

**STATE OF DELAWARE**  
**OFFICE OF**  
**AUDITOR OF ACCOUNTS**

**FAMILY COURT**  
**DOUBLE BILLING**  
**SPECIAL INVESTIGATION**

**FIELDWORK END DATE: NOVEMBER 18, 2009**  
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State of Delaware  
Office of Auditor of Accounts  
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**At a Glance**

*Working Hard to Protect YOUR Tax Dollars*

#### Why We Did This Review

**NOTE: This case was referred to the Office of Auditor of Accounts from the Special Investigation Section of the Office of the Attorney General. To ensure that legal proceedings would not be negatively affected, publication of this report was delayed.**

A Court Official of Family Court for New Castle County found that one of their vendors was double billing for services provided to the State of Delaware. It was explained to the Office of Auditor of Accounts (AOA) that for the month of April 2009, the vendor billed both the Family Court and the Division of Child Support Enforcement for serving legal documents.

#### Background

The General Assembly empowered the Family Court to exercise jurisdiction over juvenile delinquency, child neglect, dependency, child abuse, adult misdemeanor crimes against juveniles, child and spouse support, paternity of children, custody and visitation of children, adoptions, terminations of parental rights, divorces and annulments, property divisions, specific enforcement of separation agreements, guardianship over minors, imperiling the family relationship, orders of protection from abuse, and intra-family misdemeanor crimes.

**For further information on this release, please contact:**

**Chris Cooper**  
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#### FAMILY COURT DOUBLE BILLING

##### What We Found

The Office of Auditor of Accounts (AOA) found that a vendor, used by the Division of Child Support Enforcement (DCSE) to serve legal documents to DCSE clients, charged both DCSE and Family Court for services provided only to DCSE. Family Court, who only processes the documents for DCSE, was also charged by the vendor for services provided to DCSE during the months of December 2008, March 2009, April 2009, May 2009, and July 2009. The AOA confirmed that only DCSE should have been billed for the services provided. The total double billings amounted to **\$25,871**.

The AOA also concludes that Family Court's internal controls concerning the review and approval of invoices received from vendors for this service was inadequate.

##### What We Recommend

The AOA recommends that the State of Delaware obtain reimbursement of **\$25,871** for the instances of double billing discovered. The AOA also recommends that the Office of the Attorney General investigate further to determine whether these actions were criminal in nature and determine whether criminal prosecution is warranted.

The AOA recommends that Family Court improve internal controls regarding the review and approval of detailed invoices received from vendors who serve legal documents on behalf of Family Court. Internal control enhancement should include generation of an independent monthly master list of all documents that have been forwarded to the vendor to be served to respondents. This master list then can be reconciled to the monthly billing submitted by the vendor.

**Please read the complete report for a full list of findings/recommendations and to review Family Court's responses to our findings.**

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# AUDIT AUTHORITY

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Title 29, Del. C. c. 29 authorizes the Auditor of Accounts to file written reports containing:

1. Whether all expenditures have been for the purpose authorized in the appropriations;
2. Whether all receipts have been accounted for and paid into the State Treasury as required by law;
3. All illegal and unbusinesslike practices;
4. Recommendations for greater simplicity, accuracy, efficiency, and economy; and
5. Such data, information, and recommendations as the Auditor of Accounts may deem advisable and necessary.

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# ALLEGATION AND BACKGROUND

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## ALLEGATION

**NOTE: This case was referred to the Office of Auditor of Accounts from the Special Investigation Section of the Office of the Attorney General. To ensure that legal proceedings would not be negatively affected, publication of this report was delayed.**

A Court Official of Family Court in New Castle County found that one of their vendors billed Family Court for services provided to the Division of Child Support Enforcement (DCSE). It was explained to the Office of Auditor of Accounts (AOA) that for the month of April 2009, the vendor billed both Family Court and the DCSE for serving legal documents to DCSE clients. The process for delivering legal documents is as follows:

- The DCSE files a petition in Family Court (in New Castle, Kent, or Sussex counties) on behalf of eligible clients regarding any support related issues. These include, but are not limited to, the following: parental determination, petition for child support, petition for custody, support modification, custody modification, etc. The vendor provides the services to DCSE in all three counties in the State.
- Through the petition filing process, Family Court generates a "personal service of process" document. This includes the petition generated by DCSE and the summons to appear in court.
- After the Clerk of the Court signs the petitions, they are then forwarded to the vendor in order for the documents to be served to the respondent.
- After the respondent is served the documents, the vendor returns a completed affidavit that certifies that the required documents were served, when they were served, and at what location they were served. The completed affidavit is then used as confirmation that the service was provided and is also used by the vendor as support for the billing that is given to the DCSE.

## BACKGROUND

### Family Court

The General Assembly empowered the Family Court to exercise jurisdiction over juvenile delinquency, child neglect, dependency, child abuse, adult misdemeanor crimes against juveniles, child and spouse support, paternity of children, custody and visitation of children, adoptions, terminations of parental rights, divorces and annulments, property divisions, specific enforcement of separation agreements, guardianship over minors, imperiling the family relationship, orders of protection from abuse, and intra-family misdemeanor crimes. The Family Court does not have jurisdiction over adults charged with felonies or juveniles charged with first and second-degree murder, rape, or kidnapping. Cases are appealed to the Supreme Court with the exception of adult criminal cases, which are appealed to the Superior Court.<sup>1</sup>

The Family Court bench is comprised of seventeen judges. The Chief Judge has statewide administrative responsibilities. The Chief Judge has offices in all three counties, but the principle office is located in New Castle County. Ten judges are assigned to New Castle County, three judges are assigned to Kent County, and three judges are assigned to Sussex County.<sup>1</sup>

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<sup>1</sup> <http://courts.delaware.gov/Courts/Family%20Court/?jurisdiction.htm>

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# ALLEGATION AND BACKGROUND

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## *Division of Child Support Enforcement*

The Child Support Enforcement Program originated in 1975, when Congress amended Title IV of the Social Security Act by adding a new section "D." This new program, referred to as the "IV-D" Program because of its statutory location, is regulated and funded by the Federal Office of Child Support Enforcement (OCSE), an agency of the U.S. Department of Health and Human Services, Administration for Families and Children. The Federal statute can be found at 42 U.S.C. §§ 651 et seq. OCSE regulations for this Program appear in the Code of Federal Regulations (CFR) at Title 45, Parts 301 to 307. The majority of Delaware's child support enforcement laws appear in the Delaware Code at Title 13, Domestic Regulations. State laws outlining the duties of the Division appear in the Delaware Code, Title 13, Chapter 22.<sup>2</sup>

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<sup>2</sup> <http://www.dhss.delaware.gov/dhss/dcse/regs.html>

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# OBJECTIVES, SCOPE, & METHODOLOGY

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## **OBJECTIVES**

The objectives of this investigation were:

1. To determine whether the vendor incorrectly double billed the State and determine whether there are any additional incidences of the vendor double billing beyond those discovered by Family Court.
2. To determine the cause of the double billing identified during testing.

## **SCOPE**

The scope of the investigation was Fiscal Year 2009 (July 1, 2008 through June 30, 2009) and the month of July 2009 (Fiscal Year 2010).

The investigation was conducted in accordance with the President's Council on Integrity and Efficiency, *Quality Standards for Investigations*.

## **METHODOLOGY**

The investigative approach included:

- Interview and inquiry.
- Inspection and confirmation of documentation.
- Observation.

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# CONCLUSIONS

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## ALLEGATION

A Court Official of Family Court in New Castle County found that one of their vendors double billed for services provided to the DCSE. It was explained to the AOA that for the month of April 2009, the vendor billed both the Family Court and the DCSE for serving legal documents to the same respondents.

## RESULTS OF TESTING

The AOA obtained copies of the billing statements submitted by the vendor to both Family Court and the DCSE for the period from July 1, 2008 through July 31, 2009. Per Family Court representatives, any charges that appear on DCSE bills that are also on the billing submitted to Family Court, with the same case number and file number are those charges that are in excess of the actual services provided. AOA compared the billing submitted to DCSE and Family Court and noted any duplicates that would suggest double billing. The AOA found that Family Court was double billed for the following months: December 2008 (\$54), March 2009 (\$9,661), April 2009 (\$5,565.50), May 2009 (\$4,347), and July 2009 (\$6,243.50). The total double billings for the 5 months identified was \$25,871.

The AOA met with the vendor on September 23, 2009, and presented him with three examples of the double billings that the AOA had found in the April 2009 statement. The vendor stated that double billings are "impossible" and said that the three examples could be explained if he had time to "run a report" to determine what was double billed.

On September 30, 2009, the vendor provided the AOA with a revised billing statement for April 2009 and the vendor stated that he issued a total credit of \$1,439.50 to Family Court for that month. The vendor actually provided Family Court with a credit memo for \$972.00 for the August 2009 billing but has not formally issued a credit for the difference (\$467.50) to Family Court that was provided to AOA nor was Family Court notified that an additional credit was due. The vendor produced additional documentation that the vendor asserted proved that services were provided for the three charges found by the AOA classified as being double billed. However, the AOA reviewed the new documentation provided by the vendor with representatives of Family Court. They stated that the documents provided to the AOA were documents that Family Court mails out to the respondent after they have been served and in no way supports the billing charge for the three examples provided.

The AOA compared the revised billing statement to the original April billing. The AOA found that the charges originally identified as double billed on the original April billing statement (totaling \$5,565.50) were removed from the revised April 2009 billing given to the AOA by the vendor. Furthermore, the vendor added new charges to the revised billing that nearly equates to the sum of the double billed charges. As a result, the vendor's revised billing for April 2009 is only \$1,439.50 less than the original billing. As of the date of this report, **the vendor has provided no justification for removing some charges while adding new charges.** The AOA concludes that (a) the vendor knew that he overbilled the State and removed them from the "corrected" billing statement to try to cover up his actions, or (b) the vendor found the same double billings for the month of April, determined that they were errors, but did not provide either the AOA or Family Court with an explanation for changing the bill or a description of

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# CONCLUSIONS

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the cause of the problem. Due to the potential criminal nature of the issue, the AOA referred the case back to the Office of the Attorney General on October 7, 2009.

## CONCLUSION

Substantiated.

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# FINDINGS AND RECOMMENDATIONS

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## ***Finding #1 – Inadequate Review of Vendor Invoices***

Family Court's inadequate internal controls over review and approval of invoices received from this vendor created an environment that enabled the vendor to submit duplicate billings to Family Court and the Division of Child Support Enforcement.

### ***Criteria***

Committee of Sponsoring Organizations of the Treadway Commission (COSO), *Internal Control-Integrated Framework*, Chapter 4, Control Activities states, "Control activities are the policies and procedures that help ensure management directives are carried out. They help ensure that necessary actions are taken to address risks to achievement of the entity's objectives. Control activities occur throughout the organization, at all levels and in all functions. They include a range of activities as diverse as approvals, authorizations, verifications, reconciliations, reviews of operating performance, security of assets and segregation of duties." Control policies and procedures must be established and executed to help ensure that the actions identified by management as necessary to address risks for achievement of the entity's objectives are effectively carried out.

### ***Condition***

Family Court paid invoices for services that were provided to the benefit of the DCSE. Family Court had no verification process in place to ensure that the billings submitted to Family Court for the contracted services were legitimate and the responsibility of Family Court.

### ***Cause***

Internal Controls concerning the review and approval of invoices received from this vendor were inadequate.

### ***Effect***

Family Court overpaid the vendor the amount of \$25,871.

### ***Recommendation***

The AOA recommends that Family Court improve internal controls with regards to the review and approval of invoices received for the services in question. Specifically, Family Court controls should include a means for ensuring that they only approve payment for services properly rendered for Family Court. One approach would be to independently generate a monthly master list of documents forwarded to the vendor for delivery. This list would be reconciled to the billing statements submitted by the vendor. Where discrepancies are identified, payment would be withheld until a proper explanation is obtained from the vendor.

### ***Auditee Response***

Family Court acknowledges the need to improve internal controls with regards to the review and approval of invoices received for service of process. Currently the Court is in the process of putting out an RFP (Request for Proposal) for this contract, from which we hope to be able to change the way we track both incoming and outgoing documents. In addition, the Family Court will consult with the Attorney General's Office on how to seek reimbursement for instances of double billing discovered during the audit.

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# DISTRIBUTION OF REPORT

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Copies of this report have been distributed to the following public officials:

The Honorable Jack Markell, Governor, State of Delaware  
The Honorable Russell T. Larson, Controller General, Office of the Controller General  
The Honorable Joseph R. Biden III, Attorney General, Office of the Attorney General

Officials of Audited Entities

The Honorable Chandlee Johnson Kuhn, Chief Judge, Family Court, New Castle County  
Mr. Guy Sapp, Court Administrator, Family Court, New Castle County