



Office of the Washington State Auditor
Pat McCarthy

Accountability Audit Report

North Sound Behavioral Health Administrative Services Organization

For the period January 1, 2018 through December 31, 2019

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**Office of the Washington State Auditor
Pat McCarthy**

February 18, 2021

Board of Directors
North Sound Behavioral Health Administrative Services Organization
Mount Vernon, Washington

Report on Accountability

Thank you for the opportunity to work with you to promote accountability, integrity and openness in government. The Office of the Washington State Auditor takes seriously our role of providing state and local governments with assurance and accountability as the independent auditor of public accounts. In this way, we strive to help government work better, cost less, deliver higher value and earn greater public trust.

Independent audits provide essential accountability and transparency for Organization operations. This information is valuable to management, the governing body and public stakeholders when assessing the government's stewardship of public resources.

Attached is our independent audit report on the Organization's compliance with applicable requirements and safeguarding of public resources for the areas we examined. We appreciate the opportunity to work with your staff and value your cooperation during the audit.

Sincerely,

Pat McCarthy
State Auditor
Olympia, WA

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AUDIT RESULTS

Results in brief

This report describes the overall results and conclusions for the areas we examined. In most of the areas we examined, Organization operations complied, in all material respects, with applicable state laws, regulations, and its own policies, and provided adequate controls over safeguarding of public resources.

As referenced above, we identified areas where the Organization could make improvements. These recommendations are included with our report as a finding.

In keeping with general auditing practices, we do not examine every transaction, activity, policy, internal control, or area. As a result, no information is provided on the areas that were not examined.

About the audit

This report contains the results of our independent accountability audit of the North Sound Behavioral Health Administrative Services Organization from January 1, 2018 through December 31, 2019.

Management is responsible for ensuring compliance and adequate safeguarding of public resources from fraud, loss or abuse. This includes the design, implementation and maintenance of internal controls relevant to these objectives.

This audit was conducted under the authority of RCW 43.09.260, which requires the Office of the Washington State Auditor to examine the financial affairs of all local governments. Our audit involved obtaining evidence about the Organization's use of public resources, compliance with state laws and regulations and its own policies and procedures, and internal controls over such matters. The procedures performed were based on our assessment of risks in the areas we examined.

Based on our risk assessment for the years ended December 31, 2019 and 2018, the areas examined were those representing the highest risk of fraud, loss, abuse, or noncompliance. We examined the following areas during this audit period:

- Payroll – electronic fund transfers, gross payroll, leave accruals and retention payments
- Procurement – professional services

SCHEDULE OF AUDIT FINDINGS AND RESPONSES

2019-001 North Sound made additional compensation and facility cost payments that did not align with the state Constitution and guidance from the Health Care Authority.

Background

The Health Care Authority (HCA) oversees how mental health and substance abuse treatments are delivered throughout the state, and recently directed several funding changes. On or before January 2020, providers in all regions of the state transitioned to an integrated system for physical health, mental health, and substance use disorder services in Washington's Apple Health (Medicaid) program. As part of that transition, Behavior Health Organizations (BHOs) that are organized either as separate legal entities or as part of a county became Behavioral Health Associated Service Organizations (BH-ASOs). Unlike the BHO, the BH-ASO is not responsible for the full continuum of behavioral health services for the Medicaid population. The BH-ASO is responsible for only a subset of crisis-related services for Medicaid clients and for providing limited services to individuals who are not eligible for Medicaid, as well as managing certain administrative functions.

North Sound Behavioral Health Organization transitioned to North Sound Behavioral Health Administrative Services Organization (North Sound) on July 1, 2019. North Sound needed to submit a spend-down plan to HCA indicating how the remainder of BHO Medicaid funds would be spent or returned to the state.

Description of Condition

Our audit reviewed disbursements of North Sound, including those related to the spend-down plan, and noted the following concerns:

- North Sound contracted with all employees to provide retention incentive payments with the expectation that staff stayed through the transition to a BH-ASO. This additional compensation was paid both to employees who had accepted positions with the BH-ASO and those who had not. Employment terms did not substantially change for those who had accepted positions after the transition, and therefore the additional compensation was not allowable.
- North Sound prepaid the second half of 2019 and the entire period of 2020 rent for its administrative office building. However, under the spend-down guidance from HCA, BHO reserves must be directly related to support closeout activities and may not be used to pay for services provided beyond

the end of the contract period, especially start-up or operational costs of the BH-ASO.

Cause of Condition

North Sound did not adequately evaluate these types of payments, and although it submitted the spend-down plan, it did not adequately consult with HCA and/or its legal counsel to ensure these types of payments were reasonable, supported and allowable.

North Sound was under the impression that other BH-ASOs had made similar types of additional compensation payments and that by obtaining board approval, entering into agreements with staff, and including the payments in their spend down plan that they had performed their due diligence.

North Sound would have been liable for early termination penalties if the lease was ended before December 2020 and therefore consider the prepaid rent a BHO liability and the approach taken more fiscally responsible.

Effect of Condition

We identified the following payments as unallowable under the terms of the state Constitution and HCA guidelines:

- North Sound paid a total of \$396,997 to 21 employees who were retained or offered comparable positions.
- North Sound pre-paid \$359,969 in rent that was for periods after the BHO transitioned to North Sound.

Recommendation

We recommend North Sound establish a system of internal controls to ensure it conducts additional review and analysis to support significant and unusual transactions prior to payment. In addition, we recommend North Sound consult with HCA to determine if any further actions, such as repayment, are necessary or required by law for the transactions noted above.

Organization's Response

We appreciate the opportunity to respond to the State Auditor's accountability audit for the BHO's closeout.

North Sound has submitted a detailed response to the closeout audit, which can be found here [Board of Directors | North Sound BH-ASO \(nsbhaso.org\)](https://www.nsbhaso.org)

The following summarizes our response.

The closeout audit faults the BHO for: (1) making incentive payments under pre-existing contracts to employees who remained with the ASO after closeout; and (2) prepaying rent for the second half of 2019 and all of 2020 on the BHO's 10-year lease to avoid default and penalties. The audit concludes that the BHO paid these liabilities in violation of Article II § 25 of the Washington Constitution and Health Care Authority (HCA) guidelines.

North Sound respectfully disagrees with the audit's findings for three reasons. First, long-standing Washington Supreme Court precedent approves incentive contracts for State employees. Second, the BHO appropriately avoiding default and penalties on its lease – subject to reimbursement by the ASO. And third, throughout this unprecedented transition to managed care for behavioral health services, the HCA gave North Sound and other BHOs intermittent, inconsistent, and inaccurate guidance.

It is both inaccurate and unfair to blame only North Sound for a failure to communicate during the transition. North Sound requested clearer guidance from HCA but received little.

As a public Limited Liability Company of Whatcom, Skagit, Island, San Juan, and Snohomish Counties, North Sound continues to provide critical behavioral health administrative services to the most vulnerable populations. North Sound shares the Auditor's mission to ensure public funds for this purpose are used wisely and lawfully.

Auditor's Remarks

We conferred with both the State Auditor's Office Assistant Attorney General and Health Care Authority in reaching our conclusions. We reaffirm our finding recommendations. We appreciate the steps North Sound is taking to begin the resolution process with HCA, we plan to review these steps during our next audit.

Applicable Laws and Regulations

Washington State Constitution – Article II Legislative Department – Section 25
Extra Compensation Prohibited

The legislature shall never grant any extra compensation to any public officer, agent, employee, servant, or contractor, after the services shall have been rendered, or the contract entered into, nor shall the compensation of any public officer be increased or diminished during his term of office. Nothing in this section shall be deemed to prevent increases in pensions after such pensions shall have been granted.

Washington State Attorney General Opinion 1995, No. 13 MUNICIPAL CORPORATIONS - PUBLIC EMPLOYEES - COMPENSATION - AUTHORITY TO ESTABLISH EMPLOYEE INCENTIVE PROGRAMS

To ensure that employee incentive programs are consistent with these constitutional restrictions, incentives and awards should be provided only for meeting established performance standards or goals that exceed normal employment requirements. Such incentives and awards also should be structured as a component of the compensation in return for which employees provide their services, in such a way that the employees have an expectation of earning the incentives or awards when they are performing their work. This would preclude purely retroactive increases in compensation, including bonuses where the employer decides “after the fact” that one or more employees should receive extra compensation for past services.

Health Care Authority - Behavioral Health Organization Fiscal Closeout Plan Guidelines

Employees must be employed in a position that is functionally required to close out the BHO. Employees who accept a position or comparable position with the ASO, BHA or associated entity will not be eligible for a severance package. Employees who are to receive the close out package must stay until final agreed upon date to be eligible for the close out benefit. Employees may not become employed with the ASO, BHA or any entity created within this framework for six months. Should they accept a position with such entity, they will be required to repay the cost of benefits received.

Health Care Authority – 2018 Supplemental Budget Proviso

The authority must require all behavioral health organizations transitioning to full integration to either spend down or return all reserves in accordance with contract requirements and federal and state law. Behavioral health organization reserves may not be used to pay for services to be provided beyond the end of a behavioral health organization’s contract or for start-up costs in full integration regions. The authority must ensure that any increases in expenditures in behavioral health reserve spend-down plans are required for the operation of services during the contract period and do not result in overpayment to providers.

RELATED REPORTS

Financial

Our opinion on the Organization's financial statements and compliance with federal grant program requirements is provided in a separate report, which includes the Organization's financial statements. That report is available on our website, <http://portal.sao.wa.gov/ReportSearch>.

Federal grant programs

We evaluated internal controls and tested compliance with the federal program requirements, as applicable, for the Organization's major federal program, which is listed in the Schedule of Findings and Questioned Costs section of the separate financial statement and single audit report.

INFORMATION ABOUT THE ORGANIZATION

The North Sound Regional Support Network was formed in 1989 through an interlocal agreement created with five neighboring counties: Island, San Juan, Whatcom, Skagit, and Snohomish. The Network does business as the North Sound Mental Health Administration and contracts with vendors and other agencies to coordinate and provide mental health services to individuals within the area.

In February 2016 the North Sound Regional Support Network became North Sound Behavioral Health Organization LLC. On April 1, 2016 the North Sound Behavioral Health Organization took over the responsibility of operating the Substances Use Disorder service system previously run by the state and counties. On June 30, 2019 the Medicaid portion of the contract ended and on July 1, 2019 we became the North Sound Behavioral Health Administrative Services Organization (North Sound BH-ASO).

The North Sound BH-ASO is governed by a Board of Directors; consisting of nine elected members, three tribal representatives and two advisory Board members from entities included in the interlocal agreement. The Board hires an Executive Director to oversee the North Sound BH-ASO's daily operations as well as its 21 employees. During fiscal year 2018 and 2019, the North Sound BH-ASO had approximately \$168.1 million and \$104.3 million in operating revenues and \$190 million and \$119.6 million in expenditures, respectively.

Contact information related to this report	
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Information current as of report publish date.

Audit history

You can find current and past audit reports for the North Sound Behavioral Health Administrative Services Organization at <http://portal.sao.wa.gov/ReportSearch>.

ABOUT THE STATE AUDITOR'S OFFICE

The State Auditor's Office is established in the Washington State Constitution and is part of the executive branch of state government. The State Auditor is elected by the people of Washington and serves four-year terms.

We work with state agencies, local governments and the public to achieve our vision of increasing trust in government by helping governments work better and deliver higher value.

In fulfilling our mission to provide citizens with independent and transparent examinations of how state and local governments use public funds, we hold ourselves to those same standards by continually improving our audit quality and operational efficiency, and by developing highly engaged and committed employees.

As an agency, the State Auditor's Office has the independence necessary to objectively perform audits, attestation engagements and investigations. Our work is designed to comply with professional standards as well as to satisfy the requirements of federal, state and local laws. The Office also has an extensive quality control program and undergoes regular external peer review to ensure our work meets the highest possible standards of accuracy, objectivity and clarity.

Our audits look at financial information and compliance with federal, state and local laws for all local governments, including schools, and all state agencies, including institutions of higher education. In addition, we conduct performance audits and cybersecurity audits of state agencies and local governments, as well as state whistleblower, fraud and citizen hotline investigations.

The results of our work are available to everyone through the more than 2,000 reports we publish each year on our website, www.sao.wa.gov. Additionally, we share regular news and other information via an email subscription service and social media channels.

We take our role as partners in accountability seriously. The Office provides training and technical assistance to governments both directly and through partnerships with other governmental support organizations.

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