



COMPLIANCE REVIEW REPORT

DEPARTMENT OF HEALTH CARE SERVICES

Compliance Review Unit
State Personnel Board
November 28, 2022

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INTRODUCTION

Established by the California Constitution, the State Personnel Board (the SPB or Board) is charged with enforcing and administering the civil service statutes, prescribing probationary periods and classifications, adopting regulations, and reviewing disciplinary actions and merit-related appeals. The SPB oversees the merit-based recruitment and selection process for the hiring of over 200,000 state employees. These employees provide critical services to the people of California, including but not limited to, protecting life and property, managing emergency operations, providing education, promoting the public health, and preserving the environment. The SPB provides direction to departments through the Board's decisions, rules, policies, and consultation.

Pursuant to Government Code section 18661, the SPB's Compliance Review Unit (CRU) conducts compliance reviews of appointing authorities' personnel practices in five areas: examinations, appointments, equal employment opportunity (EEO), personal services contracts (PSC's), and mandated training, to ensure compliance with civil service laws and Board regulations. The purpose of these reviews is to ensure state agencies are in compliance with merit related laws, rules, and policies and to identify and share best practices identified during the reviews.

Pursuant to Government Code section 18502, subdivision (c), the SPB and the California Department of Human Resources (CalHR) may "delegate, share, or transfer between them responsibilities for programs within their respective jurisdictions pursuant to an agreement." SPB and CalHR, by mutual agreement, expanded the scope of program areas to be audited to include more operational practices that have been delegated to departments and for which CalHR provides policy direction. Many of these delegated practices are cost drivers to the state and were not being monitored on a statewide basis.

As such, SPB also conducts compliance reviews of appointing authorities' personnel practices to ensure that state departments are appropriately managing the following non-merit-related personnel functions: compensation and pay, leave, and policy and processes. These reviews will help to avoid and prevent potential costly litigation related to improper personnel practices, and deter waste, fraud, and abuse.

The SPB conducts these reviews on a three-year cycle.

The CRU may also conduct special investigations in response to a specific request or when the SPB obtains information suggesting a potential merit-related violation.

It should be noted that this report only contains findings from this hiring authority's compliance review. Other issues found in SPB appeals and special investigations as well as audit and review findings by other agencies such as the CalHR and the California State Auditor are reported elsewhere.

EXECUTIVE SUMMARY

The CRU conducted a routine compliance review of the Department of Health Care Services (DHCS) personnel practices in the areas of examinations, appointments, EEO, PSC's, mandated training, compensation and pay, leave, and policy and processes. The following table summarizes the compliance review findings.

Area	Severity	Finding
Examinations	In Compliance	Examinations Complied with Civil Service Laws and Board Rules
Examinations	In Compliance	Permanent Withhold Actions Complied with Civil Service Laws and Board Rules
Appointments	Serious	Probationary Evaluations Were Not Provided for All Appointments Reviewed ¹
Appointments	Technical	Department Did Not Provide Benefit Information in Accordance with Civil Service Law
Appointments	Technical	Appointment Documentation Was Not Kept for the Appropriate Amount of Time
Appointments	In Compliance	Unlawful Appointment Investigations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Equal Employment Opportunity	In Compliance	Equal Employment Opportunity Program Complied with All Civil Service Laws and Board Rules
Personal Services Contracts	Serious	Unions Were Not Notified of Personal Services Contracts
Mandated Training	Very Serious	Sexual Harassment Prevention Training Was Not Provided for All Supervisors ²

¹ Repeat finding. The February 19, 2019, DHCS Compliance Review Report identified 21 probationary evaluations were not provided in 19 out of 55 appointments reviewed.

² Repeat finding. The February 19, 2019, DHCS Compliance Review Report identified 102 out of 348 new supervisors were not provided Sexual Harassment Prevention Training within six months of their appointment, and 128 out of 372 existing supervisors were not provided sexual harassment prevention training every two years

Area	Severity	Finding
Compensation and Pay	Very Serious	Incorrect Application of Salary Determination Laws, Rules, and CalHR Policies and Guidelines for Appointment
Compensation and Pay	Very Serious	Alternate Range Movements Did Not Comply with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Compensation and Pay	In Compliance	Hire Above Minimum Requests Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Compensation and Pay	In Compliance	Red Circle Rate Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Compensation and Pay	In Compliance	Bilingual Pay Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Compensation and Pay	In Compliance	Pay Differential Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Compensation and Pay	Very Serious	Incorrect Authorization of Out-of-Class Pay
Leave	Serious	Positive Paid Temporary Employees' Work Exceeded Time Limitations
Leave	In Compliance	Administrative Time Off Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	Serious	Department Did Not Retain Employee Time and Attendance Records
Leave	In Compliance	Service and Leave Transactions Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	In Compliance	Nepotism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	In Compliance	Workers' Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

Area	Severity	Finding
Policy	Serious	Performance Appraisals Were Not Provided to All Employees ³

BACKGROUND

The DHCS' mission is to provide Californians access to affordable, integrated, high-quality health care, including medical, dental, mental health, substance use treatment services, and long-term care. To fulfill its mission, DHCS finances and administers a number of individual health care service delivery programs, including the state's Medicaid Program (also known as Medi-Cal), which provides health care services to low-income persons and families who meet defined eligibility requirements. This important state/federal partnership provides vital health care to over 14 million or about one in three Californians.

SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing the DHCS's examinations, appointments, EEO program, PSC's, mandated training, compensation and pay, leave, and policy and processes⁴. The primary objective of the review was to determine if the DHCS's personnel practices, policies, and procedures complied with state civil service laws and Board regulations, Bargaining Unit Agreements, CalHR policies and guidelines, CalHR Delegation Agreements, and to recommend corrective action where deficiencies were identified.

A cross-section of the DHCS's examinations were selected for review to ensure that samples of various examination types, classifications, and levels were reviewed. The CRU examined the documentation that the DHCS provided, which included examination plans, examination bulletins, job analyses, and scoring results. The CRU also reviewed the DHCS's permanent withhold actions documentation, including Withhold Determination Worksheets, State applications (STD 678), class specifications, and withhold letters.

³ Repeat finding. The February 19, 2019, DHCS Compliance Review Report identified 54 employees out of 101 reviewed who did not receive a performance appraisal timely.

⁴ Timeframes of the compliance review varied depending on the area of review. Please refer to each section for specific compliance review timeframes.

A cross-section of the DHCS's appointments were selected for review to ensure that samples of various appointment types, classifications, and levels were reviewed. The CRU examined the documentation that the DHCS provided, which included Notice of Personnel Action (NOPA) forms, Request for Personnel Actions, vacancy postings, certification lists, transfer movement worksheets, employment history records, correspondence, and probation reports. The CRU also reviewed the DHCS's policies and procedures concerning unlawful appointments to ensure departmental practices conform to state civil service laws and Board regulations. The DHCS did not make any additional appointments during the compliance review period.

The DHCS's appointments were also selected for review to ensure the DHCS applied salary regulations accurately and correctly processed employees' compensation and pay. The CRU examined the documentation that the DHCS provided, which included employees' employment and pay history and any other relevant documentation such as certifications, degrees, and/or the appointee's application. Additionally, the CRU reviewed specific documentation for the following personnel functions related to compensation and pay: hire above minimum (HAM) requests, red circle rate requests, bilingual pay, monthly pay differentials, alternate range movements, and out-of-class assignments. During the compliance review period, the DHCS did not issue arduous pay.

The review of the DHCS's EEO program included examining written EEO policies and procedures; the EEO Officer's role, duties, and reporting relationship; the internal discrimination complaint process; the reasonable accommodation program; the discrimination complaint process; and the Disability Advisory Committee.

The DHCS' PSC's were also reviewed.⁵ It was beyond the scope of the compliance review to make conclusions as to whether the DHCS's justifications for the contracts were legally sufficient. The review was limited to whether the DHCS's practices, policies, and procedures relative to PSC's complied with procedural requirements.

The DHCS' mandated training program was reviewed to ensure all employees required to file statements of economic interest were provided ethics training, and that all employees were provided sexual harassment prevention training within statutory timelines.

⁵If an employee organization requests the SPB to review any personal services contract during the SPB compliance review period or prior to the completion of the final compliance review report, the SPB will not audit the contract. Instead, the SPB will review the contract pursuant to its statutory and regulatory process. In this instance, none of the reviewed PSC's were challenged.

The CRU reviewed the DHCS' monthly internal audit process to verify all leave input into any leave accounting system was keyed accurately and timely and ensure the department certified that all leave records have been reviewed and corrected if necessary. The CRU selected a small cross-section of the DHCS' units in order to ensure they maintained accurate and timely leave accounting records. Part of this review also examined a cross-section of the DHCS's employees' employment and pay history, state service records, and leave accrual histories to ensure employees with non-qualifying pay periods did not receive vacation/sick leave and/or annual leave accruals or state service credit. Additionally, the CRU reviewed a selection of the DHCS employees who used Administrative Time Off (ATO) in order to ensure that ATO was appropriately administered. Further, the CRU reviewed a selection of the DHCS' positive paid employees whose hours are tracked during the compliance review period in order to ensure that they adhered to procedural requirements.

Moreover, the CRU reviewed the DHCS' policies and processes concerning nepotism, workers' compensation, and performance appraisals. The review was limited to whether the DHCS' policies and processes adhered to procedural requirements.

On August 22, 2022, an exit conference was held with the DHCS to explain and discuss the CRU's initial findings and recommendations. The CRU received and carefully reviewed the DHCS' written response on September 6, 2022, which is attached to this final compliance review report.

FINDINGS AND RECOMMENDATIONS

Examinations

Examinations to establish an eligible list must be competitive and of such character as fairly to test and determine the qualifications, fitness, and ability of competitors to perform the duties of the class of position for which he or she seeks appointment. (Gov. Code, § 18930.) Examinations may be assembled or unassembled, written or oral, or in the form of a demonstration of skills, or any combination of those tests. (*Ibid.*) The Board establishes minimum qualifications for determining the fitness and qualifications of employees for each class of position and for applicants for examinations. (Gov. Code, § 18931, subd. (a).) Within a reasonable time before the scheduled date for the examination, the designated appointing power shall announce or advertise the examination for the establishment of eligible lists. (Gov. Code, § 18933, subd. (a).) The advertisement shall contain such information as the date and place of the examination and the nature of the minimum qualifications. (*Ibid.*) Every applicant for examination shall file an application with the department or a designated appointing power as directed by

the examination announcement. (Gov. Code, § 18934, subd. (a)(1).) The final earned rating of each person competing in any examination is to be determined by the weighted average of the earned ratings on all phases of the examination. (Gov. Code, § 18936.) Each competitor shall be notified in writing of the results of the examination when the employment list resulting from the examination is established. (Gov. Code, § 18938.5.)

During the period under review, April 1, 2021, through September 30, 2021, the DHCS conducted 47 examinations. The CRU reviewed 23 of those examinations, which are listed below:

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
Career Executive Assignment (CEA) A, Deputy Director, Office of Civil Rights	CEA	Supplemental Application (SA) ⁶	4/26/2021	7
CEA B, Chief, Benefits Division	CEA	SA	3/26/2021	8
CEA C, Deputy Director, Administration	CEA	SA	5/3/2021	11
Administrative Law Judge	Open	SA	4/12/2021	4
Associate Medi-Cal Eligibility Analyst	Open	Education and Experience ⁷	10/30/2020	4
Consultant in Physical Therapy for Physically Handicapped Children	Open	Training and Experience (T&E) ⁸	4/19/2021	3
Consulting Psychologist	Open	T&E	2/26/2021	5
Dental Program Consultant	Open	T&E	7/16/2021	7
Health Program Auditor IV	Open	T&E	5/7/2021	76
Health Program Specialist I	Open	T&E	4/30/2021	26
Medical Consultant I	Open	E&E	3/31/2021	3

⁶ In a Supplemental Application examination, applicants are not required to present themselves in person at a predetermined time and place. SA's are in addition to the regular application and must be completed in order to remain in the examination. SA's are also known as "rated" applications.

⁷ In an Education and Experience examination, one or more raters reviews the applicants' Standard 678 application forms, and scores and ranks them according to a predetermined rating scale that may include years of relevant higher education, professional licenses or certifications, and/or years of relevant work experience.

⁸ The Training and Experience examination is administered either online or in writing, and asks the applicant to answer multiple-choice questions about his or her level of training and/or experience performing certain tasks typically performed by those in this classification. Responses yield point values.

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
Medical Consultant II	Open	T&E	7/30/2021	6
Medical Program Consultant	Open	T&E	9/3/2021	4
Nurse Consultant II	Open	SOQ	9/30/2020	7
Nurse Consultant III (Specialist)	Open	T&E	3/31/2021	14
Nurse Consultant III (Specialist)	Open	T&E	6/30/2021	8
Nurse Evaluator III	Open	Qualification Appraisal Panel (QAP) ⁹	1/29/2021	4
Nurse Evaluator III	Open	QAP	7/30/2021	2
Nurse Evaluator III	Open	QAP	4/30/2021	4
Pharmaceutical Consultant I	Open	T&E	2/26/2021	4
Pharmaceutical Consultant I	Open	T&E	8/31/2021	10
Supervising Fraud Investigator I	Open	T&E	3/25/2021	10
Supervising Fraud Investigator II	Open	T&E	1/13/2021	9

IN COMPLIANCE	FINDING NO. 1 EXAMINATIONS COMPLIED WITH CIVIL SERVICE LAWS AND BOARD RULES
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The CRU reviewed 23 open examinations which the DHCS administered in order to create eligible lists from which to make appointments. The DHCS published and distributed examination bulletins containing the required information for all examinations. Applications received by the DHCS were accepted prior to the final filing date. Applicants were notified about the next phase of the examination process. After all phases of the examination process were completed, the score of each competitor was computed, and a list of eligible candidates was established. The examination results listed the names of all successful competitors arranged in order of the score received by rank. The CRU found no deficiencies in the examinations that the DHCS conducted during the compliance review period.

⁹ The Qualification Appraisal Panel interview is the oral component of an examination whereby competitors appear before a panel of two or more evaluators. Candidates are rated and ranked against one another based on an assessment of their ability to perform in a job classification.

Permanent Withhold Actions

Departments are granted statutory authority to permit withhold of eligibles from lists based on specified criteria. (Gov. Code, § 18935.) Permanent appointments and promotions within the state civil service system shall be merit-based, ascertained by a competitive examination process. (Cal. Const., art. VII, § 1, subd. (b).) If a candidate for appointment is found not to satisfy the minimum qualifications, the appointing power shall provide written notice to the candidate, specifying which qualification(s) are not satisfied and the reason(s) why. The candidate shall have an opportunity to establish that s/he meets the qualifications. (Cal. Code Regs., tit. 2, § 249.4, subd. (b).) If the candidate fails to respond, or fails to establish that s/he meets the minimum qualification(s), the candidate's name shall be removed from the eligibility list. (Cal. Code Regs., tit. 2, § 249.4, subd. (b)(1), (2)), (HR Manual, section 1105.) The appointing authority shall promptly notify the candidate in writing, and shall notify the candidate of his or her appeal rights. (*Ibid.*) A permanent withhold does not necessarily permanently restrict a candidate from retaking the examination for the same classification in the future; however, the appointing authority may place a withhold on the candidate's subsequent eligibility record if the candidate still does not meet the minimum qualifications or continues to be unsuitable. (HR Manual, Section 1105). State agency human resources offices are required to maintain specific withhold documentation for a period of five years. (*Ibid.*)

During the period under review, April 1, 2021, through September 30, 2021, the DHCS conducted 21 permanent withhold actions. The CRU reviewed 10 of these permanent withhold actions, which are listed below:

Exam Title	Exam ID	Date List Eligibility Began	Date List Eligibility Ended	Reason Candidate Placed on Withhold
Associate Accounting Analyst	5PB39	7/20/2020	7/20/2021	Failed to Meet Minimum Qualifications (MQ)
Associate Governmental Program Analyst (AGPA)	9PB04	10/3/2020	10/3/2021	Failed to Meet MQ's
AGPA	9PB04	5/3/2021	5/3/2022	Failed to Meet MQ's
AGPA	9PB04	2/5/2021	2/5/2022	Failed to Meet MQ's
Information Technology Supervisor I	7PB38	5/25/2021	5/25/2022	Failed to Meet MQ's
Nurse Consultant III (Specialist)	9HAEE	5/20/2021	5/20/2023	Failed to Meet MQ's

Exam Title	Exam ID	Date List Eligibility Began	Date List Eligibility Ended	Reason Candidate Placed on Withhold
Research Data Analyst II	8PB38	10/13/2020	10/13/2021	Failed to Meet MQ's
Research Data Specialist I	8PB39	12/20/2020	12/20/2021	Failed to Meet MQ's
Research Data Supervisor I	8PB42	3/19/2021	3/19/2022	Failed to Meet MQ's
Research Data Supervisor I	8PB42	5/25/2021	5/25/2022	Failed to Meet MQ's

IN COMPLIANCE	FINDING NO. 2 PERMANENT WITHHOLD ACTIONS COMPLIED WITH CIVIL SERVICE LAWS AND BOARD RULES
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The CRU found no deficiencies in the permanent withhold actions undertaken by the department during the compliance review period.

Appointments

In all cases not excepted or exempted by Article VII of the California Constitution, the appointing power must fill positions by appointment, including cases of transfers, reinstatements, promotions, and demotions in strict accordance with the Civil Service Act and Board rules. (Gov. Code, § 19050.) The hiring process for eligible candidates chosen for job interviews shall be competitive and be designed and administered to hire candidates who will be successful. (Cal. Code Regs., tit. 2, § 250, subd. (b).) Interviews shall be conducted using job-related criteria. (*Ibid.*) Persons selected for appointment shall satisfy minimum qualifications of the classification to which he or she is appointed or have previously passed probation and achieved permanent status in that same classification. (Cal. Code Regs., tit. 2, § 250, subd. (d).) While persons selected for appointment may meet some or most of the preferred or desirable qualifications, they are not required to meet all the preferred or desirable qualifications. (*Ibid.*) This section does not apply to intra-agency job reassignments. (Cal. Code Regs., tit. 2, § 250, subd. (e).)

During the period under review, April 1, 2021, through September 30, 2021, the DHCS made 408 appointments. The CRU reviewed 40 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Accountant Trainee	Certification List	Permanent	Full Time	1

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Accounting Administrator I (Specialist)	Certification List	Permanent	Full Time	1
Accounting Administrator I (Supervisor)	Certification List	Permanent	Full Time	1
Accounting Officer (Specialist)	Certification List	Permanent	Full Time	1
AGPA	Certification List	Permanent	Full Time	2
Attorney III	Certification List	Permanent	Full Time	1
Auditor I	Certification List	Permanent	Full Time	1
Consulting Psychologist	Certification List	Permanent	Full Time	1
Health Program Audit Manager I	Certification List	Permanent	Full Time	1
Health Program Auditor III	Certification List	Permanent	Full Time	1
Health Program Specialist I	Certification List	Permanent	Full Time	1
Information Technology Associate	Certification List	Permanent	Full Time	1
Information Technology Supervisor II	Certification List	Permanent	Full Time	1
Investigator	Certification List	Permanent	Full Time	1
Legal Secretary	Certification List	Permanent	Full Time	1
Medical Consultant I	Certification List	Permanent	Full Time	1
Nurse Consultant I	Certification List	Permanent	Full Time	1
Nurse Consultant III (Specialist)	Certification List	Permanent	Full Time	1
Nurse Evaluator II	Certification List	Permanent	Full Time	1
Office Technician (General)	Certification List	Permanent	Full Time	1
Personnel Specialist	Certification List	Permanent	Full Time	1
Pharmaceutical Consultant II (Specialist)	Certification List	Permanent	Full Time	1
Program Technician II	Certification List	Limited Term	Full Time	1
Research Data Analyst I	Certification List	Permanent	Full Time	1
Research Scientist I (Epidemiology/Biostatistics)	Certification List	Permanent	Full Time	1
Senior Accounting Officer (Supervisor)	Certification List	Permanent	Full Time	1
Staff Services Analyst (SSA) (General)	Certification List	Permanent	Full Time	1
Staff Services Manager I	Certification List	Permanent	Full Time	1
Supervising Fraud Investigator I	Certification List	Permanent	Full Time	1
Auditor I	Reinstatement	Permanent	Full Time	1
Attorney III	Reinstatement	Permanent	Full Time	1

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Associate Administrative Analyst	Reinstatement	Permanent	Full Time	1
Information Technology Specialist I	Reinstatement	Permanent	Full Time	1
Office Assistant (General)	Transfer	Permanent	Full Time	1
Investigator	Transfer	Permanent	Full Time	1
Health Program Specialist I	Transfer	Permanent	Full Time	1
Staff Services Manager I	Transfer	Permanent	Full Time	1
AGPA	Transfer	Permanent	Full Time	1
Nurse Evaluator II	Transfer	Permanent	Full Time	1

SEVERITY: SERIOUS	FINDING NO. 3 PROBATIONARY EVALUATIONS WERE NOT PROVIDED FOR ALL APPOINTMENTS REVIEWED
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Summary: The DHCS did not provide 6 probationary reports of performance for 4 of the 40 appointments reviewed by the CRU, as reflected in the table below. This is the second consecutive time this has been a finding for the DHCS.

Classification	Appointment Type	Number of Appointments	Number of Missing Probation Reports
AGPA	Certification List	1	2
Health Program Auditor III	Certification List	1	2
Nurse Evaluator II	Certification List	1	1
Senior Accounting Officer (Supervisor)	Certification List	1	1

Criteria: The service of a probationary period is required when an employee enters or is promoted in the state civil service by permanent appointment from an employment list; upon reinstatement after a break in continuity of service resulting from a permanent separation; or after any other type of appointment situation not specifically excepted from the probationary period. (Gov. Code, § 19171.) During the probationary period, the appointing power shall evaluate the work and efficiency of a probationer in the manner and at such periods as the department rules may require. (Gov. Code, § 19172.) A report of the probationer's performance shall be made to the employee at sufficiently frequent intervals to keep the employee adequately informed of progress on the job. (Cal. Code Regs., tit. 2, § 599.795.)

A written appraisal of performance shall be made to the Department within 10 days after the end of each one-third portion of the probationary period. (*Ibid.*) The Board's record retention rules require that appointing powers retain all probationary reports for five years from the date the record is created. (Cal. Code Regs., tit. 2, § 26, subd. (a)(3).)

Severity: Serious. The probationary period is the final step in the selection process to ensure that the individual selected can successfully perform the full scope of their job duties. Failing to use the probationary period to assist an employee in improving his or her performance or terminating the appointment upon determination that the appointment is not a good job/person match is unfair to the employee and serves to erode the quality of state government.

Cause: The DHCS does not have a tracking system to monitor probationary reports for compliance. Efforts to establish a tracking system was delayed by the DHCS' response to the Covid-19 public health emergency and employee turnover.

Corrective Action: The DHCS asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the DHCS must submit to the SPB documentation which demonstrates the meaningful and systemic actions it has taken to ensure conformity with Government Code section 19172.

SEVERITY: TECHNICAL	FINDING NO. 4 DEPARTMENT DID NOT PROVIDE BENEFIT INFORMATION IN ACCORDANCE WITH CIVIL SERVICE LAW
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Summary: The DHCS did not provide explanation of benefits prior to acceptance of appointment for 22 out of the 40 appointments reviewed by the CRU.

Criteria: An appointing power, before offering employment to an applicant, shall provide the applicant, in writing, with an explanation of benefits that accompany state service. These documents shall include a summary of the applicable civil service position with salary ranges and steps within them, as well as information on benefits afforded by membership in the Public Employees' Retirement System and

benefits and protections provided to public employees by the State Civil Service Act. (Gov. Code § 19057.2.)

Severity: Technical. An applicant is entitled to have all of the information regarding benefits relating to their potential employment prior to making a decision as to whether to accept or decline the appointment.

Cause: The DHCS did not have a standard final employment offer template that included all the benefit information that is required by law.

Corrective Action: The DHCS asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the DHCS must submit to the SPB documentation which demonstrates the actions it has taken to ensure conformity with the explanation of benefits requirements of Government Code section 19057.2.

SEVERITY: TECHNICAL	FINDING NO. 5 APPOINTMENT DOCUMENTATION WAS NOT KEPT FOR THE APPROPRIATE AMOUNT OF TIME
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Summary: Of the 40 appointments reviewed, the DHCS did not retain 5 NOPAs for the appropriate amount of time.

Criteria: As specified in section 26 of the Board's Regulations, appointing powers are required to retain records related to affirmative action, equal employment opportunity, examinations, merit, selection, and appointments for a minimum period of five years from the date the record is created. These records are required to be readily accessible and retained in an orderly and systematic manner. (Cal. Code Regs., tit. 2, § 26.)

Severity: Technical. Without documentation, the CRU could not verify if the appointments were properly conducted.

Cause: The DHCS' rapid transition to a virtual work environment during the Covid-19 public health emergency impacted standard processes such as obtaining wet signatures and filing NOPAs. Multiple processes to collect signed NOPAs made tracking for retention and filing them difficult to manage.

Corrective Action: The DHCS asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the DHCS must submit to the SPB documentation which demonstrates the actions it has taken to ensure conformity with the record retention requirements of California Code of Regulations, title 2, section 26.

Unlawful Appointment Investigations

Departments that entered into an Unlawful Appointment Investigation Delegation Agreement between their executive management and the CalHR have the authority to manage their own unlawful appointment investigations. The Delegation Agreement defines the reporting requirements, responsibilities, obligations, and expectations of the department in this process. The delegation agreement mandates that departments maintain up-to-date records on each unlawful appointment investigation including, at a minimum: the specific facts surrounding the appointment in question, a description of the circumstances which may have resulted in the unlawful appointment, copies of relevant appointment documents, and any documentation which may demonstrate that the agency and employee acted in good faith when the appointment was offered and accepted. Departments must also maintain a tracking system to monitor its unlawful appointments.

During the period under review, April 1, 2021, through September 30, 2021, the DHCS conducted one unlawful appointment investigation. The CRU reviewed that unlawful appointment investigation, which is listed below:

Classification	Date Investigation Initiated	Date Investigation Concluded
Associate Medi-Cal Eligibility Analyst	4/20/21	7/28/2021

IN COMPLIANCE	FINDING NO. 6 UNLAWFUL APPOINTMENT INVESTIGATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The DHCS’s unlawful appointment investigations were found to comply with the rules set forth in the signed Delegation Agreement with the CalHR.

Equal Employment Opportunity

Each state agency is responsible for an effective EEO program. (Gov. Code, § 19790.) The appointing power for each state agency has the major responsibility for monitoring the effectiveness of its EEO program. (Gov. Code, § 19794.) To that end, the appointing power must issue a policy statement committed to EEO; issue procedures for filing, processing, and resolving discrimination complaints; and cooperate with the CalHR, in accordance with Civil Code section 1798.24, subdivisions (o) and (p), by providing access to all required files, documents and data necessary to carry out these mandates. (*Ibid.*) In addition, the appointing power must appoint, at the managerial level, an EEO Officer, who shall report directly to, and be under the supervision of, the director of the department to develop, implement, coordinate, and monitor the department's EEO program. (Gov. Code, § 19795, subd. (a).)

Each state agency must establish a separate committee of employees who are individuals with a disability, or who have an interest in disability issues, to advise the head of the agency on issues of concern to employees with disabilities. (Gov. Code, § 19795, subd. (b)(1).) The department must invite all employees to serve on the committee and take appropriate steps to ensure that the final committee is comprised of members who have disabilities or who have an interest in disability issues. (Gov. Code, § 19795, subd. (b)(2).)

IN COMPLIANCE	FINDING NO. 7 EQUAL EMPLOYMENT OPPORTUNITY PROGRAM COMPLIED WITH ALL CIVIL SERVICE LAWS AND BOARD RULES
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After reviewing the policies, procedures, and programs necessary for compliance with the EEO program's role and responsibilities according to statutory and regulatory guidelines, the CRU determined that the DHCS's EEO program provided employees with information and guidance on the EEO process including instructions on how to file discrimination claims. Furthermore, the EEO program outlines the roles and responsibilities of the EEO Officer, as well as supervisors and managers. The EEO Officer, who is at a managerial level, reports directly to the Executive Director of the DHCS. The DHCS also provided evidence of its efforts to promote EEO in its hiring and employment practices and to increase its hiring of persons with a disability.

Personal Services Contracts

A PSC includes any contract, requisition, or purchase order under which labor or personal services is a significant, separately identifiable element, and the business or person

performing the services is an independent contractor that does not have status as an employee of the state. (Cal. Code Regs., tit. 2, § 547.59.) The California Constitution has an implied civil service mandate limiting the state’s authority to contract with private entities to perform services the state has historically or customarily performed. Government Code section 19130, subdivision (a), however, codifies exceptions to the civil service mandate where PSC’s achieve cost savings for the state. PSC’s that are of a type enumerated in subdivision (b) of Government Code section 19130 are also permissible. Subdivision (b) contracts include, but are not limited to, private contracts for a new state function, services that are not available within state service, services that are incidental to a contract for the purchase or lease of real or personal property, and services that are of an urgent, temporary, or occasional nature.

For cost-savings PSC’s, a state agency is required to notify SPB of its intent to execute such a contract. (Gov. Code, § 19131.) For subdivision (b) contracts, the SPB reviews the adequacy of the proposed or executed contract at the request of an employee organization representing state employees. (Gov. Code, § 19132.)

During the period under review, April 1, 2021, through September 30, 2021, the DHCS had 25 PSC’s that were in effect. The CRU reviewed 12 of those, which are listed below:

Vendor	Services	Contract Dates	Contract Amount	Justification Identified?	Union Notification?
Sacramento Transportation Management Association	Emergency Ride and Commute Services	1/1/21 – 12/31/22	\$4,300	Yes	Yes
American Board of Forensic Accounting	Forensic Accounting Review	10/1/21 – 12/31/22	\$15,680	Yes	No
CPS HR Consulting	Training Services	7/1/21 – 6/30/23	\$200,000	Yes	No
County of Riverside	Firearms Training	7/1/21 – 6/30/23	\$24,000	Yes	Yes
DiPietro & Associates, Inc.	Automatic External Defibrillator Services	7/1/21 – 6/30/23	\$9,816	Yes	No

Vendor	Services	Contract Dates	Contract Amount	Justification Identified?	Union Notification?
DXC Technology Services, LLC	Fiscal Intermediary for Medi-Cal Dental Program	12/1/06 – 9/30/27	\$14,766,493,739	Yes	Yes
Health Management Systems, Inc.	Collection services for Medi-Cal payments	7/1/21 – 6/30/24	\$3,000,000	Yes	Yes
IS, INC.	Training Services	7/1/21 – 6/30/22	\$49,999	Yes	No
Magellan Medicaid Administration, Inc.	Administrative Services for Medi-Cal Prescriptions	12/20/19 – 12/31/24	\$31,011,814,221	Yes	Yes
MAXIMUS Health Services, Inc.	Implementation Services for Hearing Aid Coverage Program	7/1/20 – 6/30/25	\$96,472,100	Yes	Yes
Rebel Van Lines	Moving Services	7/1/21 – 6/30/23	\$200,000	Yes	No
Wind Dancer Moving Company	Moving Services	7/1/21 – 6/30/23	\$499,998	Yes	No

SEVERITY: SERIOUS	FINDING NO. 8 UNIONS WERE NOT NOTIFIED OF PERSONAL SERVICES CONTRACTS
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Summary: The DHCS did not notify unions prior to entering into 6 of the 12 PSC’s reviewed.

Criteria: The contract shall not be executed until the state agency proposing to execute the contract has notified all organizations that represent state employees who perform the type of work to be contracted. (Gov. Code, § 19132, subd. (b)(1).)

Severity: Serious. Unions must be notified of impending personal services contracts in order to ensure they are aware contracts are being proposed for the type of work that their members could perform.

Cause: The DHCS' Contracting process was decentralized. As of October 2020, the DHCS centralized their contracting process, and the Contracts team has assumed responsibility for the Union Notification notices. During the transition period, the union notification notices were interrupted.

Corrective Action: While it is the contracting department's responsibility to identify and notify any unions whose members could potentially perform the type of work to be contracted prior to executing a PSC, the DHCS asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the DHCS must submit to the SPB documentation which demonstrates the actions it has taken to ensure conformity with the requirements of Government Code section 19132.

Mandated Training

Each member, officer, or designated employee of a state agency who is required to file a statement of economic interest (referred to as "filers") because of the position he or she holds with the agency is required to take an orientation course on the relevant ethics statutes and regulations that govern the official conduct of state officials. (Gov. Code, §§ 11146 & 11146.1.) State agencies are required to offer filers the orientation course on a semi-annual basis. (Gov. Code, § 11146.1.) New filers must be trained within six months of appointment and at least once during each consecutive period of two calendar years, commencing on the first odd-numbered year thereafter. (Gov. Code, § 11146.3.)

Additionally, new employees must be provided sexual harassment prevention training within six months of appointment. Thereafter, each department must provide its supervisors two hours of sexual harassment prevention training and non-supervisors one hour of sexual harassment prevention training every two years. (Gov. Code, § 12950.1, subds. (a) and (b); Gov. Code, § 19995.4.)

The Board may conduct reviews of any appointing power's personnel practices to ensure compliance with civil service laws and Board regulations. (Gov. Code, § 18661, subd. (a).) In particular, the Board may audit personnel practices related to such matters as selection and examination procedures, appointments, promotions, the management of probationary periods, and any other area related to the operation of the merit principle in state civil service. (*Ibid.*) Accordingly, the CRU reviews documents and records related to

training that appointing powers are required by the afore-cited laws to provide its employees.

The CRU reviewed the DHCS's mandated training program that was in effect during the compliance review period, October 1, 2019, through September 30, 2021.

SEVERITY: VERY SERIOUS	FINDING NO. 9 SEXUAL HARASSMENT PREVENTION TRAINING WAS NOT PROVIDED FOR ALL SUPERVISORS
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Summary: The DHCS did not provide sexual harassment prevention training to 14 of 164 new supervisors within 6 months of their appointment. In addition, the DHCS did not provide sexual harassment prevention training to 411 of 840 existing supervisors every 2 years. This is the second consecutive time this has been a finding for the DHCS.

Criteria: Each department must provide its supervisors two hours of sexual harassment prevention training every two years. New supervisors must be provided sexual harassment prevention training within six months of appointment. (Gov. Code, § 12950.1, subds. (a) and (b); Gov. Code, § 19995.4.)

Severity: Very Serious. The department does not ensure that all new and existing supervisors are properly trained to respond to sexual harassment or unwelcome sexual advances, requests for sexual favors, and other verbal or physical harassment of a sexual nature. This limits the department's ability to retain a quality workforce, impacts employee morale and productivity, and subjects the department to litigation.

Cause: Employee turnover delayed implementation of the DHCS' new online training platform which delayed the development and implementation of new processes and procedures to ensure compliance.

Corrective Action: The DHCS asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the DHCS must submit to the SPB documentation which demonstrates the actions it has taken to ensure that all employees are provided sexual harassment prevention training in accordance with Government Code section 12950.1.

Compensation and Pay

Salary Determination

The pay plan for state civil service consists of salary ranges and steps established by CalHR. (Cal. Code Regs., tit. 2, § 599.666.) Several salary rules dictate how departments calculate and determine an employee's salary rate¹⁰ upon appointment depending on the appointment type, the employee's state employment and pay history, and tenure.

Typically, agencies appoint employees to the minimum rate of the salary range for the class. Special provisions for appointments above the minimum exist to meet special recruitment needs and to accommodate employees who transfer into a class from another civil service class and are already receiving salaries above the minimum.

During the period under review, April 1, 2021, through September 30, 2021, the DHCS made 408 appointments. The CRU reviewed 40 of those appointments to determine if the DHCS applied salary regulations accurately and correctly processed employees' compensation, which are listed below:

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Accountant Trainee	Certification List	Permanent	Full Time	\$3,793
Accounting Administrator I (Specialist)	Certification List	Permanent	Full Time	\$7,082
Accounting Administrator I (Supervisor)p	Certification List	Permanent	Full Time	\$7,245
Accounting Officer (Specialist)	Certification List	Permanent	Full Time	\$4,182
AGPA	Certification List	Permanent	Full Time	\$5,173
AGPA	Certification List	Permanent	Full Time	\$5,149
Attorney III	Certification List	Permanent	Full Time	\$10,800
Auditor I	Certification List	Permanent	Full Time	\$3,635
Consulting Psychologist	Certification List	Permanent	Full Time	\$11,220

¹⁰ "Rate" is any one of the salary rates in the resolution by CalHR which establishes the salary ranges and steps of the Pay Plan (Cal. Code Regs., tit. 2, section 599.666).

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Health Program Audit Manager I	Certification List	Permanent	Full Time	\$8,197
Health Program Auditor III	Certification List	Permanent	Full Time	\$5,813
Health Program Specialist I	Certification List	Permanent	Full Time	\$5,676
Information Technology Associate	Certification List	Permanent	Full Time	\$4,632
Information Technology Supervisor II	Certification List	Permanent	Full Time	\$7,263
Investigator	Certification List	Permanent	Full Time	\$6,572
Legal Secretary	Certification List	Permanent	Full Time	\$3,555
Medical Consultant I	Certification List	Permanent	Full Time	\$14,277
Nurse Consultant I	Certification List	Permanent	Full Time	\$7,466
Nurse Consultant III (Specialist)	Certification List	Permanent	Full Time	\$7,143
Nurse Evaluator II	Certification List	Permanent	Full Time	\$7,936
Office Technician (General)	Certification List	Permanent	Full Time	\$3087
Personnel Specialist	Certification List	Permanent	Full Time	\$4,196
Pharmaceutical Consultant II (Specialist)	Certification List	Permanent	Full Time	\$9,468
Program Technician II	Certification List	Limited Term	Full Time	\$3,841
Research Data Analyst I	Certification List	Permanent	Full Time	\$5,406
Research Scientist I (Epidemiology/Bio-statistics)	Certification List	Permanent	Full Time	\$6,236
Senior Accounting Officer (Supervisor)	Certification List	Permanent	Full Time	\$6,091
SSA (General)	Certification List	Permanent	Full Time	\$3298
Staff Services Manager I	Certification List	Permanent	Full Time	\$7,110
Supervising Fraud Investigator I	Certification List	Permanent	Full Time	\$7,769
Associate Administrative Analyst	Reinstatement	Permanent	Full Time	\$7,059
Attorney III	Reinstatement	Permanent	Full Time	\$12,128

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Auditor I	Reinstatement	Permanent	Full Time	\$4,957
Information Technology Specialist I	Reinstatement	Permanent	Full Time	\$8,999
AGPA	Transfer	Permanent	Full Time	\$5,406
Health Program Specialist I	Transfer	Permanent	Full Time	\$7,080
Investigator	Transfer	Permanent	Full Time	\$8,649
Nurse Evaluator II	Transfer	Permanent	Full Time	\$7,936
Office Assistant (General)	Transfer	Permanent	Full Time	\$3,577
Staff Services Manager I	Transfer	Permanent	Full Time	\$7,608

SEVERITY: VERY SERIOUS	FINDING NO. 10	INCORRECT APPLICATIONS OF SALARY DETERMINATION LAWS, RULES, AND CALHR POLICIES AND GUIDELINES FOR APPOINTMENT
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Summary: The CRU found one error in the DHCS’s determination of employee compensation:

Classification	Description of Finding(s)	Criteria
Auditor I	Incorrect salary determination. Employee was not entitled to higher salary when moving to a lower classification; resulting in the employee being overpaid.	Cal. Code Regs., tit. 2, § 599.675

Criteria: Departments are required to calculate and apply salary rules for each appointed employee accurately based on the pay plan for the state civil service. All civil service classes have salary ranges with minimum and maximum rates. (Cal. Code Regs., tit. 2, § 599.666.)

Severity: Very Serious. In one circumstance, the DHCS failed to comply with the requirements outlined in the state civil service pay plan. Incorrectly applying compensation laws and rules in accordance with the CalHR’s policies and guidelines results in civil service employees receiving incorrect and/or inappropriate pay amounts.

Cause: Newly hired and inexperienced staff and a lack of supervisory review during the salary determination process.

Corrective Action: The DHCS' Transactions Unit has corrected this error and all salary determinations are reviewed by a Transactions Manager prior to final approval. However, within 90 days of the date of this report, the DHCS must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure that employees are compensated correctly moving forward. The DHCS must establish an audit system to correct current compensation transactions as well as future transactions. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Alternate Range Movement Salary Determination (within same classification)

If an employee qualifies under established criteria and moves from one alternate range to another alternate range of a class, the employee shall receive an increase or a decrease equivalent to the total of the range differential between the maximum salary rates of the alternate ranges. (Cal. Code Regs., tit. 2, § 599.681.) However, in many instances, the CalHR provides salary rules departments must use when employees move between alternate ranges. These rules are described in the alternate range criteria. (CalHR Pay Scales). When no salary rule or method is cited in the alternate range criteria, departments must default to Rule 599.681.

During the period under review, April 1, 2021, through September 30, 2021, the DHCS employees made 36 alternate range movements within a classification. The CRU reviewed 18 of those alternate range movements to determine if the DHCS applied salary regulations accurately and correctly processed each employee's compensation, which are listed below:

Classification	Prior Range	Current Range	Time Base	Salary (Monthly Rate)	No. of Employees
Attorney	C	D	Full Time	\$8,477	1
Consulting Psychologist	A	U	Full Time	\$10,166	1
Medical Consultant I	A	C	Full Time	\$12,120	1
Medical Consultant II	A	T	Full Time	\$15,761	1

Classification	Prior Range	Current Range	Time Base	Salary (Monthly Rate)	No. of Employees
Personnel Specialist	C	D	Full Time	\$4,515	1
Personnel Specialist	B	C	Full Time	\$4,277	1
Personnel Specialist	A	B	Full Time	\$3,939	1
Research Data Analyst I	A	C	Full Time	\$4,701	1
SSA (General)	A	C	Full Time	\$4,281	5
SSA (General)	B	C	Full Time	\$4,476	2
SSA (General)	B	C	Full Time	\$4,281	2
SSA (General)	A	C	Full Time	\$4,476	1

SEVERITY: VERY SERIOUS	FINDING NO. 11	ALTERNATE RANGE MOVEMENTS DID NOT COMPLY WITH CIVIL SERVICE LAWS, RULES, AND CALHR POLICIES AND GUIDELINES
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Summary: The CRU found one error in the DHCS's determination of employee compensation:

Classification	Description of Finding(s)	Criteria
Attorney	Incorrect salary determination resulting in the employee being underpaid.	Cal. Code Regs., tit. 2, § 599.676

Criteria: Alternate ranges are designed to recognize increased competence in the performance of class duties based upon experience obtained while in the class. The employee gains status in the alternate range as though each range were a separate classification. (Classification and Pay Guide Section 220.)

Departments are required to calculate and apply salary rules for each appointed employee accurately based on the pay plan for the state civil service. All civil service classes have salary ranges with minimum and maximum rates. (Cal. Code Regs., tit. 2, § 599.666.)

Severity: Very Serious. In one circumstance, the DHCS failed to comply with the requirements outlined in the state civil service pay plan. Incorrectly applying compensation laws and rules not in accordance with the CalHR's policies and guidelines results in civil service employees receiving incorrect and/or inappropriate pay amounts.

Cause: Newly hired and inexperienced staff and a lack of supervisory review during the salary determination process.

Corrective Action: The DHCS' Transactions Unit has corrected the errors which includes updating the employee's pay history. However, within 90 days of the date of this report, the DHCS must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure that employees are compensated correctly. The DHCS must establish an audit system to correct current compensation transactions as well as future transactions. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Hiring Above Minimum Requests

The CalHR may authorize payment at any step above the minimum limit to classes or positions to meet recruiting problems, or to obtain a person who has extraordinary qualifications. (Gov. Code, § 19836.) For all employees new to state service, departments are delegated to approve HAMs for extraordinary qualifications. (Human Resources Manual Section 1707.) Appointing authorities may request HAMs for current state employees with extraordinary qualifications. (*Ibid.*) Delegated HAM authority does not apply to current state employees. (*Ibid.*)

Extraordinary qualifications may provide expertise in a particular area of a department's program. (*Ibid.*) This expertise should be well beyond the minimum qualifications of the class. (*Ibid.*) Unique talent, ability or skill as demonstrated by previous job experience may also constitute extraordinary qualifications. (*Ibid.*) The scope and depth of such experience should be more significant than its length. (*Ibid.*) The degree to which a candidate exceeds minimum qualifications should be a guiding factor, rather than a determining one. (*Ibid.*) The qualifications and hiring rates of state employees already in the same class should be carefully considered, since questions of salary equity may arise if new higher entry rates differ from previous ones. (*Ibid.*) Recruitment difficulty is a factor to the extent that a specific extraordinary skill should be difficult to recruit, even though some applicants are qualified in the general skills of the class. (*Ibid.*)

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Government Code section 3517.5, the memorandum

of understanding shall be controlling without further legislative action.¹¹ (Gov. Code, § 19836, subd. (b).)

Appointing authorities may request and approve HAMs for former legislative employees who are appointed to a civil service class and received eligibility for appointment pursuant to Government Code section 18990. (Human Resources Manual Section 1707.) The salary received upon appointment to civil service shall be in accordance with the salary rules specified in the California Code of Regulations. (*Ibid.*) A salary determination is completed comparing the maximum salary rate of the former legislative class and the maximum salary rate of the civil service class to determine applicable salary and anniversary regulation. (*Ibid.*) Typically, the legislative employees are compensated at a higher rate of pay; therefore, they will be allowed to retain the rate they last received, not to exceed the maximum of the civil service class. (*Ibid.*)

Appointing authorities may request/approve HAMs for former exempt employees appointed to a civil service class. (Human Resources Manual Section 1707.) The salary received upon appointment to civil service shall be competitive with the employee’s salary in the exempt appointment. (*Ibid.*) For example, an employee appointed to a civil service class which is preceded by an exempt appointment may be appointed at a salary rate comparable to the exempt appointment up to the maximum of the salary range for the civil service class. (*Ibid.*)

During the period under review, April 1, 2021, through September 30, 2021, the DHCS authorized 50 HAM requests. The CRU reviewed five of those authorized HAM requests to determine if the DHCS appropriately verified, approved and documented candidates’ extraordinary qualifications and subsequent salaries, which are listed below:

Classification	Appointment Type	Status	Salary Range	Salary (Monthly Rate)
Information Technology Manager I	Certification List	New to the State	\$8,016 – \$10,742	\$10,742
Information Technology Manager I	Certification List		\$8,016 – \$10,742	\$10,400
Medical Consultant I	Certification List		\$10,408 – \$14,277	\$14,277
Nurse Evaluator II	Certification List		\$6,043 – \$7,936	\$7,295

¹¹ Except that if the provisions of the memorandum of understanding requires the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

Classification	Appointment Type	Status	Salary Range	Salary (Monthly Rate)
Pharmaceutical Consultant I	Certification List		\$5,963 – \$8,607	\$8,607

IN COMPLIANCE	FINDING NO. 12	HIRE ABOVE MINIMUM REQUESTS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The CRU found that the HAM requests the DHCS made during the compliance review period, satisfied civil service laws, Board rules and CalHR policies and guidelines.

Red Circle Rates

A red circle rate is a rate of pay authorized for an individual above the maximum salary for his or her class. (Gov. Code, § 19837.) Departments may authorize a red circle rate in the following circumstances: management-initiated change¹², lessening of abilities¹³, downward reclassification,¹⁴ split-off,¹⁵ allocation standard changes,¹⁶ or changes in salary setting methods.¹⁷ (*Ibid.*)

If a salary reduction is the result of split-off, changes in allocation standards, changes in salary setting methods, or a downward reclassification initiated by SPB or CalHR staff determination, the affected employee may receive a red circle rate regardless of the employee's state service total. The employee may retain it until the maximum salary of his or her class equals or exceeds the red circle rate. (Classification and Pay Guide Section 260.)

If an employee is moved to a position in a lower class because of management-initiated changes, he or she may receive a red circle rate provided he or she has a minimum of

¹² Any major change in the type of classes, organizational structure, and/or staffing levels in a program.

¹³ Refers to an employee who, after many years of satisfactory service, no longer possess the ability to perform the duties and responsibilities of his/her position.

¹⁴ Downward reclassification is when, as a result of SPB action or a CalHR (or its predecessor, the Department of Personnel Administration) staff determination, an incumbent's position is moved to a lower class without the duties being changed.

¹⁵ Split off is when one class is split into two or more classes, one of which is at a lower salary level than the original class.

¹⁶ Allocation standards for two or more classes may change to the degree that a position originally allocated to one class may be reallocated to a class with a lower salary without a change in duties.

¹⁷ Revised valuation standards applied in setting the salary for a class may result in reducing the salary of a class.

ten years' state service¹⁸ and has performed the duties of the higher class satisfactorily¹⁹. The length of the red circle rate resulting from a management-initiated change is based on the affected employee's length of state service. The red circle rate ends when the maximum salary of the class equals or exceeds the red circle rate or at the expiration of eligibility. (*Ibid.*)

An employee whose position is blanketed into the state civil service from another public jurisdiction may receive a red circle rate regardless of the length of service in the other jurisdiction. (Cal. Code Regs., tit. 2, § 275.) The employee may retain the red circle rate until the maximum salary of the class to which the employee's position is allocated equals or exceeds the red circle rate.

Additionally, a red circle rate may be authorized for a former CEA appointee who is reinstating to a civil service classification, a CEA with no prior civil service in a promotional exam and is being appointed from a list without a break in service, or a CEA appointee who is being reduced to a lower CEA salary rate (Classification and Pay Guide Section 440). An employee who has ten years of service, one year of which is under a CEA, shall receive a red circle rate unless the termination was voluntary or based on unsatisfactory performance. (Cal. Code of Regs., tit. 2, § 599.993.) If the termination was voluntary and performance was satisfactory, a red circle rate is permissive. (*Ibid.*) This rate is based on the CEA salary rate received at the time of the termination. Government Code section 13332.05 limits the funding of the red circle rate to no more than 90 calendar days following termination of a CEA appointment.

As of April 1, 2005, departments have delegated authority to approve red circle rates for general civil service employees and CEA positions for up to 90 days. Current Bargaining Unit agreements also provide guidelines and rules on red circle rates that may supersede applicable laws, codes, rules and/or CalHR policies and guidelines.

During the period under review, April 1, 2021, through September 30, 2021, the DHCS authorized two red circle requests. The CRU reviewed both of those red circle requests, listed below, to determine if the DHCS correctly verified, approved and documented the red circle authorization process:

¹⁸ As calculated by the State Service and Seniority Unit at CalHR. An employee with nine years' state service qualifies if the employee had been laid off or had been on a leave of absence for one or more years to reduce the effect of a layoff (CCR § 599.608).

¹⁹ The latter requirement is normally satisfied by the successful completion of a probationary period, unless there is compelling evidence to suggest otherwise.

Classification	Prior Classification	Red Circle Rate	Reason for Red Circle Rate
Accounting Administrator III	CEA	\$568	Management-initiated change
Information Technology Manager I	CEA	\$1,124	Management-initiated change

IN COMPLIANCE	FINDING NO. 13	RED CIRCLE RATE AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The CRU found that the red circle rate requests the DHCS authorized during the compliance review period, satisfied civil service laws, Board rules and CalHR policies and guidelines.

Bilingual Pay

A certified bilingual position is a position where the incumbent uses bilingual skills on a continuous basis and averages 10 percent or more of the total time worked. According to the Pay Differential 14, the 10 percent time standard is calculated based on the time spent conversing, interpreting, or transcribing in a second language and time spent on closely related activities performed directly in conjunction with the specific bilingual transactions.

Typically, the department must review the position duty statement to confirm the percentage of time performing bilingual skills and verify the monthly pay differential is granted to a certified bilingual employee in a designated bilingual position. The position, not the employee, receives the bilingual designation and the department must verify that the incumbent successfully participated in an Oral Fluency Examination prior to issuing the additional pay.

During the period under review, April 1, 2021, through September 30, 2021, the DHCS issued bilingual pay to 175 employees. The CRU reviewed 26 of these bilingual pay authorizations to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

Classification	Bargaining Unit	Time Base	No. of Appts.
AGPA	R01	Full Time	5
Health Program Auditor II	R01	Full Time	1
Health Program Auditor III	R01	Full Time	2
Health Program Auditor IV	R01	Full Time	1

Classification	Bargaining Unit	Time Base	No. of Appts.
Health Program Specialist I	R01	Full Time	1
Health Program Specialist II	R01	Full Time	1
Investigator	R07	Full Time	2
Management Services Technician	R01	Full Time	1
Office Technician (General)	R04	Full Time	1
SSA (General)	R01	Full Time	6
Staff Services Manager I	S01	Full Time	1

IN COMPLIANCE	FINDING NO. 14	BILINGUAL PAY AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The CRU found that the bilingual pay authorized to employees during the compliance review period, satisfied civil service laws, Board rules and CalHR policies and guidelines.

Pay Differentials

A pay differential is special additional pay recognizing unusual competencies, circumstances, or working conditions applying to some or all incumbents in select classes. A pay differential may be appropriate in those instances when a subgroup of positions within the overall job class might have unusual circumstances, competencies, or working conditions that distinguish these positions from other positions in the same class. Typically, pay differentials are based on qualifying pay criteria such as: work locations or shift assignments; professional or educational certification; temporary responsibilities; special licenses, skills or training; performance-based pay; incentive-based pay; or, recruitment and retention. (Classification and Pay Manual Section 230.)

California State Civil Service Pay Scales Section 14 describes the qualifying pay criteria for the majority of pay differentials. However, some of the alternate range criteria in the pay scales function as pay differentials. Generally, departments issuing pay differentials should, in order to justify the additional pay, document the following: the effective date of the pay differential, the collective bargaining unit identifier, the classification applicable to the salary rate and conditions along with the specific criteria, and any relevant documentation to verify the employee meets the criteria.

During the period under review, April 1, 2021, through September 30, 2021, the DHCS authorized 330 pay differentials.²⁰ The CRU reviewed 40 of these pay differentials to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

Classification	No. of Positions	Pay Differential	Monthly Amount
Administrative Law Judge II (Specialist)	2	84	5%
Administrative Law Judge III	2	84	5%
Auditor I	1	441	\$250
CEA	1	71	8%
Examiner II Laboratory Field Services	1	434	2%
Financial and Performance Evaluator II	1	352	10%
Health Program Audit Manager I	1	441	\$250
Health Program Audit Manager II	1	441	\$250
Health Program Audit Manager III	1	441	\$250
Investigator	1	245	6%
Investigator	1	73	2%
Investigator	2	245	9%
Investigator	2	244	\$125
Investigator	1	244	\$100
Management Services Technician	1	441	\$250
Pharmaceutical Consultant I	5	269	\$1,500
Pharmaceutical Consultant II (Specialist)	2	269	\$2,000
Research Data Specialist I	2	412	10%
Research Scientist II (Epidemiology/Biostatistics)	1	434	2%
Research Scientist III (Epidemiology/Biostatistics)	1	434	4%
Research Scientist III (Social/Behavioral Scientist)	1	434	2%
Research Scientist Supervisor I (Epidemiology/Biostatistics)	1	434	3%
Research Scientist Supervisor II (Epidemiology/Biostatistics)	1	434	2%
Staff Services Manager II (Supervisory)	1	412	5%
Staff Services Manager II (Supervisory)	1	412	10%

²⁰ For the purposes of CRU's review, only monthly pay differentials were selected for review at this time.

Classification	No. of Positions	Pay Differential	Monthly Amount
Supervising Fraud Investigator I	1	245	6%
Supervising Fraud Investigator I	1	244	\$100
Supervising Fraud Investigator I	1	244	\$50
Supervising Fraud Investigator I	1	244	\$125
Supervising Fraud Investigator II	1	245	4%

IN COMPLIANCE	FINDING NO. 15	PAY DIFFERENTIAL AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The CRU found no deficiencies in the pay differentials that the DHCS authorized during the compliance review period. Pay differentials were issued correctly in recognition of unusual competencies, circumstances, or working conditions in accordance with applicable rules and guidelines.

Out-of-Class Assignments and Pay

For excluded²¹ and most rank and file employees, out-of-class (OOC) work is defined as performing, more than 50 percent of the time, the full range of duties and responsibilities allocated to an existing class and not allocated to the class in which the person has a current, legal appointment. (Cal. Code Regs., tit. 2, § 599.810, subd. (a)(2).) A higher classification is one with a salary range maximum that is any amount higher than the salary range maximum of the classification to which the employee is appointed. (Cal. Code Regs., tit. 2, § 599.810, subd. (a)(3).)

According to the Classification and Pay Guide, OOC assignments should only be used as a last resort to accommodate temporary staffing needs. All civil service alternatives should be explored first before using OOC assignments. However, certain MOU provisions and the California Code of Regulations, title 2, section 599.810 allow for short-term OOC assignments to meet temporary staffing needs. Should OOC work become necessary, the assignment would be made pursuant to the applicable MOU provisions or salary regulations. Before assigning the OOC work, the department should have a plan to correct the situation before the time period outlined in applicable law, policy or MOU expires. (Classification and Pay Guide Section 375.)

²¹ "Excluded employee" means an employee as defined in Government Code section 3527, subdivision (b) (Ralph C. Dills Act) except those excluded employees who are designated managerial pursuant to Government Code section 18801.1.

During the period under review, April 1, 2021, through September 30, 2021, the DHCS issued OOC pay to 16 employees. The CRU reviewed 11 of these OOC assignments to ensure compliance with applicable MOU provisions, salary regulations, and CalHR policies and guidelines. These are listed below:

Classification	Bargaining Unit	Out-of-Class Classification	Time Frame
AGPA	R01	Staff Services Manager I	3/29/21 – 7/30/21
Health Program Audit Manager I	S01	Health Program Auditor Manager I	3/30/21 – 4/30/21
Health Program Auditor IV	R01	Health Program Auditor Manager I	12/17/20 – 4/14/21
Investigator	R07	Supervising Fraud Investigator I	1/4/21 – 4/2/21
Investigator	R07	Supervising Fraud Investigator I	1/1/21 – 4/30/21
Nurse Evaluator III	S17	Nurse Evaluator IV	3/2/21 – 4/30/21
Nurse Evaluator III	S17	Nurse Evaluator IV	5/3/21 – 6/30/21
Staff Services Manager II (Supervisory)	S01	Staff Services Manager III	5/13/21 – 7/30/21
Staff Services Manager II (Supervisory)	S01	Staff Services Manager III	2/24/21 – 6/30/21
Staff Services Manager III	M01	CEA	4/9/20 – 4/8/21
Staff Services Manager III	M01p	CEA	6/30/21 – 7/7/21

SEVERITY: VERY SERIOUS	FINDING NO. 16	INCORRECT AUTHORIZATION OF OUT-OF-CLASS PAY
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Summary: The CRU 12 errors in the DHCS’s authorization of OOC pay:

Classification	Out-of-Class Classification	Description of Finding(s)	Criteria
AGPA	Staff Services Manager I	OOO pay was calculated using plus salary rather than base pay, resulting in underpayment.	Pay Differential 91
AGPA	Staff Services Manager I	OOO pay was not calculated with the Personal Leave Program (PLP) 2020 reduction, which resulted in overpayment.	Human Resources Manual Section 2113

Classification	Out-of-Class Classification	Description of Finding(s)	Criteria
Health Program Audit Manager I	Health Program Audit Manager II	OOC pay was not calculated with the PLP 2020 reduction, which resulted in overpayment.	Human Resources Manual Section 2113
Health Program Auditor IV	Health Program Auditor Manager I	OOC pay was not calculated with the PLP 2020 reduction, which resulted in overpayment.	Human Resources Manual Section 2113
Investigator	Supervising Fraud Investigator I	OOC pay was not calculated with the PLP 2020 reduction, which resulted in overpayment.	Human Resources Manual Section 2113
Investigator	Supervising Fraud Investigator I	OOC pay was not calculated with the PLP 2020 reduction, which resulted in overpayment.	Human Resources Manual Section 2113
Nurse Evaluator III	Nurse Evaluator IV	OOC pay was not calculated with the PLP 2020 reduction, which resulted in overpayment.	Human Resources Manual Section 2113
Nurse Evaluator III	Nurse Evaluator IV	OOC pay was not calculated with the PLP 2020 reduction, which resulted in overpayment.	Human Resources Manual Section 2113
Staff Services Manager II (Supervisory)	Staff Services Manager III	OOC pay was not calculated with the PLP 2020 reduction, which resulted in overpayment.	Human Resources Manual Section 2113
Staff Services Manager II (Supervisory)	Staff Services Manager III	OOC pay was not calculated with the PLP 2020 reduction, which resulted in overpayment.	Human Resources Manual Section 2113
Staff Services Manager III	CEA	OOC pay was not calculated with the PLP 2020 reduction, which resulted in overpayment.	Human Resources Manual Section 2113
Staff Services Manager III	CEA	OOC pay was not calculated with the PLP 2020 reduction, which resulted in overpayment.	Human Resources Manual Section 2113

Criteria:

An employee may be temporarily required to perform out-of-class work by his/her department for up to one hundred twenty (120) calendar days in any twelve (12) consecutive calendar months when it determines that such an assignment is of unusual urgency, nature, volume, location, duration, or other special characteristics; and, cannot feasibly be met through use of other civil service or administrative alternatives. Departments may not use out-of-class assignments to avoid giving civil service examinations or to avoid

using existing eligibility lists created as the result of a civil service examination.

Severity: Very Serious. The DHCS failed to comply with the state civil service pay plan by incorrectly applying compensation laws and rules in accordance with the CalHR's policies and guidelines. This results in civil service employees receiving incorrect and/or inappropriate compensation.

Cause: The DHCS acknowledges errors resulting from OOC pay being calculated without accounting for the PLP 2020 deduction. The errors were the result of inexperienced staff and a misinterpretation of the pay differential instructions.

Corrective Action: The DHCS asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the DHCS must submit to the SPB documentation which demonstrates the actions it has taken to ensure conformity with California Code of Regulations, title 2, section 599.810 and Pay Differential 91 and Human Resources Manual Section 2113.

Leave

Positive Paid Employees

Actual Time Worked (ATW) is a method that can be used to keep track of a Temporary Authorization Utilization (TAU) employee's time to ensure that the Constitutional limit of 9 months in any 12 consecutive months is not exceeded. The ATW method of counting time is used in order to continue the employment status for an employee until the completion of an examination, for seasonal type work, while attending school, or for consulting services.

An employee is appointed TAU-ATW when he/she is not expected to work all of the working days of a month. When counting 189 days, every day worked, including partial days²² worked and paid absences²³, are counted. (Cal. Code Regs., tit. 2, § 265.1, subd. (b).) The hours worked in one day is not limited by this rule. (*Ibid.*) The 12-consecutive

²² For example, two hours or ten hours count as one day.

²³ For example, vacation, sick leave, compensating time off, etc.

month timeframe begins by counting the first pay period worked as the first month of the 12-consecutive month timeframe. (*Ibid.*) The employee shall serve no longer than 189 days in a 12 consecutive month period. (*Ibid.*) A new 189-days working limit in a 12-consecutive month timeframe may begin in the month immediately following the month that marks the end of the previous 12-consecutive month timeframe. (*Ibid.*)

It is an ATW appointment because the employee does not work each workday of the month, and it might become desirable or necessary for the employee to work beyond nine calendar months. The appointing power shall monitor and control the days worked to ensure the limitations set forth are not exceeded. (Cal. Code Regs., tit. 2, § 265.1, subd. (f).)

For student assistants, graduate student assistants, youth aides, and seasonal classifications a maximum work-time limit of 1500 hours within 12 consecutive months may be used rather than the 189-day calculation. (Cal. Code Regs., tit. 2, § 265.1, subd. (d).)

Generally, permanent intermittent employees may work up to 1500 hours in any calendar year. (Applicable Bargaining Unit Agreements.) However, Bargaining Unit 6 employees may work up to 2000 hours in any calendar year.

Additionally, according to Government Code section 21224, retired annuitant appointments shall not exceed a maximum of 960 hours in any fiscal year (July-June), regardless of the number of state employers, without reinstatement, loss or interruption of benefits.

At the time of the review, the DHCS had 74 positive paid employees whose hours were tracked. The CRU reviewed 25 of those positive paid appointments to ensure compliance with applicable laws, regulations, policies and guidelines, which are listed below:

Classification	Tenure	Time Frame	Hours Worked
Information Technology Associate	Permanent	7/1/20 – 6/30/21	1,266
Information Technology Technician	Permanent	7/1/20 – 6/30/21	915
Student Assistant	Temporary	7/1/20 – 6/30/21	1,063
Student Assistant	Temporary	7/1/20 – 6/30/21	1,833
Seasonal Clerk	Temporary	4/1/20 – 3/31/21	765
Seasonal Clerk	Temporary	10/31/19 – 10/31/20	1,000
Student Assistant	Temporary	3/2/20 – 3/1/21	1,152

Classification	Tenure	Time Frame	Hours Worked
Seasonal Clerk	Temporary	10/1/19 – 9/30/20	1,074
Student Assistant	Temporary	9/1/20 – 8/31/21	1,052
Youth Aid	Temporary	7/1/20 – 6/30/21	496
Youth Aid	Temporary	7/1/20 – 6/30/21	150
Accounting Administrative I Specialist	Retired Annuitant	7/1/20 – 6/30/21	434.75
Accounting Officer (Specialist)	Retired Annuitant	7/1/20 – 6/30/21	68
CEA	Retired Annuitant	7/1/20 – 6/30/21	344
Health Program Auditor IV	Retired Annuitant	7/1/20 – 6/30/21	229.25
Health Program Specialist II	Retired Annuitant	7/1/20 – 6/30/21	497
Information Technology Specialist I	Retired Annuitant	7/1/20 – 6/30/21	649.50
Information Technology Specialist II	Retired Annuitant	7/1/20 – 6/30/21	808
Information Technology Specialist II	Retired Annuitant	7/1/20 – 6/30/21	788.75
Information Technology Specialist II	Retired Annuitant	7/1/20 – 6/30/21	516.25
Information Technology Specialist III	Retired Annuitant	7/1/20 – 6/30/21	709.75
Investigator	Retired Annuitant	7/1/20 – 6/30/21	275.50
Nurse Evaluator II	Retired Annuitant	7/1/20 – 6/30/21	44
Nurse Consultant III (Specialist)	Retired Annuitant	7/1/20 – 6/30/21	501.50
Research Data Specialist II	Retired Annuitant	7/1/20 – 6/30/21	388

SEVERITY: SERIOUS	FINDING NO. 17	POSITIVE PAID TEMPORARY EMPLOYEES' WORK EXCEEDED TIME LIMITATIONS
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Summary:

The DHCS did not consistently monitor the actual number of days and/or hours worked to ensure that positive paid employee(s) did not exceed the 1,500-hour limitation in any 12-consecutive month period. Specifically, one employee exceeded the 1,500-hour limitation:

Classification	Tenure	Time Frame	Time Worked	Time Worked Over Limit
Student Assistant	Temporary	7/1/20 – 6/30/21	1,833 hours	333 hours

Criteria: If any employee is appointed to an intermittent time base position on a TAU basis, there are two controlling time limitations that must be considered. The first controlling factor is the constitutional limit of nine months in any 12 consecutive months for temporary appointments that cannot be extended for any reason. (Cal Const., art. VII, § 5.) Time worked shall be counted on a daily basis with every 21 days worked counting as one month or 189 days equaling nine months. (Cal. Code Regs., tit. 2, § 265.1, subd. (b).) Another controlling factor limits the maximum work time for student, youth, and seasonal classifications to 1,500 hours. (Cal. Code Regs., tit. 2, § 265.1, subd. (d).)

Severity: Serious. The number of days or hours an individual may work in a temporary appointment is limited in the state civil service. TAU appointments are distinguished from other appointments as they can be made in the absence of an appropriate employment list.

Cause: The DHCS has a tracking system that generates reminders when staff are close to exceeding the maximum hours limitation for positive paid hours worked. However, the Human Resources Division did not follow-up with the program to ensure the employee did not exceed their maximum hours or complete a justification for additional hours.

Corrective Action: Within 90 days of the date of this report, the DHCS must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with Government Code section 21224, and California Code of Regulations, title 2, section 599.665, and/or applicable Bargaining Unit agreement(s). Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Administrative Time Off

ATO is a form of paid administrative leave status initiated by appointing authorities for a variety of reasons. (Human Resources Manual Section 2121.) Most often, ATO is used when an employee cannot come to work because of a pending investigation, fitness for duty evaluation, or when work facilities are unavailable. (*Ibid.*) ATO can also be granted when employees need time off for reasons such as blood or organ donation, extreme weather preventing safe travel to work, states of emergency, voting, and when employees need time off to attend special events. (*Ibid.*)

During the period under review, July 1, 2020, through June 30, 2021, the DHCS authorized 901 ATO transactions. The CRU reviewed 30 of these ATO transactions to ensure compliance with applicable laws, regulations, and CalHR policy and guidelines, which are listed below:

Classification	Time Frame	Hours of ATO
Associate Accounting Analyst	12/8/20 – 12/11/21	32
Associate Administrative Analyst	4/22/21 – 4/22/21	2
AGPA	5/13/2021 – 5/13/21	2
AGPA	5/3/2021 – 5/3/21	0.5
AGPA	4/7/21 – 4/8/21	5
AGPA	3/5/21 – 3/5/21	7
AGPA	4/12/21 – 4/12/21	2
AGPA	4/21/21 – 4/21/21	2
AGPA	4/13/21 – 4/13/21	1
AGPA	8/21/20 – 8/21/20	8
AGPA	4/20/21 – 4/20/21	2
Attorney III	4/28/2021 – 4/28/21	0.75
Graphic Designer III	5/26/2021 – 5/26/21	2
Health Program Audit Manager I	5/15/21 – 5/15/21	2
Health Program Auditor III	3/11/21 – 3/11/21	2
Health Program Auditor III	4/8/21 – 4/8/21	2
Health Program Auditor IV	4/21/21 – 4/21/21	2
Health Program Specialist I	6/7/21 – 6/7/21	8
Health Program Specialist	4/1/21 – 4/1/21	2
Legal Analyst	1/29/2021 – 1/29/21	2
Nurse Consultant I	1/20/2021 – 1/20/21	8
Nurse Evaluator II/Heath Services	4/14/21 – 4/14/21	2
Office Assistant (General)	1/7/21 – 1/21/21	48
Office Assistant (Typing)	1/7/21 – 1/21/21	48
Program Technician II	11/16/20 – 11/16/21	3.75
Research Data Analyst II	4/6/21 – 4/9/21	32
Research Data Analyst II	5/10/21 – 5/14/21	30

Classification	Time Frame	Hours of ATO
SSA (General)	4/22/2021 – 4/23/21	10
SSA (General)	5/11/2021 – 5/14/21	32
SSA (General)	8/19/20 – 8/20/21	11

IN COMPLIANCE	FINDING NO. 18	ADMINISTRATIVE TIME OFF AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRU found no deficiencies in the ATO transactions reviewed during the compliance review period. The DHCS provided the proper documentation justifying the use of ATO and adhered to applicable laws, regulations and CalHR policy and guidelines.

Leave Auditing and Timekeeping

Departments must keep complete and accurate time and attendance records for each employee and officer employed within the agency over which it has jurisdiction. (Cal. Code Regs., tit. 2, § 599.665.).

Departments are directed to create a monthly internal audit process to verify all leave input into any leave accounting system is keyed accurately and timely. (Human Resources Manual Section 2101.) Departments shall create an audit process to review and correct leave input errors on a monthly basis. The review of leave accounting records shall be completed by the pay period following the pay period in which the leave was keyed into the leave accounting system. (*Ibid.*) If an employee’s attendance record is determined to have errors or it is determined that the employee has insufficient balances for a leave type used, the attendance record must be amended. (*Ibid.*) Attendance records shall be corrected by the pay period following the pay period in which the error occurred. (*Ibid.*) Accurate and timely attendance reporting is required of all departments and is subject to audit. (*Ibid.*)

During the period under review, April 1, 2021, through June 30, 2021, the DHCS reported 149 units comprised of 3,606 active employees. The pay periods and timesheets reviewed by the CRU are summarized below:

Timesheet Leave Period	Unit Reviewed	Number of Employees	Number of Timesheets Reviewed	Number of Missing Timesheets
April 2021	351	83	82	1
April 2021	396	50	50	0

Timesheet Leave Period	Unit Reviewed	Number of Employees	Number of Timesheets Reviewed	Number of Missing Timesheets
April 2021	255	61	59	2
April 2021	217	29	29	0
April 2021	952	24	23	1

SEVERITY: SERIOUS	FINDING NO. 19	DEPARTMENT DID NOT RETAIN EMPLOYEE TIME AND ATTENDANCE RECORDS
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Summary: The DHCS did not retain 4 of 247 timesheets from the April 2021 pay period.

Criteria: Each appointing power shall keep complete and accurate time and attendance records for each employee and officer employed within the agency over which it has jurisdiction. (Cal. Code Regs., tit. 2, § 599.665.) Such records shall be kept in the form and manner prescribed by the Department of Finance in connection with its powers to devise, install and supervise a modern and complete accounting system for state agencies. (*Ibid.*)

Severity: Serious. The DHCS failed to retain employee time and attendance records for each employee. Therefore, the department was unable to reconcile timesheets against their leave accounting system at the conclusion of the pay period, which could have affected employee leave accruals and compensation.

Cause: The HRD did not follow-up with the program for missing timesheets and/or did not file the completed timesheets upon receipt.

Corrective Action: The DHCS is evaluating electronic timekeeping systems to automate internal processes, improve tracking and eliminate the need for paper filing of timesheets. However, within 90 days of the date of this report, the DHCS must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure all timesheets are accounted for and processed in conformity with California Code of Regulations, title 2, section 599.665. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

State Service

The state recognizes two different types of absences while an employee is on pay status; paid or unpaid. The unpaid absences can affect whether a pay period is considered to be a qualifying or non-qualifying pay period for state service and leave accruals.

Generally, an employee who has 11 or more working days of service in a monthly pay period shall be considered to have a complete month, a month of service, or continuous service.²⁴ (Cal. Code Regs., tit. 2, § 599.608.) Full time and fractional employees who work less than 11 working days in a pay period will have a non-qualifying month and will not receive state service or leave accruals for that month.

Hourly or daily rate employees working at a department in which the full-time workweek is 40 hours who earn the equivalent of 160 hours of service in a monthly pay period or accumulated pay periods shall be considered to have a complete month, a month of service, or continuous service. (Cal. Code Regs., tit. 2, § 599.609.)

For each qualifying monthly pay period, the employee shall be allowed credit for vacation with pay on the first day of the following monthly pay period. (Cal. Code Regs., tit. 2, § 599.608.) When computing months of total state service to determine a change in the monthly credit for vacation with pay, only qualifying monthly pay periods of service before and after breaks in service shall be counted. (Cal. Code Regs., tit. 2, § 599.739.) Portions of non-qualifying monthly pay periods of service shall not be counted nor accumulated. (*Ibid.*) On the first day following a qualifying monthly pay period, excluded employees²⁵ shall be allowed credit for annual leave with pay. (Cal. Code Regs., tit. 2, § 599.752.)

Permanent intermittent employees also earn leave credits on the pay period following the accumulated accrual of 160 hours worked. Hours worked in excess of 160 hours in a monthly pay period, are not counted or accumulated towards leave credits.

²⁴ Government Code sections 19143, 19849.9, 19856.1, 19858.1, 19859, 19861, 19863.1, and 19997.4 and California Code of Regulations, title 2, sections 599.609, 599.682, 599.683, 599.685, 599.687, 599.737, 599.738, 599.739, 599.740, 599.746, 599.747, 599.776.1, 599.787, 599.791, 599.840 and 599.843 provide further clarification for calculating state time.

²⁵ As identified in Government Code sections 19858.3, subdivisions (a), (b), or (c), or as it applies to employees excluded from the definition of state employee under Government Code section 3513, subdivision (c), or California Code of Regulations, title 2, section 599.752, subdivision (a), and appointees of the Governor as designated by the Department and not subject to section 599.752.1.

During the period under review, April 1, 2021, through September 30, 2021, the DHCS had 29 employees with qualifying and non-qualifying pay period transactions. The CRU reviewed 15 transactions to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which are listed below:

Type of Transaction	Time base	Number Reviewed
Non-Qualifying Pay Period	Full Time	1
Qualifying Pay Period	Full Time	14

IN COMPLIANCE	FINDING NO. 20	SERVICE AND LEAVE TRANSACTIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRU determined that the DHCS ensured employees with non-qualifying pay periods did not receive vacation/sick leave, annual leave, and/or state service accruals. The CRU found no deficiencies in this area.

Policy and Processes

Nepotism

It is the policy of the State of California to recruit, hire and assign all employees on the basis of merit and fitness in accordance with civil service statutes, rules and regulations. (Human Resources Manual Section 1204.) Nepotism is expressly prohibited in the state workplace because it is antithetical to California’s merit based civil service. (*Ibid.*) Nepotism is defined as the practice of an employee using his or her influence or power to aid or hinder another in the employment setting because of a personal relationship. (*Ibid.*) Personal relationships for this purpose include association by blood, adoption, marriage and/or cohabitation. (*Ibid.*) All department nepotism policies should emphasize that nepotism is antithetical to a merit-based personnel system and that the department is committed to the state policy of recruiting, hiring and assigning employees on the basis of merit. (*Ibid.*)

IN COMPLIANCE	FINDING NO. 21	NEPOTISM POLICY COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRU verified that the policy was disseminated to all staff and emphasized the DHCS’s commitment to the state policy of recruiting, hiring and assigning employees on the basis of merit. Additionally, the DHCS’s nepotism policy was comprised of specific

and sufficient components intended to prevent favoritism, or bias, based on a personal relationship from unduly influencing employment decisions.

Workers' Compensation

Employers shall provide to every new employee, either at the time of hire or by the end of the first pay period, written notice concerning the rights, benefits, and obligations under workers' compensation law. (Cal. Code Regs., tit. 8, § 9880, subd. (a).) This notice shall include the right to predesignate their personal physician or medical group; a form that the employee may use as an optional method for notifying the employer of the name of employee's "personal physician," as defined by Labor Code section 4600. (Cal. Code Regs., tit. 8, § 9880, subd. (c)(7) & (8).) Additionally, within one working day of receiving notice or knowledge that the employee has suffered a work-related injury or illness, employers shall provide a claim form and notice of potential eligibility for benefits to the injured employee. (Labor Code, § 5401, subd. (a).)

Public employers may choose to extend workers' compensation coverage to volunteers that perform services for the organization. (Human Resources Manual Section 1415.) Workers' compensation coverage is not mandatory for volunteers as it is for employees. (*Ibid.*) This is specific to the legally uninsured state departments participating in the Master Agreement. (*Ibid.*) Departments with an insurance policy for workers' compensation coverage should contact their State Compensation Insurance Fund (State Fund) office to discuss the status of volunteers. (*Ibid.*)

In this case, the DHCS did not employ volunteers during the compliance review period.

IN COMPLIANCE	FINDING NO. 22	WORKERS' COMPENSATION PROCESS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRU verified that the DHCS provides notice to their employees to inform them of their rights and responsibilities under California's Workers' Compensation Law. Furthermore, the CRU verified that when the DHCS received workers' compensation claims, they properly provided claim forms within one working day of notice or knowledge of injury.

Performance Appraisals

According to Government Code section 19992.2, subdivision (a), appointing powers must "prepare performance reports." Furthermore, California Code of Regulations, title 2,

section 599.798, directs supervisors to conduct written performance appraisals and discuss overall work performance with permanent employees at least once in each twelve calendar months after the completion of the employee’s probationary period.

The CRU selected 48 permanent DHCS employees to ensure that the department was conducting performance appraisals on an annual basis in accordance with applicable laws, regulations, policies and guidelines.

SEVERITY: SERIOUS	FINDING NO. 23	PERFORMANCE APPRAISALS WERE NOT PROVIDED TO ALL EMPLOYEES
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Summary: The DHCS did not provide annual performance appraisals to 45 of 48 employees reviewed after the completion of the employee’s probationary period. This is the second consecutive time this has been a finding.

Criteria: Appointing powers shall prepare performance reports and keep them on file as prescribed by department rule. (Gov. Code, § 19992.2, subd. (a).) Each supervisor, as designated by the appointing power, shall make an appraisal in writing and shall discuss with the employee overall work performance at least once in each twelve calendar months following the end of the employee’s probationary period. (Cal. Code Regs., tit. 2, § 599.798.)

Severity: Serious. The department does not ensure that all of its employees are apprised of work performance issues and/or goals in a systematic manner.

Cause: The DHCS currently does not have a tracking system to monitor compliance for performance appraisals and does not have an established policy or procedure. While efforts were made to establish a tracking system; they were limited by the DHCS’ response to the Covid-19 public health emergency and employee turnover.

Corrective Action: The HRD is increasing its resources to develop and implement a department-wide tracking system to monitor compliance with performance appraisals. However, within 90 days of the date of this report, the DHCS must submit to the SPB a written corrective action response which addresses the corrections the department has implemented or will implement to ensure conformity with

Government Code section 19992.2 and California Code of Regulations, title 2, section 599.798. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

DEPARTMENTAL RESPONSE

The DHCS' departmental response is attached as Attachment 1.

SPB REPLY

Based upon the DHCS' written response, the DHCS will comply with the corrective actions specified in these report findings. Within 90 days of the date of this report, a written corrective action response, including documentation demonstrating implementation of the corrective actions specified, must be submitted to the CRU.



MICHELLE BAASS
DIRECTOR

State of California—Health and Human Services Agency
Department of Health Care Services



GAVIN NEWSOM
GOVERNOR

September 6, 2022

Ms. Suzanne M. Ambrose
Executive Director
State Personnel Board
801 Capitol Mall
Sacramento, CA 95814

Subject: Department of Health Care Services' Response to State Personnel Board
Compliance Review Report

Dear Ms. Ambrose:

Pursuant to Government Code section 18661, the State Personnel Board (SPB/Board) Compliance Review Unit (CRU) conducted a compliance review of the Department of Health Care Services' (DHCS/Department) personnel practices to ensure compliance with civil service laws and regulations. On July 29, 2022, DHCS received CRU's draft Compliance Review Report. DHCS has reviewed the compliance review findings and appreciates SPB's collaboration and professionalism. The Department is committed to correcting the issues identified. Below are DHCS' responses to each of the findings identified in the SPB compliance review:

FINDING NO. 3 – Probationary Evaluations Were Not Provided for All Appointments Reviewed

Cause: DHCS currently does not have a tracking system to monitor compliance for the issuance of probationary reports. Although efforts were made to establish this tracking system, efforts were limited by the Department's response to the COVID-19 public health emergency and employee turnover.

Corrective Action: The Department recognizes the importance of probationary reports for both the employee and the organization. The Human Resources Division (HRD) is increasing its resources to develop and implement a department-wide tracking system to monitor compliance with the requirement to issue probationary reports.

Implementation will include revising the process to advise supervisors of probationary report due dates, HRD tracking of all probationers and the issuance of probationary reports to them, and regular reporting of compliance rates to Executive Staff. In 2019, HRD updated departmental policy to include a section regarding the requirement to issue probationary reports, and will use this updated policy to reinforce the need for

compliance, through meetings and trainings for supervisors and managers throughout the Department. Further, the Director's Office will reemphasize the importance of completing probationary reports during "all manager and supervisor" meetings.

FINDING NO. 4 – Department Did Not Provide Benefit Information in Accordance with Civil Service Law

Cause: The Department did not have a standard final employment offer template that included all benefit information required by law.

Corrective Action: As of August 1, 2022, DHCS implemented, via Administration Memorandum DHCS 22-08, Formal Job Offer requirements to DHCS Supervisors, Managers, and Personnel Liaisons (PLs). This memorandum includes a formal job offer letter template with an Employee Benefits Summary and starting salary information.

FINDING NO. 5 – Appointment Documentation was not Kept for the Appropriate Amount of Time

Cause: The rapid transition to a virtual work environment in response to the COVID-19 public health emergency hindered the ability of staff to conduct regular processes, including obtaining wet signatures and filing of Official Personnel File (OPF) documentation. During this time, the Transactions Unit did not have one consistent process to collect signed NOPAs. Some NOPAs were returned electronically while others were returned via mail, and multiple formats made tracking (for retention) and filing difficult to manage.

Corrective Action: Processes are being updated and documented to reflect electronic collection of NOPAs and to communicate one consistent process to PLs. Having one consistent process will ensure NOPAs are collected, filed, and retained appropriately. Personnel Specialist (PS) checklists will be updated to include reminders that NOPAs are to be returned to the Transactions Unit.

FINDING NO. 8 – The DHCS Did Not Notify Unions Prior to Entering into Six of the Twelve Personal Service Contracts Reviewed

Cause: Prior to October 2020, DHCS Contracts were decentralized and programs were responsible for sending Union Notification notices and providing a copy to the Contracts team (CD) where they were stored in the contract file. In October 2020, DHCS centralized the contracting process for the Department and CD assumed responsibility for the Union Notification notices. However, during the transition period, the notices were interrupted.

Corrective Action: The Department recognizes the importance of notifying unions prior to entering into Personal Service Contracts. This finding was identified during the January 2022 Purchasing Authority Audit and was rectified at that time by submitting notifications to the applicable Unions. CD procedures were updated to require that CD Managers verify all required documents are present during final review. Contracts are not executed/solicitations are not released until CD notifies all organizations that represent state employees who perform the type of work to be contracted per Government Code section 19132(b)(1). To ensure compliance with this requirement, CD implemented a detailed Contract Checklist requiring verification of Union Notification for all Personal Services contracts, including amendments, regardless of procurement method.

FINDING No. 9 – Sexual Harassment Prevention Training Was Not Provided for All Supervisors

Cause: Employee turnover delayed implementation of the new online training platform, as well as development and implementation of new tracking processes and procedures designed to ensure compliance.

In May 2019 the Office of Civil Rights (OCR) was tasked with developing and implementing new compliance processes and procedures to ensure all employees complied with State and Federal regulations pertaining to Sexual Harassment Prevention Training. Shortly thereafter, OCR transitioned EEO Officers, which resulted in the delay of the proposed compliance processes and procedures. Additionally, online training was not available at DHCS, and employees had to register for an in-person training or webinar that was provided once per month. These factors resulted in the non-compliance and delinquent employees for Sexual Harassment Prevention Training listed within this report.

Corrective Action: The Department recognizes the importance of ensuring supervisors are trained in sexual harassment prevention. DHCS implemented new Sexual Harassment processes and procedures, including an on-demand online Sexual Harassment Prevention Training platform. The online training was released to all employees effective November 1, 2021. The flexibility for employees to complete the training improved overall program compliance. All non-compliant employees will be notified they are required to complete training by October 1, 2022. Employees who fail to complete the training by October 1, 2022, will be provided a reminder and the opportunity to complete training by November 1, 2022. Employees who do not complete training by November 1, 2022, will be subject to administrative action. Further, the DHCS Director's Office will reemphasize the importance of completing required training during "all manager and supervisor" meetings.

FINDING NO. 10 – Incorrect Applications of Salary Determination Laws, Rules, and CalHR Policies and Guidelines for Appointment

Cause: The error was the result of newly hired and inexperienced staff and a lack of supervisory review during the salary determination approval process.

Corrective Action: The Department recognizes the importance of compliance with salary determination laws, rules, and CalHR policies and guidelines to ensure accurate appointments. The DHCS Transactions Unit corrected the error including updating the State Controller's Office (SCO) Personnel Information Management System (PIMS) history to reflect correct salary rates and transactions. Payroll senior staff will provide updated training on "Salary Determination" procedures and management will ensure that applicable procedures are up-to-date and include checklists to use as review tools. Management will ensure PS's and Personnel Supervisor I's (PS I's) complete the State Controller's Office (SCO) Introduction to Salary Determination and Advanced Salary Determination courses. In addition, all salary determinations are now reviewed by a Transactions Manager prior to final approval.

FINDING NO. 11 – Alternate Range Movements Did Not Comply with Civil Service Laws, Rules, and CalHR Policies and Procedures

Cause: The error was the result of newly hired and inexperienced staff and a lack of supervisory review during the salary determination approval process.

Corrective Action: The Department recognizes the importance of utilizing correct civil service laws, rules, and CalHR policies and guidelines to determine pay after movement to an alternate range. The Transactions Unit corrected the errors including updating the SCO PIMS history to reflect correct salary rates and transactions. Payroll senior staff will provide updated training on "Alternate Range Change" procedures and management will ensure that applicable procedures are up-to-date and include checklists to use as review tools. Management will ensure all PS's and PS I's complete the SCO's Introduction to Salary Determination and Advanced Salary Determination courses. In addition, all salary determinations are now reviewed by a Transactions Manager prior to final approval.

FINDING NO. 16 – Incorrect Authorization of Out-of-Class Pay

Cause: The Department acknowledges errors resulting from out-of-class (OOC) pay being calculated without taking into account the PLP2020 reduction. The errors were the result of inexperienced staff and a misinterpretation of the pay differential instructions.

Corrective Action: The Department recognizes the importance of processing OOC pay correctly. The Payroll staff will be provided training for “Out-of-Class Payment Procedures” and management will ensure that applicable procedures are in place and up-to-date. The Transactions Unit recruited a Staff Services Manager I (Specialist) to evaluate and provide consistent training for all payroll staff, including supervisors. The payroll management staff will develop a communication plan for ensuring staff understand new communication on pay differentials released from control agencies.

FINDING NO. 17 – Positive Paid Temporary Employees’ Work Exceeded Time Limitations

Cause: Although DHCS has a tracking system that generates reminders for program staff when an employee is close to their hours limitation, HRD did not follow-up with the program to ensure the employee did not exceed the maximum hours or to complete a justification for additional hours.

Corrective Action: The Department recognizes the importance of consistently monitoring the actual number of days and hours Positive Paid Temporary Employees work to ensure they do not exceed the 1,500-hour limitation in any 12-consecutive month period. The HRD will create and provide training on a new process to ensure there is follow-up after notifying programs of employees close to the maximum hours. In addition, the programs will be counseled regarding their responsibility to ensure employees do not work more than the maximum hours or to provide the HRD with a justification to work additional hours, if appropriate.

FINDING NO. 19 – Department Did Not Retain Employee Time and Attendance Records

Cause: The HRD did not follow-up with the program for missing timesheets and/or did not file the completed timesheets upon receipt.

Corrective Action: The Department recognizes the requirement and importance of retaining employee time and attendance records. Payroll staff will be provided refresher training on the Monthly Timesheet Reconciliation and Retention Procedure and HRD will ensure follow-up when timesheets are not received. DHCS is reviewing electronic timekeeping systems to automate our processes, allow for better tracking, and eliminate the need for paper filing.

FINDING NO. 23 – Performance Appraisals Were Not Provided to All Employees

Cause: DHCS currently does not have a tracking system to monitor compliance for the issuance of performance appraisals, and does not have a consistent time period established in policy or procedure. Although efforts were made to establish this tracking

system, efforts were limited by the response to the COVID-19 public health emergency and employee turnover.

Corrective Action: The Department recognizes the importance of completing written performance appraisals for all non-probationary employees at least once every twelve calendar months. In 2019, HRD updated departmental policy to include a section regarding the requirement for supervisors and managers to issue annual performance appraisals. Further policy revision is necessary, as current policy requires supervisors/managers to issue performance appraisals on the employee's birthday. This practice proved ineffective and inconsistent. Therefore, the Department intends to revise policy to require an annual time period in which all annual performance appraisals are required to be completed. In addition, HRD is increasing its resources to develop and implement a department-wide tracking system to monitor compliance on the issuance of performance appraisals. With the implementation of a department-wide filing standard, it is intended that these staff will track and monitor departmental compliance and issue monthly reports to executive management regarding compliance rates. Further, the DHCS Director's Office will reemphasize the importance of completing performance appraisals during "all manager and supervisor" meetings.

CONCLUSION

DHCS appreciates the opportunity to address the findings in this report and our proposed policy, process, and technology changes for increasing compliance. We anticipate that the proposed changes will positively impact future outcomes. If you have any questions, please contact me at (916) 345-7261 or via email at jennifer.edmond@dhcs.ca.gov.

Sincerely,



Jennifer Edmond, Chief
Human Resources Division

cc: See Next Page

Suzanne M. Ambrose
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September 6, 2022

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Scott Carney
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