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Dunklin County Public Administrator



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CITIZENS SUMMARY

Findings in the audit of Dunklin County Public Administrator

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| Background | The public administrator serves as the court appointed personal representative for decedents' estates and as guardian and/or conservator for individuals who are unable to care for themselves or their property. As of December 2014, the Dunklin County public administrator was responsible for the financial activity of approximately 200 wards with assets totaling approximately \$1.5 million. Shawnee L. Trowbridge served in the position from January 2007 until March 2, 2016, when she entered into a deferred prosecution agreement with the Attorney General's Office and resigned. |
| Gift Cards | After identifying questionable transactions made on gift cards purchased with wards' funds, the State Auditor's Office issued a subpoena compelling the public administrator to testify about the purchases. She indicated she had purchased items with one gift card that were not made on behalf of the ward. The improper purchases totaled \$250. An additional \$550 in questionable purchases were made on other ward gift cards and did not appear to have been made by, or on behalf of, wards. Questionable purchases included pet supplies and fuel for wards who did not have pets or own vehicles. |
| Disbursements | The public administrator failed to retain adequate supporting documentation for some disbursements from ward bank accounts. In a three-year period, she issued 10 checks totaling \$2,076 to Walmart from ward accounts but did not retain documentation to support the payments. She also issued personal allowance checks and purchased gift cards using wards' funds but did not maintain sufficient documentation or require the wards to sign a receipt to indicate they had received the checks or gift cards. |
| Medicaid Eligibility | The public administrator did not accurately report wards' assets on Medicaid eligibility review forms. On four of the 13 forms reviewed, auditors identified differences between the asset balances reported on the forms and the actual assets available. |
| Annual Settlements | The public administrator did not always file annual settlements timely, as required by state law. Settlements were filed late for 13 of 23 wards or estates, with one settlement filed approximately six months after the due date. Some settlements also were not filed for the required 12-month period; for example, one settlement was filed for a 10-month period and another was filed for a 14-month period. Additionally, some ward assets were not accurately reported in the annual settlements, and documentation to support the settlements was not filed with the circuit court. The probate division of the court did not have a system in place to monitor and ensure accurate and timely filing of settlements. |

In the areas audited, the overall performance of this entity was **Poor**.*

*The rating(s) cover only audited areas and do not reflect an opinion on the overall operation of the entity. Within that context, the rating scale indicates the following:

- Excellent:** The audit results indicate this entity is very well managed. The report contains no findings. In addition, if applicable, prior recommendations have been implemented.
- Good:** The audit results indicate this entity is well managed. The report contains few findings, and the entity has indicated most or all recommendations have already been, or will be, implemented. In addition, if applicable, many of the prior recommendations have been implemented.
- Fair:** The audit results indicate this entity needs to improve operations in several areas. The report contains several findings, or one or more findings that require management's immediate attention, and/or the entity has indicated several recommendations will not be implemented. In addition, if applicable, several prior recommendations have not been implemented.
- Poor:** The audit results indicate this entity needs to significantly improve operations. The report contains numerous findings that require management's immediate attention, and/or the entity has indicated most recommendations will not be implemented. In addition, if applicable, most prior recommendations have not been implemented.

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Dunklin County Public Administrator

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NICOLE GALLOWAY, CPA

Missouri State Auditor

To the County Commission
and
Public Administrator of Dunklin County

We have audited the Public Administrator of Dunklin County. During our audit of certain operations of Dunklin County in fulfillment of our duties under Section 29.230, RSMo, we determined there were improper gift card transactions in the Public Administrator's Office. The scope of our audit of the Public Administrator included, but was not necessarily limited to, the year ended December 31, 2014. The objectives of our audit were to:

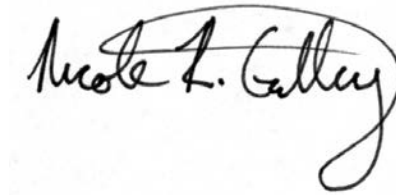
1. Evaluate the Public Administrator's internal controls over significant management and financial functions.
2. Evaluate the Public Administrator's compliance with certain legal provisions.
3. Determine the extent of improper gift card transactions in the Public Administrator's Office.

Our methodology included reviewing written policies and procedures, financial records, and other pertinent documents; interviewing various personnel of the county, as well as certain external parties; and testing selected transactions. We obtained an understanding of internal controls that are significant within the context of the audit objectives and assessed whether such controls have been properly designed and placed in operation. We also obtained an understanding of legal provisions that are significant within the context of the audit objectives, and we assessed the risk that illegal acts, including fraud and violations of legal provisions could occur. Based on that risk assessment, we designed and performed procedures to provide reasonable assurance of detecting instances of noncompliance significant to those provisions.

We conducted our audit in accordance with the standards applicable to performance audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform our audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides such a basis.

For the areas audited, we identified (1) deficiencies in internal controls, (2) noncompliance with legal provisions, and (3) improper gift card transactions totaling at least \$250. The accompanying Management Advisory Report presents our findings arising from our audit of the Dunklin County Public Administrator.

An audit of certain operations of Dunklin County, fulfilling our obligations under Section 29.230, RSMo, is still in progress, and any additional findings and recommendations will be included in the subsequent report.

A handwritten signature in black ink, reading "Nicole R. Galloway". The signature is written in a cursive style with a large, looping "G" at the end.

Nicole R. Galloway, CPA
State Auditor

The following auditors participated in the preparation of this report:

| | |
|-----------------------|---|
| Deputy State Auditor: | Keriann Wright, MBA, CPA |
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Dunklin County Public Administrator

Introduction

Background

The Public Administrator serves as the court appointed personal representative for decedents' estates and as guardian and/or conservator for individuals who are unable to care for themselves or their property when there is no one else to serve. The Public Administrator is responsible for the financial activity of approximately 200 wards with assets totaling approximately \$1.5 million as of December 31, 2014. The Public Administrator is required to file annual settlements with the Circuit Court, Probate Division, for each appointed ward or estate reflecting the financial activity for the year.

Shawnee L. Trowbridge was appointed Dunklin County Public Administrator in January 2007 and subsequently elected to the position in November 2008 and November 2012. During the year ended December 31, 2014, the Public Administrator received salary compensation of \$45,650. The Public Administrator supervised the daily operations of the Public Administrator's Office and employed 2 full-time employees as of December 31, 2014.

In April 2015, auditors identified questionable purchases made using gift cards purchased with ward monies. Our office deposed the Public Administrator under oath regarding these purchases in July 2015. Based on the results of the deposition, the county requested the Missouri State Highway Patrol conduct an investigation. On March 2, 2016, the Public Administrator entered into a deferred prosecution agreement with the Attorney General's Office and resigned.

Dunklin County Public Administrator

Management Advisory Report

State Auditor's Findings

1. Gift Cards

The Public Administrator made improper purchases totaling \$250 on a gift card purchased with ward monies, and purchases made on other ward gift cards totaling at least \$550 did not appear to be made by, or on behalf of, the wards. The Public Administrator could not provide documentation showing gift cards purchased on behalf of wards had been delivered to the wards. During our review of 578 annual settlements filed from 2011 through April 2015, we identified purchases of at least 18 Walmart gift cards totaling \$3,250, and 3 Visa gift cards totaling \$309.

The scope of our audit included, but was not necessarily limited to, the year ended December 31, 2014. After identification of at least one purchase of a Walmart gift card that was not supported by adequate documentation, we applied limited procedures to disbursement transactions for the 3 years ended December 31, 2013, for the purposes of identifying additional Walmart transactions that may be gift card purchases. The Public Administrator did not retain documentation for several payments to Walmart (see Management Advisory Report (MAR) finding number 2), so we subpoenaed sales receipt slips from Walmart for these transactions. We identified a total of 18 Walmart gift card purchases from the available Walmart sales receipt slips. We then subpoenaed the transaction detail of purchases (transactions) made using these 18 Walmart gift cards.

According to the Public Administrator, gift cards were purchased for additional ward allowances or to reduce ward assets for Medicaid eligibility purposes (see MAR finding number 3). Our review of the subpoenaed documentation and ward case files identified questionable gift card transactions related to 4 wards. We issued a subpoena to compel testimony of the Public Administrator. In a sworn deposition¹ the Public Administrator indicated she made purchases on one of the gift cards that were not made on behalf of the ward (see footnote A in the following table). The following table lists the questionable transactions:

¹ On July 28, 2015, an attorney of the State Auditor's Office took the testimony of the Public Administrator over her usage of gift cards. This testimony was given under oath and was recorded by a court reporter.



Dunklin County Public Administrator
Management Advisory Report - State Auditor's Findings

| Ward | | Gift Card Amount | Date Purchased | Dates Used | Questionable Purchases |
|--------|---|---------------------|-------------------|-------------------------------|--|
| Ward 1 | A | \$250 | 5/14/13 | 6/12/13, 6/14/13 & 6/15/13 | Party supplies, dog food, cat food, pet supplies, and purchases made in Florida |
| Ward 1 | B | \$100 | 12/18/13 | 12/18/13 & 12/20/13 | Dog sweater |
| Ward 2 | C | \$50 | 11/06/13 | 11/8/13 & 11/15/13 | Fuel |
| Ward 3 | D | \$200 | 5/19/14 | 5/24/14, 5/29/14 & 6/2/14 | Fuel |
| Ward 4 | E | \$200 | 5/19/14 | 5/23/14 & 9/4/14 | Fuel, men's swimwear, children's clothing, girl's shoes, and bird toys |
| | | \$800 | | | |

- A Ward 1 did not own any pets and was not in Florida when purchases were made. In a sworn deposition, the Public Administrator indicated she made the purchases on this gift card.
- B Ward 1 did not own a dog. During the sworn deposition the Public Administrator admitted to owning a dog.
- C Ward 2 did not own a vehicle.
- D Ward 3 lived in a nursing facility and did not own a vehicle.
- E Ward 4 lived in a nursing facility and did not own a vehicle. In addition, the ward (elderly female) did not own a bird or have relatives living nearby. During the sworn deposition the Public Administrator admitted to owning a bird and having two daughters.

The Public Administrator did not maintain sufficient documentation to support any of the 21 gift cards purchased and the wards did not sign a receipt indicating gift cards had been received from the Public Administrator (see MAR finding number 2). Without documentation to support these gift card purchases, there is no assurance the disbursements are valid and proper.

Gift card disbursements have more risk associated with them than check disbursements. Gift cards can be used by anyone in possession of the gift card. A check disbursement can only be cashed by the payee and the money remains in a bank account until the check is cashed, which provides added security. To adequately safeguard ward monies and reduce the risk of loss, theft, or misuse, the Public Administrator should discontinue purchasing gift cards.

After investigation by law enforcement officials, the Public Administrator entered into a deferred prosecution agreement with the Attorney General's Office. The terms of the deferred prosecution agreement included, but were not limited to, reimbursing the applicable ward accounts for the \$800 in questionable purchases and resigning her position as Public Administrator.

Recommendation

The Associate Circuit Judge work with the new Public Administrator to ensure no other discrepancies exist. In addition, the Public Administrator should discontinue the use of gift cards and prepaid debit cards.



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Management Advisory Report - State Auditor's Findings

Auditee's Response

The Associate Circuit Judge provided the following response:

I agree gift cards as utilized by the Office of Public Administrator have a higher risk of misuse and theft. As soon as I became aware of the circumstances and manner of use by the Public Administrator, I immediately directed that she discontinue the use of gift cards or any similar device. (My Memorandum under date of June 5, 2015, was previously provided to your office at the exit interview.)

Further, when I became aware of the information disclosed by the "sworn statement" given by Ms. Trowbridge in late July of 2015, I immediately issued my "Memorandum and Order" under date of August 11, 2015, a copy of which was also provided to you at the exit interview. This greatly limited the ability of the Public Administrator to expend any funds of the ward and protectee without prior approval of the Court. This was followed by my "Memorandum and Order" under date of August 12, 2015 (copy also provided), which required the Public Administrator to appear each Friday beginning August 14, 2015, with the necessary Petitions and invoices or other proof of needed expenditures of the ward and protectee. This process was spelled out in greater detail in later Memorandums issued in September and October of 2015, copies of which were also submitted at the exit interview.

Most importantly, I also notified the Office of Prosecuting Attorney and Office of Sheriff of Dunklin County, Missouri of the concerns brought to light by your initial audit procedures and the sworn statement. Due to the potential conflict of interest, the matter was referred to the Office of Attorney General and to the Missouri State Highway Patrol. Throughout the next few months, at my direction, Ms. Sonya Lewis, Probate Clerk, supplied information and access to all files managed by the Public Administrator. This cooperation aided the investigators of the Highway Patrol to determine the appropriateness of criminal prosecution and the recovery of restitution of any misappropriated or misused funds.

Finally, when the new Public Administrator takes office, the Probate Court Clerk and I will personally review each of the approximate 130 files with the new office holder to ensure that no other discrepancies exist and to assure that all of the needs of the ward and protectee have been identified and are being met.

Former Public Administrator Shawnee Trowbridge provided the following response:

As the audit suggests in paragraph 1, it appears that there were purchases made on 5 of the 21 gift cards that were not made by the ward. In July, I was presented with receipts for purchases made on the Walmart gift cards



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Management Advisory Report - State Auditor's Findings

and for one card in particular it was obvious that I had made the purchases. After further inquiry I discovered that I had apparently given my gift card to a ward and kept hers. The ward has been interviewed by the Auditor's office and the investigators from Missouri State Highway Patrol, Division of Drug and Crime Control, in order to confirm this. When I was presented with this audit finding, I personally made deposits that reimbursed all of the cards in question. I have attached deposit slips to this statement showing the amounts were returned to the clients in full. No other gift cards have been purchased since November of 2014. It was suggested by the auditor to myself and Judge Preyer that no more be used in the future. An order was promptly issued by the court stating that no gift cards could be purchased in the future. The three pre-paid VISA cards were purchased in 2012 as an option for three specific cases, but were not refilled due to the fact that it would require an additional payment with every reload. There have been no other prepaid cards purchased since 2012, and we have no plans to purchase any in the future unless a system is set in place that will benefit the wards and is authorized by the Social Security Administration.

Auditor's Comment

The Public Administrator's assertion that our office and the Missouri State Highway Patrol confirmed the gift cards had been switched is not correct. We did not interview the ward. The Missouri State Highway Patrol indicated to us an officer interviewed the ward and the ward had no recollection of receiving any Walmart gift cards. In addition, we questioned the Public Administrator about the inappropriate purchases in July 2015, but she did not reimburse the applicable ward accounts until the day she signed the deferred prosecution agreement (March 2, 2016).

2. Disbursements

The Public Administrator did not retain adequate supporting documentation for some disbursements from ward bank accounts.

We reviewed 23 of the 127 annual settlements filed in 2014 and applied limited procedures to disbursement transactions for 578 annual settlements filed from 2011 through April 2015 for the purposes of identifying Walmart transactions. We determined adequate supporting documentation was not available, as follows:

- The Public Administrator issued 10 checks from 8 ward bank accounts totaling \$2,076 to Walmart from January 2011 through December 2014; however, she did not retain documentation to support these payments.
- The 23 annual settlements we reviewed showed the Public Administrator issued monthly personal allowance checks to 22 wards totaling \$52,724. In addition, as discussed in MAR finding number 1, the Public Administrator stated she sometimes purchased gift cards to provide additional allowances to wards. The documentation to support these check and gift allowances was not sufficient and the wards did not



Dunklin County Public Administrator
Management Advisory Report - State Auditor's Findings

sign a receipt indicating monies had been received from the Public Administrator.

To ensure payments are valid and proper and to reduce the risk of loss, theft, or misuse of funds, the Public Administrator should maintain adequate supporting documentation for all disbursements. This is especially important considering the questionable transactions noted in MAR finding number 1.

Recommendation

The Public Administrator ensure disbursements are supported by adequate documentation.

Auditee's Response

Former Public Administrator Shawnee Trowbridge provided the following response:

We presented trust statements for the list of wards in question from the facilities in which they reside. These statements are attached to this response. The clients that live out and personally pick up their checks, sign the back and cash them at the bank and we can provide copies of these canceled checks if the auditor desires. Also, we have implemented a practice since the audit to make sure all clients who pick up their checks in person sign for them, and we will try to implement a system of meeting with those who receive theirs by mail and make them sign an annual receipt that shows they did receive their personal allowance checks and cash them for their own benefit. We will continue to use a double check system in reconciling bank statements to make sure that all personal allowance checks are accounted for. All receipts for purchases will continue to be scanned and saved into each client file. All trust accounts from facilities will continue to be monitored and scanned and saved into the client file.

The Associate Circuit Judge provided the following response:

Through the procedures implemented as described in my response to MAR finding number 1 above, there will be more documentation of expenditures made by the Public Administrator. Further, I have implemented requirements of prior approval by written court order before most of the expenditures are made by the Public Administrator.

3. Medicaid Eligibility

The Public Administrator did not always report assets accurately on the Medicaid eligibility review form to help wards retain Medicaid eligibility. According to the Public Administrator, gift cards are sometimes purchased for future expenses so a ward's assets remain below Medicaid eligibility limits. These gift card purchases are in addition to the normal ward allowances and are not in lieu of such allowances.

We reviewed Medicaid eligibility forms for 13 of the 200 wards for the 4 years ended December 31, 2014, and identified 4 of the 13 forms had



Dunklin County Public Administrator
Management Advisory Report - State Auditor's Findings

differences between reported asset balances and the actual assets available. For example, a Medicaid eligibility form filed for one ward due August 31, 2012, understated the bank balance by \$200. The form indicated a bank account balance of \$1,582, but this balance was reduced by a \$200 gift card purchased on August 23, 2012. However, a gift card would remain an asset of the ward until it was spent.

When initially applying for or annually re-determining eligibility for Medicaid through the Department of Social Services (DSS), the Public Administrator is required to report all assets for each ward that may be in the form of cash, property, or other assets on the program application or eligibility review form. In addition, Section 208.210.1, RSMo, requires recipients to notify county welfare offices if they possess property that affects their right to receive benefits. Further, Section 208.210.2, RSMo, provides that if it is found that a recipient or spouse possessed income in excess of the amount reported that would affect his/her right to receive benefits, the amount of benefits may be recovered as a debt due to the state.

Recommendation

The Public Administrator report accurate asset information for wards to the DSS, Family Support Division. Additionally, the Public Administrator should contact the DSS, Family Support Division to determine whether any monies are due to the state.

Auditee's Response

Former Public Administrator Shawnee Trowbridge provided the following response:

I have reviewed the 4 Medicaid forms listed and found that two had addition errors in the form, but the bank statements and reconciliation forms were also attached to all the Family Support Division forms, which accurately display the balance. We will continue to make our best efforts to provide the information requested by the Family Support Division in a timely and accurate manner. (All 4 forms in question were prepared and signed by staff members who are no longer employed so I cannot ask them how they arrived at the figures they filled in.)

The Associate Circuit Judge provided the following response:

This Court was not aware of the inaccurate reporting by the Public Administrator to the Department of Social Services. The Public Administrator has been instructed that under no circumstances shall incorrect information be reported. In circumstances where this may have happened in the past, the Pubic Administrator will be instructed to contact the Department of Social Services as to possible reimbursement that may be needed.



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4. Annual Settlements

The Public Administrator does not always file annual settlements timely in compliance with state law, and some assets purchased during the annual settlement period did not appear on the ending inventory section of the annual settlement.

Timely filing

For each ward or estate, the Public Administrator is required to file an annual settlement with the Circuit Court, Probate Division, on the anniversary date of the date of letters reflecting a detailed list of assets held, as well as financial activity for the previous year. We reviewed settlements filed for 23 of the 200 wards or estates and noted 13 annual settlements were filed after the due date, including one annual settlement that was filed approximately 6 months after the due date. In addition, 5 of the 23 settlements were not filed on a 12 month (annual) period, as required, including a settlement filed for a 10-month period and a settlement filed for 14-month period.

Sections 473.540 and 475.270, RSMo, require the Public Administrator to file an annual settlement with the court for each ward or estate. Timely settlements are necessary for the court to properly oversee the administration of cases and reduce the possibility that loss, theft, or misuse of funds will go undetected.

Ward assets

The assets included in 3 of the 23 wards annual settlements reviewed were not accurate. Assets excluded from the annual settlements include an automobile and a burial plan. In addition, a life insurance policy was inaccurately included on an annual settlement.

To ensure the financial activity of the wards is accurately and completely reported to the court, all assets should be reflected on the annual settlements.

Supporting documentation

Supporting documentation for disbursements, such as invoices, vouchers, bank statements, or canceled checks, are not filed with the Circuit Court, Probate Division, when filing annual settlements. The Public Administrator only submits the first page of the last bank statement in the period of settlement to support the bank balance on the annual settlement. In addition, there is no evidence the Associate Circuit Judge performs any follow up with the Public Administrator to determine why these supporting documents are not submitted.

Section 473.543, RSMo, requires the Public Administrator to submit supporting documentation for all disbursements in excess of \$75 and indicates the court may require supporting documentation for disbursements of less than \$75. Without such documentation, it is difficult for the court to assess the validity and reasonableness of costs charged to and paid by wards of the Public Administrator.



Dunklin County Public Administrator
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Probate Division review

The Circuit Court, Probate Division, review of annual settlements filed by the Public Administrator did not detect any of the issues identified in this finding. In addition, the Circuit Court, Probate Division, does not have a system in place to monitor and ensure timely filing of settlements, nor does it follow up on annual settlements not filed by the required date.

Failure to adequately review settlements and ensure they are filed timely increases the risk that loss, theft, or misuse of funds could go undetected. Sections 473.557 and 475.280, RSMo, require the clerk of the court to notify the conservator or guardian (Public Administrator) of the deadline for the annual settlement; however, failure to receive the notice does not excuse the conservator or guardian from filing the settlements as required by law.

Recommendation

The Public Administrator ensure annual settlements are complete and accurate, and filed timely with supporting documentation. In addition, the Circuit Court, Probate Division, should notify the Public Administrator of annual settlement deadlines timely, follow up on settlements not filed by the required date, and review the settlements appropriately.

Auditee's Response

Former Public Administrator Shawnee Trowbridge provided the following response:

The Annual Settlements are currently up to date with all filings with the exception of two that we are waiting on the bank to provide us information that we requested. Since the start of this audit, the Probate Judge has changed his requirements for filing settlements to include additional supporting documentation to verify assets and receipts for expenditures. Those are being provided to the court as requested on all settlements.

In the paragraph marked "ward assets" there are 3 issues mentioned which include:

1. An automobile that was purchased by a ward that I am not the guardian for, only conservator, who did not inform my office of this purchase until after the filing of the annual settlement. It was not included because we were unaware of it. It has since been added to his inventory.

2. A burial plan that had been overlooked and not added to electronic inventory even though records were kept up to date in the file.

3. An insurance policy that had been put on record in the old accounting system by the previous public administrator but we did not have any information to support this policy. The information had been given to the previous public administrator that a family member had purchased the policy but the family did not ever provide proof. We had left it in there until the auditor asked that we remove it.



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In the paragraph marked "supporting documentation" the auditor states that only the first page of the bank statement is provided. In the past we provided the most recent bank statement with the annual settlement and kept all 12 months of bank statement available for review of the court upon request. There have been many times that we have filed a settlement that the court has contacted us and requested additional supporting information and it has been provided. It was handled this way due to the lack of storage space at the court for filing very large stacks of documents in the files. The court has gone electronic as of September and we are now e-filing our settlements. We are now including all bank statements and supporting documentation.

The Associate Circuit Judge provided the following response:

In order to further identify and protect the assets of the wards and protectees, the "Memorandum and Orders" of August 11, 2015 and of September 4, 2015 implement procedures to make certain all assets are initially accounted for in the inventory and that all expenditures are properly documented and, in many instances, pre-approved.

As a result of the implementation of electronic filing and other updating of the court filing and computer systems in October 2015, this Court is better able to assure that annual settlements are timely filed. A process has been implemented whereby the Probate Court Clerk, on the first business day of each month, will prepare a report generated by the Office of State Courts Administrator that will detail what settlements and reports, including inventory, that are overdue.

With regard to any inventory or annual or final settlement that is more than 30 days overdue, a hearing will be set for the last Friday of the month which will require the Public Administrator, or the private guardian or conservator, or personal representative, to appear in person to provide a reason for the delay. This procedure is in addition to the required statutory notice of the due date of reports. It should provide a mechanism to identify and follow up with any report that is unnecessarily overdue.