

Arizona Department of Health Services Medical Marijuana Program

CONCLUSION: In November 2010, the Arizona Medical Marijuana Act (Act) was passed by a voter ballot initiative, which legalized the medical use of marijuana in the State. The Arizona Department of Health Services (Department) regulates the Act through its Medical Marijuana Program (Program) by issuing medical marijuana registry identification cards (cards) to qualified applicants, inspecting medical marijuana dispensaries and cultivation sites (facilities), investigating complaints against facilities, licensing infusion kitchens, and administering the Medical Marijuana Fund (Fund). As of December 2018, there were 116 certified medical marijuana dispensaries operating in Arizona with 90 cultivation sites. According to the Department, during calendar year 2018, there were 198,017 qualifying patients; 2,022 designated caregivers; and 8,179 dispensary agents. We found that the Department did not always timely revoke some registry identification cards, did not timely and consistently inspect facilities or consistently address facility noncompliance, inadequately investigated some complaints, did not inspect infusion kitchens according to Arizona food safety standards, has not formally reviewed its Program fees, and misallocated some Fund monies.

Department should take more timely action to revoke cards

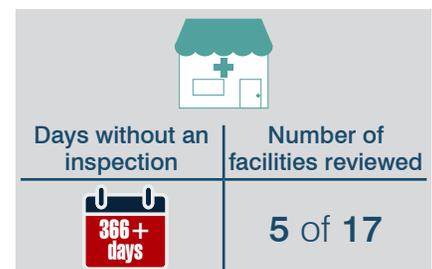
The Department can revoke cards for violations of the Act, such as diverting marijuana to someone not authorized to possess it, or being convicted of an excluded felony offense, such as a violent crime. Our review of 10 cards the Department revoked in fiscal year 2018 found that it took between 21 and 243 working days to revoke them because it did not complete some of the revocation process steps in a timely manner. For example, it took between 1 and 19 working days to request applicable documents describing a cardholder's crime for 4 of the 10 cards reviewed, but took 39 and 42 working days, respectively, for 2 other cards. We found that the Department lacked policies and procedures to help ensure timely revocations.

Recommendation

The Department should develop and implement policies and procedures for revoking cards, including developing and tracking internal steps and associated time frames for revocation process steps.

Some Department medical marijuana regulatory activities not completed timely or consistently, nor adequately performed

Some facility inspections not completed timely or consistently—The Department conducts ongoing inspections of facilities to assess compliance with statutory and rule requirements, such as whether facilities have adequately packaged and labeled medical marijuana. The Department reported that its unwritten goal is to inspect each facility at least once each year. We reviewed a random sample of 10 dispensaries that were in operation as of May 2018, and 7 associated cultivation sites, and found that 5 facilities were not inspected in more than a year at one point throughout their operation. Long delays between inspections may put the public at risk. We also found that the Department inconsistently assessed compliance during inspections, which can affect the Department's ability to effectively monitor a facility's compliance with statutory and rule requirements and can lead to confusion among inspectors and dispensaries. The Department did not formally establish an inspection frequency goal and did not develop adequate facility inspection policies and procedures.



Some complaints inadequately investigated and monitored—We reviewed a random sample of 30 online facility complaints submitted to the Department between August 2015 and May 2018 and found that some complaints were incorrectly determined to not be within the Department's jurisdiction and therefore, were not investigated; some complaints were inaccurately categorized after investigation; and complaint investigations were not adequately documented. Inadequately investigating complaints impacts the Department's ability to effectively protect public health and safety. In addition, we found that the Department's complaint-handling policies and procedures were outdated.

Facility noncompliance not consistently addressed—The Department uses various approaches to address facility noncompliance, including requiring the facility to submit a correction plan and holding “provider meetings” to discuss concerns with the facility. However, our review of 4 substantiated complaints with similar violations found the Department inconsistently addressed these violations. The Department was not able to explain why different actions were taken for these complaints and it did not have policies and procedures specific to addressing facility noncompliance.

Infusion kitchens not inspected as food establishments—As of December 2018, the Department licensed 36 infusion kitchens as food establishments, which prepare marijuana-infused edible food products at facilities. Although Arizona’s food safety regulations require ongoing food safety inspections for food establishments, the Department reported that it does not inspect infusion kitchens for ongoing food safety compliance because facilities typically close infusion kitchens on the dates when the Department has announced that it will conduct a medical marijuana inspection. However, food establishments can be inspected for compliance with various food safety requirements, even if food is not being prepared at the time of inspection, including handwashing, coolers or freezers, food preparation sinks, and the temperature of any food or ingredients in the kitchen. The Department’s failure to regularly inspect infusion kitchens places qualifying patients at risk of purchasing and consuming food products without adequate oversight to prevent foodborne illnesses.

Recommendations

The Department should develop, or update, and implement policies and procedures for:

- Its inspection processes, including how often inspections should be conducted and how violations will be assessed.
- Its complaint-handling processes, including determining and documenting whether complaints are in its jurisdiction, documenting all complaint investigation activities, and tracking and monitoring all complaints.
- Addressing statutory and rule violations by medical marijuana facilities.

The Department should conduct unannounced food safety inspections of infusion kitchens on an ongoing basis similar to its inspection practices for other licensed food establishments in the State.

Department should establish and implement process for setting Program fees

The Department charges cardholders and facilities initial and renewal fees to pay for Program costs, such as the cost associated with reviewing, processing, and issuing cards. According to the Department, it established its fee amounts in rule in 2011 and has not formally reviewed the appropriateness of the Program’s fees since they were initially set. Further, the Department has not conducted a cost analysis of the Program. Without accurate cost information, the Department cannot ensure that its fees are appropriately set, which may result in placing an undue cost burden on Program participants or result in insufficient monies to cover Program costs.

Recommendation

The Department should determine the costs for providing its Medical Marijuana Program and set its fees accordingly.

Department misallocated some Medical Marijuana Fund monies

The Act established the Fund, and the use of Fund monies must benefit the Program. However, our review of fiscal year 2018 Fund expenditures identified some costs that were not proportionally allocated relative to the benefit the Program received. For example, we identified 2 employees with estimated salaries totaling approximately \$131,000 that were fully paid by the Fund in fiscal year 2018; however, these 2 employees worked on other programs or responsibilities that were not related to the Program for approximately 15 and 5 percent of their time, respectively. Additionally, we reviewed a judgmental sample of 65 of the 7,177 fiscal year 2018 Fund expenditure transactions, totaling approximately \$2.6 million. For 30 of these 65 transactions, totaling approximately \$962,000, the Fund paid the full cost of the transaction, but other Department programs also benefited from the expenditures. Overall, the Department did not have documentation supporting how the allocation amounts were determined. We found that the Department had not developed written policies and procedures regarding the use of Fund monies that could assist in determining whether an expenditure is allowable and whether the expenditure should be allocated to the Fund. As of April 2019, the Department reported that it had established a department-wide process for required approvals of expenditures.

Recommendation

The Department should establish and implement written policies and procedures regarding the allowable use of Fund monies and guidance for allocating expenditures when multiple programs benefit from the expenditure.