

**Government Oversight Committee:  
Work Plan Topics in Planned Status  
(As of 1-20-17)**

	Topic	General Scope
1	<p><b>DHHS Audit Functions</b></p> <p>Responsible Agency: Department of Health and Human Services (DHHS)</p>	<ul style="list-style-type: none"> <li>• Effectiveness of DHHS audit functions in identifying and addressing fraud, waste and abuse in programs administered by the Department.</li> </ul>
<b>Additional Information</b>		
<ul style="list-style-type: none"> <li>• The 126<sup>th</sup> GOC placed this topic on the Work Plan in April 2013. It was requested by a GOC member.</li> <li>• In 2016, there are 4 separate audit Units within DHHS responsible for audits, examinations, investigations, and recoupment activities: MaineCare Audit Unit, Social Services Unit, the Program Integrity Unit and the Internal Audit Unit. The Fraud Investigative and Recovery Unit, which was under the Division of Audit in the past, reports directly into the Chief Operating Officer of DHHS. <ul style="list-style-type: none"> <li>○ The MaineCare Audit Unit conducts compliance audits and issues final cost settlements on all MaineCare cost reimbursed programs. The Unit processes over 600 cost reports representing approximately \$1 billion in MaineCare funding annually.</li> <li>○ Social Services Unit has oversight responsibilities for State and Federal grants that pass through DHHS to community agencies. At the end of a community agency’s fiscal year, Social Services performs an examination/review of an agency’s records to ensure compliance with applicable State and/or Federal legislation, statutes and regulations.</li> <li>○ Internal Audit Unit is responsible for monitoring all audits completed on DHHS, assisting in the implementation of internal controls to correct deficiencies identified in audit findings, and monitoring the effectiveness of controls and recommending changes as necessary. IA also conducts audits and reviews as directed by the DHHS Audit Committee. The Audit Committee was established in mid-2012 as a means to provide oversight of all external audits on the Department, monitor progress of and review results of the annual Single Audit and to approve the IA work plan. The Committee meets on a quarterly basis and more often as needed.</li> <li>○ Program Integrity Unit is responsible for monitoring and safeguarding the MaineCare Program against fraud, abuse and waste. It conducts analysis of MaineCare billings to detect utilization patterns or trends that may indicate fraud, abuse or waste. PI may perform retrospective audits/reviews of MaineCare providers and members to validate allegations.</li> <li>○ Fraud Investigative and Recovery Unit is authorized under 22 MRSA §13 to investigate fraud, attempted fraud, commingling or misapplication of funds administered by DHHS. FIRU is also responsible for the recovery of established improper payments in TANF, Food Supplement Program (Food Stamps), Medicaid and the General Assistance programs.</li> </ul> </li> <li>• Currently, the Division of Audit (not including FIRU) has 47 total positions with 10 vacancies. The Division reports that they are in the process of conducting interviews to fill 3 of those positions and are actively recruiting to fill the remaining 7 positions. The Division describes “aggressive recruiting” designed to address the difficulty in filling certain entry level positions within the Division.</li> <li>• In OPEGA’s 2009 report on Durable Medical Equipment, OPEGA identified weaknesses in the Program Integrity Unit’s capabilities to use data analytics and exception reporting from the MaineCare claims system to identify potential cases of fraud, waste and abuse. The Office of the State Auditor identified similar deficiencies in a 2013 limited procedures engagement, and in the FY13, FY14, and FY15 Single Audits.</li> <li>• In the Single Audits for FY10, FY11, FY12, FY13, FY14, and FY15, the State Auditor found that Division of Audit procedures related to long term facility audits need improvement. The State Auditor also identified deficiencies related to the Audit Division’s handling of hospital cost settlements in a FY15 limited procedures engagement.</li> <li>• The Federal DHHS Office of Inspector General (OIG) noted the low number of fraud referrals from the Program Integrity Unit to the State’s Medicaid Fraud Control Unit (MFCU) during FY12, FY13, and FY14. The OIG stated that referrals from the Program Integrity Unit are typically an essential component of a MFCU’s ability to effectively investigate and prosecute Medicaid fraud.</li> </ul>		

	Topic	General Scope
2	Independent Living Services (multiple programs)  Responsible Agencies: Department of Labor (DOL) Department of Health and Human Services (DHHS) Other	<ul style="list-style-type: none"> <li>• Alignment of programs and resources with needs of eligible client population;</li> <li>• Efficient use of resources;</li> <li>• Compliance with State and federal program and funding requirements;</li> <li>• Coordination among programs;</li> <li>• Effectiveness of programs and services in support of independent living</li> </ul>

**Additional Information**

- The 127<sup>th</sup> GOC added this review to OPEGA’s Work Plan in June 2016 after considering a review request expressing concerns that many Maine people are waiting for Independent Living Services and that federally mandated mission, programming and funding requirements are not being followed.
- Although the original review request was specific to the Independent Living Services Program administered by the Department of Labor’s Division of Vocational Rehabilitation (DVR), the GOC determined that a review with a broader scope to encompass all State programs offering independent living services would be of value. Consequently, the general scope approved by the GOC intends to encompass the multiple programs delivered through State agencies, or supported by State-administered funding, that provide products or services to assist individuals with significant disabilities in living more independently in their homes and communities. These products and services will be referred to generally as Independent Living Services (ILS)
- OPEGA’s initial research on the Independent Living Services (ILS) Program administered by BRS produced the following information on that program:
  - The program assists people who have significant disabilities to live more independently in their homes and communities. The program is also an advocacy program for people with disabilities and their families.
  - The program provides for needed IL services subject to the availability of funds. The ILS Program is primarily funded through a federal grant. DVR is currently the Designated State Entity (DSE) to receive the grant by virtue of having been selected as the DSE by Maine’s Statewide Independent Living Council (SILC).
  - The SILC is a federally mandated Council that has responsibility for developing Maine’s State Plan for Independent Living. The Plan must be submitted to, and approved by, the federal administrators in order for Maine to receive the federal grant. The federal statute also requires that the Council to monitor, review, and evaluate the implementation of the State Plan and communicate with the State Rehabilitation Council (SRC) about activities that address the common needs of specific disability populations and issues under federal law.
  - The SILC is incorporated as a Section 501(c)(3) organization with charitable or educational purpose. It currently has nineteen members appointed by the Governor. SILC also currently employs a part-time Executive Director.
  - DVR provides supporting funds to SILC through a contract that requires SILC to perform certain activities and provide certain deliverables associated with the federal grant. The most recent two contracts include \$49,500 in funds from DVR, \$27,500 of which are from the federal grant and the remainder from other Vocational Rehab funds.
  - ILS Program Services are provided by Alpha One under a sole source contract with DVR. Alpha One has offices in South Portland and Bangor and is currently the only entity certified as a Council for Independent Living (CIL) in Maine under a separate federal program. The federal ILS Program requires that the services under the ILS grant be provided by a CIL. The Executive Director of Alpha One is a member of the SILC.
  - DVR’s contract with Alpha One for October 2015 through September 2016 was for \$475,000. The funding was comprised of \$89,690 in General Fund and \$385,310 Federal Funds, which included \$310,310 from the Independent Living State Grant awarded by the federal Department of Health and Human Services.

- All ILS Program services are carried out through an Independent Living Plan that is mutually agreed upon by the client and an IL counselor. The four core services that every Alpha One office provides are:
  - Individual and Systems Advocacy
  - Information and Referral
  - Individual Independent Living Skills Training
  - Peer Counseling
  - The ILS Program can also purchase products and services to help clients be more independent in their home and/or community.
- There is a maximum lifetime expenditure of \$5,000 allowed for each eligible individual served by the ILS Program. The ILS cannot pay for services that are traditionally provided by other state, federal or private agencies. Products and services that support independent living might also be available under other programs administered by DOL's Bureau of Rehabilitation Services and/or DHHS. According to DOL, the ILS Program is designed to be the program of "last resort".
- Individuals found eligible for the ILS Program are prioritized into four categories (Priority 1 being the highest priority). According to DOL, the Program has traditionally had a wait list for services for individuals in Priority categories 3 and 4. Alpha One regularly reports to DVR various performance metrics associated with the wait list, clients served and time to serve.
- According to DOL, in the fall of 2015 Alpha One and SILC discussed concerns about the wait list with the Governor. Alpha One estimated that another \$700,000 in funding would be needed to eliminate the wait list. Following that, DOL worked with DHHS and DOE to explore options for addressing the wait list. This led to a review of current wait list clients, and their needs, by DHHS to determine whether those needs could be met under other programs the clients were already enrolled in.
- As of June 2016, DHHS had reviewed 206 clients on the ILS Program wait list as Priority 3 and 4 and compared them to consumers enrolled in DHHS programs for Chapter 11 and Sections 12, 19, 63 and 96. DHHS found that 93 of those 206 were already enrolled in one of those programs and approximately 62 of them were, or may be, eligible to get some or all of their needs met under these programs, or other programs. DHHS and DOL were in the process of running an updated ILS program wait list against a master file of DHHS programs with components that may cover the needed products and services. This included MaineCare, MaineCare Waivers and Adult Protective Services.
- The 126th Legislature established the Commission on Independent Living and Disability to evaluate the needs of disabled Maine citizens, review existing available resources and services, and develop recommendations regarding expansion of citizen access to particular resources. The Commission's final report in December 2014 made recommendations in eight areas: transportation, education funding, reporting, building codes, public housing, employment, insurance and telehealth/assistive technology. There were no specific recommendations related to the ILS program. LD 949, which implements some of the recommendations from the Commission's report, was passed in the most recent legislative session following an override of gubernatorial veto.

	Topic	General Scope
<b>3</b>	<b>Public Utilities Commission</b>  Responsible Agency: Public Utilities Commission (PUC)	<ul style="list-style-type: none"> <li>● Assessment of extent to which the PUC independently assesses risks and costs associated with ensuring safe, reasonable and adequate electrical services</li> </ul>

**Additional Information**

- The 126<sup>th</sup> GOC added this review to OPEGA's Work Plan in April 2014 on a 7-4-1 vote after considerable Committee discussion of whether additional work was necessary following OPEGA's 2013 report on the Public Utilities Committee.
- Some GOC members had concerns that the PUC had a tendency to rely on information and analyses provided by the utility companies while disregarding testimony and other information provided by experts on the opposite sides of the matter the PUC was considering. There was also concern that the PUC had not been sufficiently responsive to LD 131 directing the PUC to research and provide a report to the EUT committee on measures to mitigate the effects of geomagnetic disturbances and electromagnetic pulse on the State's electricity transmission system.
- The review is intended to be a study of a sample of cases that have been considered by the PUC.

	Topic	General Scope
4	<b>The Fund for a Healthy Maine</b>  Responsible Agency: Department of Health and Human Services (DHHS) Other	<ul style="list-style-type: none"> <li>• Grantees’ management and actual use of Fund for a Healthy Maine funds;</li> <li>• Portion of FHM funds used for administration;</li> <li>• Extent to which grantees are dependent on FHM funds</li> </ul>

**Additional Information**

- The 127<sup>th</sup> GOC added this review to OPEGA’s Work Plan in January 2016 after considering a request for a review. The review request expressed legislators’ concerns that there is a lack of information and understanding about how FHM dollars are ultimately spent by grantees and sub-grantees and whether those expenditures are for intended purposes.
- The Legislature established the Fund for a Healthy Maine (FHM) in 1999 to receive Maine’s annual Tobacco Master Settlement Agreement (TMSA) payments. 22 MRSA §1511 restricts uses of the fund to eight health-related purposes:
  - Smoking prevention, cessation and control activities;
  - Prevention, education and treatment activities concerning unhealthy weight and obesity;
  - Prenatal and young children’s care;
  - Health care for children and adults;
  - Prescription drugs for adults who are elderly or disabled;
  - Dental and oral health care to low-income persons who lack adequate dental coverage;
  - Substance abuse prevention and treatment; and
  - Comprehensive school health and nutrition programs, including school based health Centers.
- OPEGA completed a review of four specific programs supported by the FHM and published a report in October 2009. In 2009, OPEGA also published an Information Brief “Fund for a Healthy Maine Programs: A Comparison of Maine’s Allocations to Other States and a Summary of Programs.”
- A number of OPEGA recommendations from 2009 have been implemented—including making the FHM its own fund within the State accounting system.
- Total FHM for FY 2016 was \$55,859,469 coming from the following sources:
  - \$51,789,595 in dedicated revenue from Tobacco settlement payments;
  - \$4,042,819 from Casino revenue; and
  - \$27,056 income from investments.
- Total FHM expenditures for FY 2016 were \$50,252,607. Expenditures from the fund were made to initiatives for Smoking Cessation and Prevention, Child Care and Child Development, Medicaid Initiatives, Prescription Drugs, Dirigo Health Program, Other Health Initiatives, Substance Abuse, and the Attorney General.
- In 2015, the HHS Committee conducted a Legislative Committee Study: “Study of the Allocations of the Fund for a Healthy Maine” based on OPEGA’s 2009 recommendation that there be a recurring study of the fund. The purpose of the effort was to ensure that FHM allocations are aligned with the State’s current public health care and preventative health priorities and goals. The Committee’s 2015 Report recommended:
  - an annual report from DHHS on the FHM to the HHS and AFA Committees;
  - a show of support for OPEGA’s planned review of DHHS’ auditing functions;
  - follow up with Department of Administrative and Financial Services (DAFS) regarding implementation of certain provisions from a 2011 Commission related to reporting of FHM fund use;
  - support for the principles of the FHM statute; and
  - regular updates from DHHS on Request for Proposals that were expected to be issued in the near future for Healthy Maine Partnership contracts.

The Committee made no recommendations to change allocations to the FHM citing a lack of available information on how FMH funding is currently spent.

- The 127<sup>th</sup> Legislature passed LD 1650 “An Act to Enact the Recommendations of the Study of the Allocations of the Fund for a Healthy Maine” but the bill was vetoed by the Governor and the veto was sustained. The required report would have included:
  - Annual expenditures in all programs
  - Progress made toward improving the health status of persons in the State using the fund
  - A description of how funds were targeted to prevention and health-related purposes outlined in statute
  - Information on any audits in the previous year

The legislation would have required DHHS to submit an annual report on the Fund for a Healthy Maine to the HHS committee by January 1<sup>st</sup> each year. The bill would also have removed statutory requirements for reports on the Fund from DAFS and DHHS that were no longer necessary.

- Recent enacted legislation regarding the FHM includes:
  - **Public Law 2015, chapter 267** which pertains to appropriations and allocations for expenditures of State Government and in part transfers \$200,000 from the FHM to the Maine State Housing Authority and specifies that the funds must be used to provide loans and grants to low-income homeowners for repairs to remediate arsenic in drinking water.
  - **Resolve 2015, chapter 81**, directs the Finance Authority of Maine to contract with a statewide entity to distribute fresh and frozen Maine food products to increase access to those products for residents of the State with food insecurity. This initiative is funded using \$3,000,000 transferred on a one-time basis from the Fund for a Healthy Maine.