due to increased contract volume. Since 2019, DCM has added zero permanent headcount even though contract volume has increase by 35 percent. DCM was able to add 3 limited period positions to support the increase in contracts and RFPs,

but this is inadequate to keep up with the workload. To maximize efficiency, DCM reorganized internally forming specific areas of expertise: contract assembly and review, contract budget processing, and invoice processing.

DHHS program offices have also experienced similar staffing challenges, which have led to delays in getting contract documents to DCM for processing. This started the ripple effect, leading to delays in getting contracts encumbered.

DHHS has felt the workforce shortage that has been experienced in Maine and nationwide. DCM and program offices have often been unable to keep positions filled with skilled employees. DCM has experienced significant turnover at the entry level position of “contract administrator”. Vacancies on average have taken longer to fill, particularly with qualified candidates.

The State Procurement Review Committee (SPRC) reviews and approves all state contracts and amendments with a value of \$1 million or more. The SPRC review and approval process is currently taking significantly longer than in the past. The SPRC has been impacted similarly by the same factors affecting DHHS, including significantly increased volume, changes in staff, and the need to ensure proper contract terms and documents before issuing final approval. As emergency and subsequent post pandemic funds are expended, review and approval times can also be expected to decrease at the SPRC’s stage of the process.

Many of DHHS’ contracts with the non-profit behavioral health organizations flow through SPRC review, including Shalom House, Wellspring, Kennebec Behavioral Health, The Opportunity Alliance, Community Health and Counseling Services, Preble Street, Penobscot Community Health Center, Sweetser, and Spurwink.

With the increase in contract and invoice volume, there was an increase in exception processing and triaging problems that require resolution at a higher level, such as DCM and program office leadership. Issues range from questions related to how to resolve payment issues with contracts, such as funding lines without allotment, interpretation of policies and procedures, and contracting and RFP options. This means there is less time for leadership to devote to monitoring timeliness, management, and training.

DHHS improvements in response to increased contract volume and increase in contract delays

As a result of the aforementioned issues, DHHS undertook a significant, structured process to review and improve its invoice processes during the calendar year 2023. The results of that work included:

- Re-organizing the central contracting office (DCM) to support increased contract volume, along with the development of a queue-based system. In prior years, employees were assigned to specific providers and offices, now they share the workload for DHHS and work on items in a prioritized order.
- Reviewing, documenting, and streamlining standard operating procedures to clarify Departmental roles and responsibilities and to confirm that contract processes were streamlined, predictable, repeatable, and well-documented. For example, DHHS established a checklist and improved consistency of initial triaging of invoices.

- Assigning more positions to support invoice processing. This was handled using a combination of reassigned and contracted positions.
- Developing new reports to provide insight into turnaround times and improve communication across, and between, Departmental contract teams.
- Developing a new approach to identify and finalize funding lines on contracts; most contracts within DHHS are funded by several accounts and this new approach reduced duplication of work by tracking how much funding is available for each account.
- Providing improved and expanded training for DCM and program offices. The training highlighted statutory requirements, outlined staff responsibilities based upon their role, reviewed Department process flows, walked through how to use the computer systems to move invoices through for approvals and payments, and gave guidance on how to handle common exceptions.
- Providing improved information for providers, including standard (abbreviated) guidance for providers on how to submit invoices and technical assistance to providers when they have questions or are experiencing challenges with submitting invoices or getting them paid.
- Implementing a process to expedite payments for providers when they are experiencing financial difficulties.
- Developing new technology solutions, including enhancing the workflow system to automate portions of the job that required significant data-entry.
- DHHS is continually reviewing internal processes and procedures with the goal of ensuring that contracts are encumbered timely. DHHS is also checks-in regularly with DAFS Office of State Procurement Services to coordinate processing.

With these changes, DHHS stabilized and reduced the average time to make a payment, even while processing significantly more invoices.

Section 2 – Late fee guidance

DHHS has fulfilled the requirement of Section 2 of Resolve 2023, Ch. 183 by publicly posting guidance about how to request late fees. DHHS also posted guidance on how to request expedited payments in the event of urgencies such as cash flow issue. Please see the language below, also linked here <https://www.maine.gov/dhhs/about/financial-management/contract-management>.

Late Fees

Statute allows for the payment of late fees to providers in certain circumstances where the Department is overdue in making timely payments for submitted invoices. 5 MRSA §1554 Payment of late fees provides as follows:

In the event that a proper invoice is not paid within 25 working days after receipt of the invoice, or within 15 days following another date agreed to by the state agency and the business concern, the agency shall be liable to pay a reasonable late fee that shall not exceed the normal late charge that the business concern levies on the amount due on the invoice.

In the event that federal moneys are the budgeted source of funds for payment to business concerns for state agency purchases of goods, property or services, and these moneys are unexpectedly

withheld and delayed from reaching the State in time to pay proper invoices without incurring a late fee, the state agency which made the purchases and the State of Maine shall not be liable for any late fees on overdue payments.

The application of any late fees is based upon three basic elements: 1) the invoice must be proper and have been submitted to the Department with necessary supporting documentation to be approved; 2) the number of days to review, approve, and process the payment for the invoice must exceed the timeframe specified in the statute; and 3) the reason for the payment delay must align with an allowable circumstance. If you believe your payment may be eligible for a late fee, please reach out to the Division of Contract Management (Invoices-DCM.DHHS@maine.gov). We will need the DHHS Agreement number, the invoice number, the dates of service covered by the invoice, and the invoice amount.

Expedited Payments (for Cash Flow Issues):

There are times when providers run into financial hardships to the point where they may be unable to make payroll or will need to dip into/extend their lines of credit. When these situations arise, DHHS has a process in place to support the providers and to expedite the payments through a prioritization process. It is outlined as follows:

- A member of the provider's executive leadership team, either the Chief Executive Officer/CEO or the Chief Financial Officer/CFO (or the organization's equivalents) can reach out to the Chief Operating Officer/COO for the DHHS office responsible for the contract explaining their challenges.*
- The COO would discuss with the DCM Director the merit of the request and the appropriate measures to take to expedite the payment.*
- Depending on where the invoice is in the process, DCM will prioritize the invoice to ensure that it is expedited. DCM will also work with the Financial Service Center to expedite the payment with their work queues and with the Controller's Office.*