



# MEDICAL MARIJUANA REGULATORY SYSTEM,

## PART II

### Performance Audit, June 2013 Report Highlights



Dianne E. Ray, CPA  
State Auditor

Department of Public Health and Environment  
Department of Revenue

#### PURPOSE

Assess the Department of Public Health and Environment's (Public Health) process for issuing red cards, which give individuals access to medical marijuana, the reasonableness of fees charged to patients, and the State's regulation of caregivers.

#### BACKGROUND

- In 2000, Colorado voters approved Amendment 20, a constitutional amendment that legalized the medical use of marijuana for patients diagnosed with certain debilitating medical conditions.
- As of March 2013, about 108,000 patients in Colorado had valid red cards.
- Public Health maintains the confidential Medical Marijuana Registry (Registry) containing information related to medical marijuana patients.
- Primary caregivers supply marijuana to a patient but must also assume significant responsibility for managing the patient's well-being. As of December 2012, about 5,400 caregivers were serving about 8,500 patients.
- Public Health's funding to administer the medical marijuana program comes primarily from red card application fees.

#### OUR RECOMMENDATIONS

The Department of Public Health and Environment should:

- Improve its oversight of physicians recommending medical marijuana.
- Improve the timeliness of processing red card applications.
- Work with the Department of Revenue to strengthen oversight of caregiver activities.
- Ensure the confidentiality of the Registry.
- Improve its management of the Medical Marijuana Cash Fund.
- Improve its controls over expenses.

The Department of Revenue should:

- Work with Public Health to strengthen oversight of caregiver activities.

The departments generally agreed with all of our recommendations.

#### AUDIT CONCERN

Public Health's controls over access to medical marijuana do not provide assurance that only qualified individuals receive red cards. Public Health has also set its fees too high, resulting in a fund balance that far exceeds the program's needs. In addition, the State has not developed an effective mechanism to oversee caregivers.

#### KEY FACTS AND FINDINGS

- Public Health does not sufficiently oversee physicians who make medical marijuana recommendations. We found evidence suggesting that some physicians may be making inappropriate recommendations.
  - As of October 2012, a total of 903 physicians had recommended medical marijuana for the 108,000 patients holding valid red cards. Twelve physicians recommended medical marijuana for 50 percent of those patients, including one physician with more than 8,400 patients on the Registry.
  - Some physicians have recommended what appear to be higher-than-reasonable amounts of medical marijuana. In one case, a physician recommended 501 plants for a patient. In another case, a physician recommended 75 ounces of useable marijuana for the patient.
- Public Health has not established a process for caregivers to indicate the significant responsibilities they are assuming for managing the well-being of their patients or for documenting exceptional circumstances that require a caregiver to take on more than five patients.
- Public Health failed to issue red cards within the constitutionally required 35-day time frame for more than one-third of red cards that were valid as of December 2012. However, by May 2013 the process had improved to 99 percent of applications processed within the 35-day time frame.
- It is not clear whether Public Health was adhering to the Colorado Constitution when it allowed staff of contract firms and other state agencies to access the confidential Registry.
- Legal restrictions on Registry access create barriers for law enforcement agencies to effectively and efficiently enforce the State's medical marijuana laws.
- The Medical Marijuana Cash Fund has been out of compliance with a statutory limit on cash fund uncommitted reserves every year since Fiscal Year 2004. At the end of Fiscal Year 2012, the fund had excess uncommitted reserves of more than \$11.3 million, the highest amount of excess uncommitted reserves of any cash fund in the State subject to the requirement.