



OFFICE OF THE UNDER SECRETARY OF DEFENSE

**4000 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-4000**

**PERSONNEL AND
READINESS**

APR 17 2019

The Honorable Richard C. Shelby
Chairman
Subcommittee on Defense
Committee on Appropriations
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

The enclosed report is in response to Senate Report 115-290, page 207, accompanying S. 3159, the Department of Defense Appropriations Bill, 2019, on how the Department plans to make final payment of arrears to State Vaccine Programs (SVPs).

The enclosed report provides information on the current payments made, as well as plans to make any final payment of arrears to SVPs. The Defense Health Agency (DHA) has reimbursed SVPs over \$36M to date, and approximates another \$1M in payment to the remaining state, Alaska. DHA continues to work in good faith with KidsVax to reimburse Alaska. While KidsVax disputes certain elements of the calculation, we are confident in our analysis and computation of final arrearages, and are hopeful Alaska will accept payment in 2019.

Thank you for your interest in the health and well-being of our Service members, veterans, and their families. A similar letter is being sent to the other congressional defense committees.

Sincerely,

A handwritten signature in black ink that reads "James N. Stewart". The signature is fluid and cursive, with a large initial "J" and "S".

James N. Stewart
Assistant Secretary of Defense for Manpower
and Reserve Affairs, Performing the Duties
of the Under Secretary of Defense for
Personnel and Readiness

Enclosure:
As stated

cc:
The Honorable Richard J. Durbin
Vice Chairman



OFFICE OF THE UNDER SECRETARY OF DEFENSE
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WASHINGTON, D.C. 20301-4000

PERSONNEL AND
READINESS

APR 17 2019

The Honorable Adam Smith
Chairman
Committee on Armed Services
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

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James N. Stewart
Assistant Secretary of Defense for Manpower
and Reserve Affairs, Performing the Duties
of the Under Secretary of Defense for
Personnel and Readiness

Enclosure:
As stated

cc:
The Honorable William M. "Mac" Thornberry
Ranking Member



OFFICE OF THE UNDER SECRETARY OF DEFENSE

**4000 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-4000**

**PERSONNEL AND
READINESS**

APR 17 2019

The Honorable James M. Inhofe
Chairman
Committee on Armed Services
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

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Thank you for your interest in the health and well-being of our Service members, veterans, and their families. A similar letter is being sent to the other congressional defense committees.

Sincerely,

A handwritten signature in black ink that reads "James N. Stewart". The signature is fluid and cursive, with a large loop at the end of the last name.

James N. Stewart
Assistant Secretary of Defense for Manpower
and Reserve Affairs, Performing the Duties
of the Under Secretary of Defense for
Personnel and Readiness

Enclosure:
As stated

cc:
The Honorable Jack Reed
Ranking Member



OFFICE OF THE UNDER SECRETARY OF DEFENSE
4000 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-4000

PERSONNEL AND
READINESS

The Honorable Peter J. Visclosky
Chairman
Subcommittee on Defense
Committee on Appropriations
U.S. House of Representatives
Washington, DC 20515

APR 17 2019

Dear Mr. Chairman:

The enclosed report is in response to Senate Report 115-290, page 207, accompanying S. 3159, the Department of Defense Appropriations Bill, 2019, on how the Department plans to make final payment of arrears to State Vaccine Programs (SVPs).

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Sincerely,

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James N. Stewart
Assistant Secretary of Defense for Manpower
and Reserve Affairs, Performing the Duties
of the Under Secretary of Defense for
Personnel and Readiness

Enclosure:
As stated

cc:
The Honorable Ken Calvert
Ranking Member

Report to the Congressional Defense Committees



The Department of Defense Resolution of Payments to State Vaccine Programs

Senate Report 115–290, page 207, accompanying S. 3159, the Department of
Defense Appropriations Bill, 2019

The estimated cost of this report for the
Department of Defense is approximately
\$2,400.00

THE DEPARTMENT OF DEFENSE RESOLUTION OF PAYMENTS TO STATE VACCINE PROGRAMS

EXECUTIVE SUMMARY

This report is in response to Senate Report 115–290, page 207, accompanying S. 3159, the Department of Defense (DoD) Appropriations Bill, 2019, which requests the Assistant Secretary of Defense for Health Affairs provide a report to the congressional defense committees detailing how the DoD plans to make final payment of arrears to State Vaccine Programs (SVPs). The data presented below represents payments during the time period of August 2017 to January 2019, and demonstrates the continued collaboration among the Defense Health Agency (DHA), various SVPs, and KidsVax, the consulting service representing Alaska, New Hampshire, Rhode Island, Vermont, and Washington.

To-date, DHA reimbursed SVPs over \$36 million for vaccines provided from December 23, 2010, to the present. As of this report, DHA paid the maximum amount of retroactive payments (arrearages) possible as authorized by current law to SVPs, with the exception of Alaska and Vermont. At Vermont’s request, DHA is holding a remaining partial arrearage payment. Additionally, Massachusetts requested DHA hold a partial payment for the current period. DHA continues to work in good faith with KidsVax to reimburse Alaska, the only state left with outstanding arrearages. Upon acceptance by Alaska, DHA stands ready to finalize a retroactive payment of approximately \$1 million. This is the maximum amount DHA is able to reimburse Alaska. While KidsVax disputes certain elements of the calculation, the DoD is confident in the analysis and computation of final arrearages, and is hopeful Alaska will accept payment in 2019. Additionally, DHA continues to facilitate the Managed Care Support Contractors’ (MCSC) permanent takeover of SVP reimbursement, which began on April 1, 2018.

BACKGROUND

Under 10 U.S.C. § 1076, military dependents are entitled to medical and dental care described in 10 U.S.C. § 1077 in military medical treatment facilities (MTFs), which includes immunizations [10 U.S.C. § 1077(a)(7)]. Title 10, U.S.C. § 1079(a)(2), also authorizes the DoD to contract for appropriate medical care for military dependents, which includes immunizations under the well-child and preventive care benefits. However, the above services may only be paid if they are covered, either as a preventive or medically necessary benefit, and rendered by a TRICARE-authorized provider (i.e., recognized as an authorized provider under 32 CFR § 199.6). The claims submission requirements under 32 CFR § 199.7(a)(2) further restrict reimbursement to services provided, not services expected to be furnished.

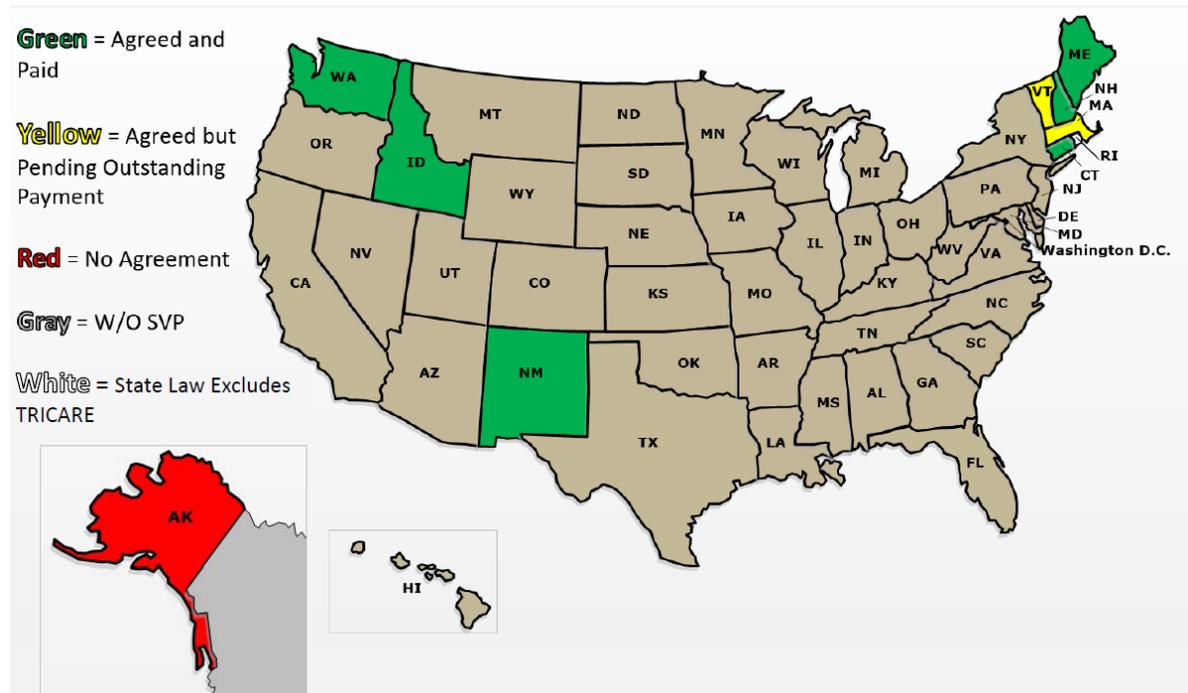
To date, 10 states have been identified as operating SVPs: Washington, Vermont, Idaho, Connecticut, Maine, New Hampshire, Rhode Island, Massachusetts, Alaska, and New Mexico. These states’ laws govern how each program works, and all terms and conditions of administration. Three SVPs (Vermont, Alaska, and Rhode Island) also provide vaccine coverage for adults. Many of these state programs are considered “universal purchase” programs, meaning the state purchases all Centers for Disease Control and Prevention (CDC) recommended

vaccines for children in that state from the CDC. The vaccines are then distributed to pharmacies and healthcare providers in the state.

Until enactment of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2017 (Public Law 114-328), TRICARE had no legal authority to pay SVPs prospectively for vaccines anticipated to be administered to TRICARE beneficiaries because, among other reasons, SVPs failed to meet a provider category under 32 CFR § 199.6. As a result, many states with SVPs were providing vaccines to TRICARE beneficiaries 18 years of age and younger without the ability to be reimbursed by TRICARE. Section 719 of the NDAA for FY 2017 language added the authority to reimburse SVPs for the amount assessed by the entity carrying out such program to purchase vaccines provided to covered beneficiaries through such program.

The Director, DHA authorized an implementation plan with the process TRICARE followed to reimburse SVPs. Payments for arrearages were also allowed for a 6-year time frame. The 6-year time frame began on December 23, 2010, (or the start of the SVP program, whichever occurs later) to the enactment date of the NDAA for FY 2017 (December 23, 2016). A decision paper also authorized a two-phased approach to reimburse SVPs: the first phase, in which DHA directly provided interim payments to SVPs through March 31, 2018, and a permanent on-going process with contract modification to the MCSCs, which began on April 1, 2018.

Currently, of the 10 SVPs, two remain with outstanding arrearages, Alaska, and Vermont. A final (partial) payment to Vermont has not yet been made, due to the SVP's choice. The DHA reimbursed all other SVPs for arrearages and current periods. Massachusetts is the only exception, as a partial payment for a current period is placed on hold at the SVP's choice.



Rhode Island:

One SVP, Rhode Island, has not been contacted by DHA because § 42-7.4-2.3.(ii) of the Rhode Island General Laws prevents Rhode Island from assessing TRICARE. Rhode Island state law provides for the assessment of insurers, requiring “each insurer...to pay the healthcare services funding contribution for each contribution enrollee of the insurer at the time the contribution is calculated and paid, at the rate set forth” in the statute. Rhode Island law, however, expressly excludes TRICARE, thereby preventing DHA from reimbursing the state.

Alaska:

The remaining state, Alaska’s, lack of arrearage reimbursement stems from disputes over TRICARE’s reimbursement methodology and count of covered beneficiaries in the state. While DHA provided both the SVPs and KidsVax with calculations validating TRICARE’s evidence based reimbursement methodology and figures, which is bound by the statutory language in section 719(a)(2)(B) of the NDAA for FY 2017, KidsVax continues to request DHA pay SVP’s full assessment amounts without performing its own calculations. This KidsVax proposed methodology would require DHA to reimburse 25 percent above the manufacturer’s list price, which conflicts with the statutory limitation language of section 719(a)(2)(B) of the NDAA for FY 2017.

Massachusetts:

On April 1, 2018, DHA began facilitating the permanent takeover of SVP reimbursement by the MCSCs. As such, the payment to Massachusetts for the period of July 2017 to June 2018 was split between DHA and the TRICARE East MCSC. In May 2018, the TRICARE East MCSC reimbursed \$112,867.00 to the SVP. However, the DHA Resource Management Office needed a signed agreement in order to release the remaining payment, totaling \$307,751.00. Due to a changeover in staff, no signed agreement was provided by Massachusetts’ SVP, and thus a final payment was never released. The DHA stands ready to reimburse \$307,751.00 for the July 2017-March 31, 2018, period to the Massachusetts SVP once a signed agreement is provided, and has communicated this to Massachusetts. Massachusetts informed DHA it will make contact when it is ready to receive this payment.

Vermont:

Vermont signed an agreement with DHA for arrearage payments. Vermont requested the final arrearaged payment not be made until July 2019.

TRICARE-specific Assessments:

Because SVPs pay the CDC in advance for vaccines, many SVPs early in their programs decided to create reserve amounts, and pay the CDC from those collected reserve funds at the start of each program. Some SVPs (for example, New Hampshire) periodically impose very high assessments on payers in order to increase their reserves. However, there have been periods where the SVPs accumulated an excessive amount of cash reserves, and as a result, the states

lowered their assessment rates to ensure their reserves are not unreasonably high. These assessment rates, in addition to the statutory language in section 719(a)(2)(B) of the NDAA for FY 2017, which limits reimbursement to the amount TRICARE would otherwise reimburse providers participating in TRICARE, are what determine TRICARE's payment towards SVPs.

STATUS OF CURRENT SVP ARREARAGE SETTLEMENTS

1. Expected TRICARE Arrearage Payments to State Vaccine Programs

As of this report, TRICARE reimbursed Alaska, Connecticut, Idaho, Massachusetts, Maine, New Hampshire, New Mexico, Vermont, and Washington for a total amount of \$34,832,034 with a remaining \$1,347,185.00 for FY 2019 not yet paid by DHA. The table below reflects the expected TRICARE arrearage payments to SVP states, but does not reflect the current negotiations over Alaska's arrearages, as no resolutions have been reached.

Table 1: EXPECTED TRICARE ARREARAGE PAYMENTS TO SVPs FROM DHA

	Paid in FY17	Paid in FY18	Paid in FY19	FY19 Not Yet Paid by DHA	DHA Total
Alaska		\$1,500,000		\$1,032,059	\$2,532,059
Connecticut	\$480,999	\$910,499			\$1,391,498
Idaho	\$3,557,185				\$3,557,185
Maine		\$3,568,551			\$3,568,551
Massachusetts	\$601,621	\$3,141,252		\$307,571	\$4,050,444
New Hampshire			\$3,970,307		\$3,970,307
New Mexico		\$2,306,172			\$2,306,172
Vermont			\$967,355	\$315,126	\$1,282,481
Washington		\$12,892,832	\$935,261		\$13,828,093
Total	\$4,639,805	\$24,319,306	\$5,872,923	\$1,654,756	\$36,486,790

The following table and notes reflect the above as well as the total reimbursements made to SVPs as of January 8, 2019, from both DHA and the MCSCs.

Table 2: TOTAL REIMBURSEMENTS MADE TO SVPs AS OF JANUARY 8, 2019

Expected TRICARE Payments to SVP States									
	Arrearage Amounts				Ongoing Payments (MCSC pays after April 1, 2018)				Total Paid
					FY18	FY19	FY19	FY18	
	Paid in FY17	Paid in FY18	Paid in FY19	To Be Paid by DHA	Paid by DHA	To be Paid by DHA	Paid Via MCSC		DHA + MCSC Total
Alaska		\$1,500,000.00		\$1,032,059.10			\$207,051.02	\$206,594.76	\$1,913,645.78
Connecticut	\$480,998.54	\$910,499.29			\$338,602.60		\$112,867.00		\$1,842,967.42
Idaho	\$3,557,185.47						\$524,334.00		\$4,081,519.47
Maine		\$3,568,551.00					\$92,019.00	\$93,386.85	\$3,753,956.85
Massachusetts	\$601,620.81	\$3,141,252.11				\$307,751.00	\$102,583.00		\$3,845,455.92
New Hampshire			\$3,970,307.00				\$58,249.80	\$60,621.60	\$4,089,178.40
New Mexico		\$2,306,171.99					\$209,277.90	\$186,863.04	\$2,702,312.93
Vermont			\$967,354.61	\$315,126.15			\$151.95	\$154.14	\$967,660.70
Washington		\$12,892,832.34	\$935,261.00						\$13,828,093.34
Total	\$4,639,804.82	\$24,319,306.73	\$5,872,922.61	\$1,347,185.25	\$338,602.60	\$307,751.00	\$1,306,533.67	\$547,620.39	\$37,024,790.81

Notes for Table 2:

Alaska and Vermont: The arrearage amount to be paid by DHA reflects an arrearage calculated through September 2018. The MCSCs paid amounts in FY 2018 on August 15th, and amounts in FY 2019 on November 15th. Vermont requested the final arrearage payment not be made until July 2019.

Connecticut: The arrearage assessment was paid. DHA paid 75 percent (\$338,603.00) to reflect the period through March 31st, and the TRICARE East MCSC paid 25 percent (\$112,867) to reflect the period beginning April 1st- June 30th.

Idaho: The Idaho payment due June 15, 2018, for the July 2018 to June 2019 period was paid by the MCSC (\$524,334.00).

Maine: Maine has been paid the \$3,568,551.00 for their arrearage amount. The MCSCs made quarterly payments on August 15th, 2018 and November 15, 2018. They will make payments every 3 months thereafter.

Massachusetts: The July 2017 - June 2018 payment was due May 31, 2018. The DHA will pay 75 percent (\$307,751.00) and the TRICARE East MCSC paid 25 percent (\$102,583.00). After giving email notice the SVP would be sending the signed agreement, it did not send the signed hardcopy due to a changeover in staff. Thus, the final payment to Massachusetts was never released. As soon as DHA Resource Management receives the signed release from Massachusetts, DHA will issue payment.

New Mexico: The New Mexico arrearage payment was paid in June 2018, for the amount of \$2,306,171.99. The contractor made the payment of \$209,277.90 to New Mexico by October 1, 2018, and will make this same payment for each additional quarter in the state FY (payment due December 1, 2018; March 1, 2019; June 1, 2019).

Washington: DHA paid \$12,219,342.00 to Washington for the period through December 2017. DHA also paid Washington \$673,490.00 for the period of October 17 - March 2018. DHA agreed to pay \$935,261.00 for vaccines purchased prior to December 23, 2010, but provided to TRICARE beneficiaries on or after December 23, 2010. The contractor makes payments per claim.

New Hampshire: New Hampshire reflects the arrearage calculated through September 2018. Payments reflect the higher immunization rates in New Hampshire. It reflects one quarter of additional payments prior to December 22, 2010.

2. Status of Alaska SVP Arrearage Settlement

To help alleviate SVP cost issues in Alaska, DHA made an initial partial payment of \$1.5 million to the Alaska SVP in May of 2018, to be applied to DHA's final Alaska arrearage settlement. This payment was made at the request of KidsVax, which reported to the DHA that Alaska needed this amount immediately to prevent the SVP's impending insolvency. The DHA made this payment in spite of ongoing disagreement about the total amount owed to Alaska. Despite this payment and continued collaboration, KidsVax has not agreed to the DHA arrearage settlement as KidsVax disputes DHA's calculation of covered lives.

KidsVax identified two issues preventing its acceptance of DHA's resolution. First, KidsVax asserts DHA's per-capita limit needs to be adjusted for Alaska because of "higher startup costs and greater waste factors" due to Alaska's geographic separation from the contiguous 48 states. Because the DHA per capita limit is above Alaska's assessment amounts for children (and TRICARE pays the lower of the cap or the state's assessment), adjustments to the Alaska cap are immaterial to its maximum payment amount.

A second issue raised by KidsVax is it believes the TRICARE payment to the Alaska SVP should be based on the total number of TRICARE-eligible children in Alaska, and DHA could make deductions for vaccines administered at MTFs. In all other states, not only are MTF vaccines deducted, but also those for children who have other health insurance (OHI). There are two issues with the KidsVax proposal. First, it requires TRICARE to pay for children who have OHI. This would be inconsistent with DHA's statutory authority. DHA may reimburse SVPs only for covered TRICARE beneficiaries, not to exceed the amount the DoD would reimburse under the TRICARE program. By law, TRICARE pays after all other insurance, except under very limited circumstances that do not apply here. Second, the KidsVax proposal would impose additional administrative costs on DHA because DHA will have to collect additional data and perform additional calculations each quarter to pay the Alaska Vaccine Assessment Program. KidsVax has not identified any Alaska-specific issues requiring DHA to deviate from the methods used to count TRICARE beneficiaries subject to the SVPs in other SVP states.

Alaska was already paid \$1.5 million in good faith, and DHA is prepared to reimburse the remaining \$1 million (approx.) under the authority granted by section 719 of the NDAA for FY 2017 and section 718 of the NDAA for FY 2018. This is the maximum amount DHA is able to reimburse, and constitutes DHA's final disposition on the matter. Upon receipt of a signed agreement, DHA will release payment to the state within 10 business days.

In response, KidsVax rejected DHA's arrearages payment and requested DHA furnish the following for Alaska: Data for the 40 non-SVP states, plus the District of Columbia, including all individual transactions, the corresponding number of child and adult covered lives, patient's age, amount billed by the provider, amount paid by TRICARE for each transaction, as well as the vaccine code. Because this likely includes protected health information and personally identifiable information, DHA informed KidsVax that requests for data should be made through appropriate channels (i.e., Freedom of Information Act).

Without agreement from KidsVax, DHA cannot resolve Alaska's arrearage settlement. At the time of this report, DHA stands ready to finalize the retrospective payments of approximately \$1 million to Alaska, reliant upon acceptance by the state. The DHA will continue to work in good faith with KidsVax to resolve this issue.

3. Status of New Hampshire SVP Arrearage Settlement

DHA reached resolution with KidsVax regarding New Hampshire's SVP, and paid arrearages in the amount of \$3,970,307.00 as of January 4, 2019. DHA reached consensus with KidsVax by addressing the following issues: first, KidsVax alleged since DHA did not pay into the reserve period of the earlier years of New Hampshire's program, DHA should pay above the state billed assessment amount for arrearage claims, since New Hampshire lowered its assessment rate to ensure its reserves are not unreasonably high. KidsVax maintained the DHA should be responsible for an adjusted DHA per-capita cap until DHA pays an amount equal to the sum of all New Hampshire per-capita assessments since 2010. KidsVax described this reimbursement method as a "carry-forward mechanism." Second, KidsVax requested the DHA per capita payment limit should be adjusted for New Hampshire based upon the assertion New Hampshire had "higher than average immunization rates."

Regarding KidsVax's first issue, New Hampshire did initially impose excessive assessments early in its program, and is now imposing very low assessments to reduce reserves. In response, KidsVax requested DHA utilize a "carry-forward mechanism." This meant that in periods when the state assessment was below the DHA cap, DHA would pay at the DHA per-capita cap level; however, DHA would not pay above the DHA cap in any period. In other words, TRICARE would be required to pay amounts higher than the state assessments until TRICARE's aggregate payments were equal to the aggregate assessments charged since the inception of each state's fund. The KidsVax "carry-forward mechanism" violates the TRICARE statute, and thus is invalid, as TRICARE may only reimburse an amount actually assessed by the entity carrying out the vaccination program up to its legal limit. The DHA worked with KidsVax and directly with New Hampshire to resolve this issue. New Hampshire agreed to bill a TRICARE-specific assessment based on the cost of vaccines provided to TRICARE beneficiaries for all future assessments.

In response to KidsVax's second issue, which regarded the assertion that due to "higher than average immunization rates" the DHA per capita limit should be adjusted for New Hampshire, DHA requested KidsVax provide supportive documentation, as the available CDC data does not support this assertion. On September 25, 2018, KidsVax provided data to DHA on the immunization rates observed in New Hampshire. After further review and responses to follow up questions, DHA concurs New Hampshire's vaccination rates are higher than the TRICARE average vaccination rates observed in the 40 non-SVP states. The DHA made appropriate adjustments to payments.

4. Status of Vermont SVP Arrearage Settlement

Vermont signed an arrearage agreement with DHA on January 4, 2019. The DHA reimbursed the retrospective payment of approximately \$1.3 million to Vermont. Arrearages

were paid in the amount of \$967,354.61, on January 11, 2019. DHA is processing a final payment of \$315,126.39 to be reimbursed after June 2019, per the SVP's request. In addition, Vermont agreed to bill a TRICARE specific assessment based on the cost of vaccines provided to TRICARE beneficiaries.

Similar to New Hampshire, KidsVax requested a "carry-forward" method of reimbursement for Vermont as they followed the same assessment pattern of initially imposing excessive assessments early in their program and are now imposing very low assessments to reduce reserves. Similar to New Hampshire, Vermont agreed to bill a TRICARE specific assessment based on the cost of vaccines provided to TRICARE beneficiaries for all future assessments.

5. Status of Washington SVP Arrearage Settlement

As of this report, Washington has been reimbursed for all arrearage payments for the time period of December 23, 2010 forward, in the amount of \$12,892,832.00. Additionally, DHA reimbursed the applicable assessments prior to the December 23, 2010, period for May 1, 2010 through December 22, 2010, for vaccines administered on or after December 23, 2010, in the amount of \$935,261.00 in November, 2018.

This additional payment was made on the basis that Washington dosage-based assessments collected prior to December 23, 2010, were used to fund some vaccines administered after December 23, 2010. After KidsVax provided the analyzed historical documents showing Washington dosage-based assessments collected prior to December 23, 2010 were used to fund some vaccines administered after December 23, 2010, DHA made the applicable reimbursements.

A second issue raised by KidsVax concerned the MCSC, HealthNet Federal Service's, payment strategy for vaccines in Washington. The DHA was able to address KidsVax's concern, and KidsVax agrees DHA resolved the implementation issues encountered in the TRICARE West Region.

NEXT STEPS

At the time of this report, DHA continues to facilitate the MCSC's permanent takeover of SVP reimbursement, which began on April 1, 2018. Simultaneously, DHA is discussing arrearage payments for the remaining state, Alaska, in dispute with KidsVax. Currently, DHA provided the maximum amount of retroactive payments possible as authorized by current law to all other SVPs. The DHA is hopeful Alaska will accept payment in 2019.