State Auditor Mike Foley Says
DHHS Improperly Spent Nearly $8 Million in Energy Payments

Nebraska State Auditor Mike Foley has published the required annual audit of federal funds spent by State agencies. The report discloses that, in its haste to rapidly spend down millions in federal funds that were about to lapse, the Nebraska Department of Health and Human Services (DHHS) violated its own regulations and improperly spent nearly $8 million via thousands of separate State warrants (payments) to participants in the Low Income Home Energy Assistance Program (LIHEAP). Among those were payments sent to some persons already known by the agency to be dead.

Much of the problem identified in the audit occurred in late August 2011 -- just 5 weeks prior to the close of the federal fiscal year -- when $17.6 million was spent via over 43,000 separate payments. The audit report discloses to federal authorities that $17.6 million of these expenditures were found by the auditors to be "questioned costs," with a particular emphasis on the improper spending of nearly $8 million described more fully below.

DHHS administers Nebraska's $42 million federally-funded LIHEAP to help pay for heating and cooling expenses for low income persons who qualify for assistance with their utility bills. The federal government grants the State the money, as well as the latitude on how to administer the program. However, the State must adhere to its own published regulations, known as the "State Plan," in doing so. The "State Plan" is reviewed and approved by the federal government.

State regulations provide that persons who have received prior "crisis assistance" for their utility bills may not receive further payments for one year. Any additional LIHEAP assistance to such persons is supposed to be made directly to the energy utility providers for payment of the low income person's energy bills, as opposed to payments made to the individual low income consumers. The intent of the regulation is to ensure that the energy assistance payments are actually used for utility bills and not diverted for other purposes.

DHHS violated that critical regulation on August 25, 2011when it spent roughly $7.7 million via nearly 19,000 separate payments (either $250 or $500 each) to individual energy consumers who had been prior recipients of "crisis assistance" and were, therefore, not eligible for the additional direct payment. Audit testing indicates serious concerns that the majority of the additional payments were never used to pay utility bills.

For example, the audit team reviewed the actual utility bills of some LIHEAP participants and found that the assistance money could be traced to the payment of utility bills in only a small handful of instances. The more typical case found the program participant was behind on his or her utility bills, received the payment of $250 or $500, but then only applied less than $100 of the assistance payment to the outstanding energy bill -- thus, leaving his or her utility account in arrears.

Further refined audit testing of 135 payments selected by random sample identified one cashed at Ralston Keno, 19 at Wal-Mart, and 24 at grocery stores, restaurants, and Paycheck Advance.

State regulations also prohibit crisis energy payments in excess of what is needed to alleviate the immediate crisis. However, the auditors found some instances where program participants were not behind at all in their utility bills and actually had credit balances, yet they received and spent the payments anyway.

Perhaps more alarming is the audit finding that 261 payments totaling nearly $112,000 were sent to persons who are deceased. In some instances, the persons had been dead for well over a year and, in most instances, the deaths were known to DHHS prior to issuance of the payments.

One recipient who died in May 2011, and whose death was known to DHHS prior to the issuance of the payment, had his August 2011 payment cashed at an Omaha liquor store months after his death while another recipient who died in March 2011, and whose death was also known to DHHS prior to the issuance of the payment, had his payment cashed at Wal-Mart six months after his demise. Other payments to dead participants were cashed at a grocery store, a paycheck advance company, and funeral homes.

The audit team examined dozens of cancelled State warrants (payments) issued to persons known by DHHS to be dead and whose payments were then cashed with the "signatures" of the deceased on them, raising questions of forgery that should now require the attention of law enforcement.

DHHS personnel demonstrated a lack of understanding of LIHEAP regarding the specific limitation on the use of the funds for energy bills. For example, the notes prepared by one DHHS worker indicated that an executor of the estate of a deceased recipient of one of the $500 payments inquired as to what could now be done with the money. DHHS replied by telling the executor that "… the money could be spent to pay the remaining expenses for utilities, rent and whatever they deemed necessary…"

In another case, DHHS knew that a program participant was dead for over five months and knew that the person's food stamp card had already been fraudulently used after her death. Nevertheless, DHHS sent a $500 LIHEAP payment to the decedent, and that payment was cashed with a "signature" using the decedent's name.

The problems noted above and many more could have been largely avoided if DHHS had simply complied with its own written regulations prohibiting LIHEAP payments to those who previously received "crisis assistance" payments. Per its regulations, DHHS should have sent the LIHEAP funds to the energy utilities and had the monies applied to the outstanding utility bills of the low income persons.

DHHS refers to the $7.7 million in payouts as "contingency payments," and the DHHS regulations provided that any recipient of these "contingency" funds could not get more LIHEAP crisis assistance for the next six months unless they were able to prove that they actually used the "contingency" money for utility bills. However, over the ensuing six months, DHHS paid out an additional $1.5 million in crisis payments. The auditors tested these payments and found instances where DHHS again violated its rules by not first documenting that the prior payments were actually used for utility bills.

The systemic breakdown at DHHS did not end there. On June 13, 2012, the agency issued another $9.5 million in LIHEAP assistance payments to over 38,000 recipients which DHHS termed "supplemental payments." Once again, the audit team identified dozens of instances where payments were issued to persons known by the agency to be dead and, generally, those payments were cashed.

The problems at DHHS run deeper still, as the agency ran afoul of federal regulations by retaining nearly $1 million in unspent LIHEAP federal funds in excess of what is allowed to be carried over into the next fiscal year per the regulations.

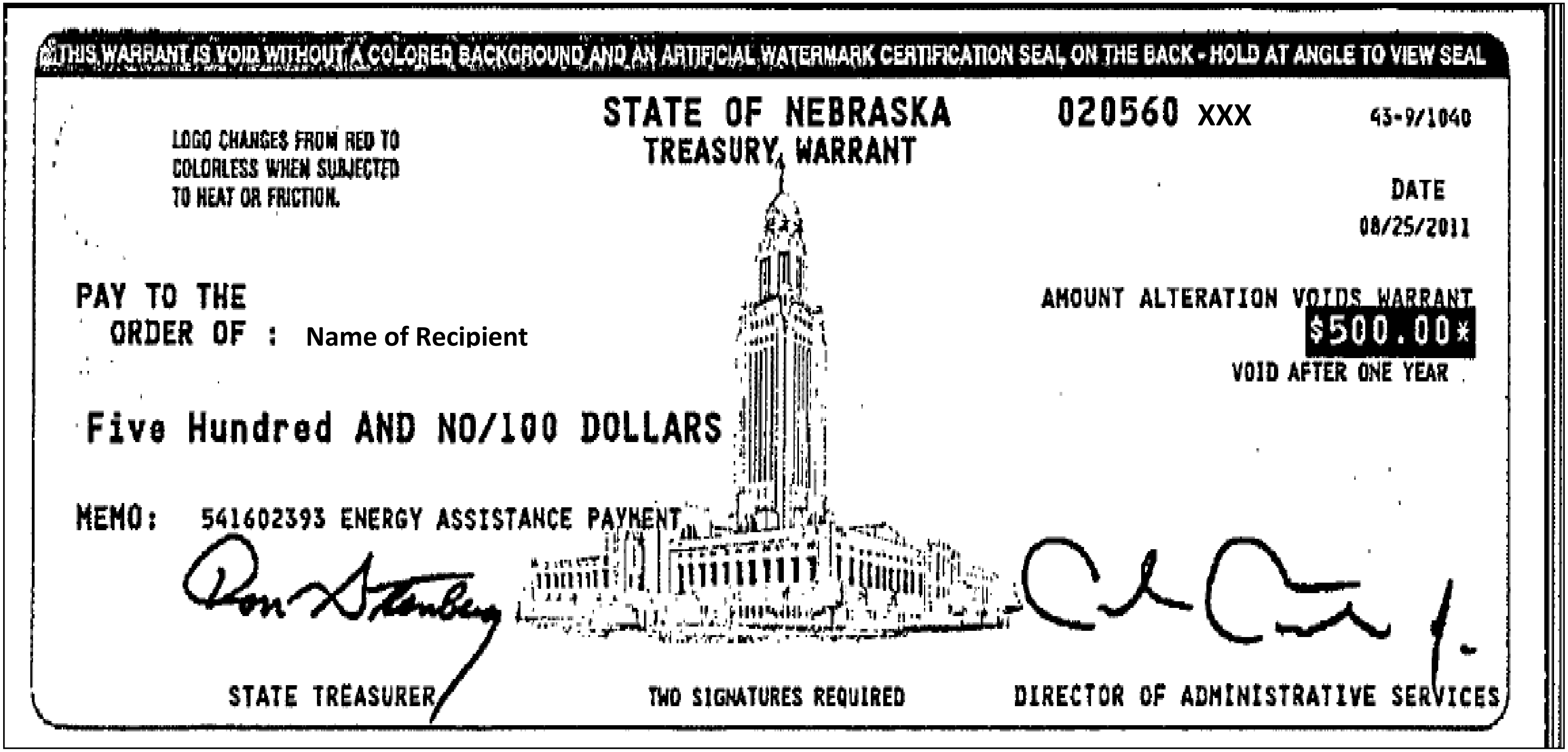
The audit team also identified nearly 1,300 warrants (payments) totaling over $500,000 in federal funds that were never cashed. Rather than cancel the uncashed federal payments, the State converted them into State general funds – the legality of which is suspect.

The audit results are included in the annual federal funds audit, which the State Auditor's Office conducts and files each year with federal authorities who will now review the findings and make a determination as to whether or not the federal government will seek reimbursement from the State for any LIHEAP funds deemed to have been spent improperly.

A complete copy of the Audit finding on the LIHEAP program from the federal funds audit report can be found under "Recent Publications Released" at the following web site:

www.auditors.nebraska.gov

Example of a LIHEAP Warrant



THIS WARRANT IS VOID WITHOUT A COLORED BACKGROUND AND AN ARTIFICIAL WATERMARK CERTIFICATION SEAL ON THE BACK - HOLD AT ANGLE TO VIEW SEAL

STATE OF NEBRASKA
TREASURY WARRANT

020560 XXX

43-9/1040

LOGO CHANGES FROM RED TO COLORLESS WHEN SUBJECTED TO HEAT OR FRICTION.

DATE
08/25/2011

PAY TO THE ORDER OF : Name of Recipient

AMOUNT ALTERATION VOIDS WARRANT
$500.00*
VOID AFTER ONE YEAR

Five Hundred AND NO/100 DOLLARS

MEMO: 541602393 ENERGY ASSISTANCE PAYMENT

STATE TREASURER

TWO SIGNATURES REQUIRED

DIRECTOR OF ADMINISTRATIVE SERVICES