



Office of the Washington State Auditor
Pat McCarthy

Whistleblower Investigation Report
Department of Social and Health
Services

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October 1, 2018

Cheryl Strange, Secretary
Department of Social and Health Services

Report on Whistleblower Investigation

Attached is the official report on Whistleblower Case No. 18-033 at the Department of Social and Health Services.

The State Auditor's Office received an assertion of improper governmental activity at the Agency. This assertion was submitted to us under the provisions of Chapter 42.40 of the Revised Code of Washington, the Whistleblower Act. We have investigated the assertion independently and objectively through interviews and by reviewing relevant documents. This report contains the result of our investigation.

If you are a member of the media and have questions about this report, please contact Director of Communications Kathleen Cooper at (360) 902-0470. Otherwise, please contact Whistleblower Manager Jim Brownell at (360) 725-5352.

Sincerely,

Pat McCarthy
State Auditor
Olympia, WA

cc: Governor Jay Inslee
Andrew Colvin, Public Disclosure/Ethics Administrator
Kate Reynolds, Executive Director, Executive Ethics Board
Cristopher de la Peña, Investigator

WHISTLEBLOWER INVESTIGATION REPORT

Assertion and Results

Our Office received a whistleblower complaint asserting a Department of Social and Health Services (Department) employee (subject) deposited the personal funds of residents of the Yakima Valley School into the facility's state bank account.

We found no reasonable cause to believe an improper governmental action occurred.

Background

The Yakima Valley School (School) provides 24-hour residential care for developmentally disabled clients of the Department. If a resident, or his or her legal guardian/representative, provides written authorization to allow the facility to manage the resident's funds, the facility has a responsibility to manage and deposit the funds in accordance with state laws.

According to state law (RCW 70.129.040(a)), when the resident has funds exceeding \$100, the money must be deposited in an interest-bearing bank account, separate from any of the facility's operating accounts.

About the Investigation

At the beginning of our investigation, Department management informed us that it was aware of the situation and conducted two internal investigations into the issue. To avoid duplicating efforts, our Office decided to review the internal investigations before determining whether an additional investigation was necessary.

The complaint was filed internally through the Department's residential care complaint line. According to the complaint, some residents of the School had received funeral plan refunds, which the subject attempted to hide by depositing the checks into a state bank account. This would ensure the residents did not have more money in their personal accounts, which would raise the cost of their contribution for care at the School.

Based on the Department's investigations and conversations our Office had with Department and School staff, after the School's superintendent discovered the funeral plan trusts were not created, she procured refunds for the residents. The superintendent wanted a holding account that would allow the residents' legal guardians time to research and make other funeral arrangements. There was a concern that placing the individual checks into each of the residents' accounts would place them in a financial position that would require they contribute more toward their own care.

After consulting with Department financial services senior management (management), the subject was directed to deposit the checks in a transmittal account, which was under constant scrutiny. Management determined this was the best account for the funds for the short term because the account was transparent. The funds were to be held in this account for no more than 60 days.

During an interview, the subject said she sought guidance from management as soon as she was aware the School was receiving the refunds. She did not take part in the decision-making process to use the transmittal fund. She said she followed the instructions given by management and did not have reason at the time to believe they were incorrect.

According to the Department's investigation, placing the funds in the transmittal account violated state law, which requires the funds be deposited in individual interest-bearing accounts. The funds remained in the transmittal account for 33 days. Within three business days of notification of the violation, the subject transferred the funds into interest-bearing accounts.

Although depositing the funds into the transmittal account violated state law, the subject's actions were based on the directive from financial services senior management. Therefore, we found no reasonable cause to believe the subject committed an improper governmental action.

State Auditor's Office Concluding Remarks

We thank Department officials and personnel for their assistance and cooperation during the investigation.

WHISTLEBLOWER INVESTIGATION CRITERIA

We came to our determination in this investigation by evaluating the facts against the criteria below:

RCW 70.129.040 Protection of Resident's funds – Financial Affairs Rights:

- (1) The resident has the right to manage his or her financial affairs, and the facility may not require residents to deposit their personal funds with the facility.
- (2) Upon written authorization of a resident, if the facility agrees to manage the resident's personal funds, the facility must hold, safeguard, manage, and account for the personal funds of the resident deposited with the facility as specified in this section.
 - (a) The facility must deposit a resident's personal funds in excess of one hundred dollars in an interest-bearing account or accounts that is separate from any of the facility's operating accounts, and that credits all interest earned on residents' funds to that account. In pooled accounts, there must be a separate accounting for each resident's share.
 - (b) The facility must maintain a resident's personal funds that do not exceed one hundred dollars in a noninterest-bearing account, interest-bearing account, or petty cash fund.
- (3) The facility must establish and maintain a system that assures a full and complete and separate accounting of each resident's personal funds entrusted to the facility on the resident's behalf.
 - (a) The system must preclude any commingling of resident funds with facility funds or with the funds of any person other than another resident.

WAC 388-97-0340 Protection of resident funds:

- (1) The resident has the right to manage his or her financial affairs and the nursing home may not require residents to deposit their personal funds with the nursing home.
- (2) Upon written authorization of a resident, the nursing home must hold, safeguard, manage and account for the personal funds of the resident deposited with the nursing home.
- (3) The nursing home must establish and maintain a system that assures a full, complete and separate accounting, according to generally accepted accounting principles, of each resident's personal funds entrusted to the nursing home on the resident's behalf and must:
 - (a) Deposit any resident's personal funds in excess of fifty dollars, one hundred dollars for medicare residents, in an interest-bearing resident personal fund

account or accounts, separate from any nursing home operating accounts, and credit all interest earned to the account;

(b) Keep personal funds under fifty dollars, one hundred dollars for medicare residents, in a noninterest-bearing account or petty cash fund maintained for residents; and

(c) Make the individual financial record available to the resident or his or her surrogate decision maker through quarterly statements and on request.