

# REPORT HIGHLIGHTS



PUBLIC ADMINISTRATORS  
PERFORMANCE AUDIT, AUGUST 2017

JUDICIAL BRANCH

## CONCERN

The Judicial Branch, judicial districts, and courts have not instituted rigorous oversight processes to ensure that Public Administrators meet their fiduciary duty.

## KEY FINDINGS

- Public Administrators do not always provide the courts with sufficient information to determine the reasonableness of fees and costs, which are paid out of the estates they administer. In 23 of the 56 cases we reviewed (41 percent), the Public Administrators did not include a breakout of the fees and costs charged to the estates, a detailed accounting of the hours worked or the hourly rate, and/or detail on the types of services provided to justify the amount charged. Public Administrators reported fee rates ranging from \$50 to \$350 per hour during Calendar Year 2017.
- The Judicial Branch and the courts do not maintain the fundamental data needed to oversee the Public Administrator function and assess Public Administrator performance. Specifically, neither the Judicial Branch nor the courts have Public Administrator data such as total caseload, total amount of assets overseen, total number of hours worked and fees charged, or length of time cases stay open.
- Some Public Administrators may not be maintaining the required bonds. As of April 1, 2017, five did not provide us with evidence of an active bond and 23 had no record of an active bond on file with the Secretary of State's Office, as required by statute. In addition, the statutory \$25,000 bond requirement for Public Administrators may not adequately protect decedents' estates and conservatorships.
- The Department of the Treasury had incorrectly deposited about \$110,000 from decedent estate cases to its Unclaimed Property Fund, thereby making the funds unavailable for ultimate transfer to the Public School Fund, as required by statute.

## BACKGROUND

- Public Administrators are appointed by district courts to act as fiduciaries of last resort when no one else is willing or able to serve as a conservator for a protected person or a personal representative for a decedent's estate.
- Public Administrators are not employees of the State or the judicial districts.
- Of the 22 judicial districts statewide, 13 have appointed Public Administrators. In total, there were 29 Public Administrators (including deputies) in Colorado in Calendar Year 2016.
- According to their annual reports, Public Administrators' caseloads ranged from 0 to 472 cases in Calendar Year 2016, and the estates they managed ranged in value from \$0 to about \$15 million.
- Public Administrators are required to maintain bonds, which serve as insurance and allow for the recovery of some assets if they fail to act honestly or competently.
- Any funds remaining in an estate administered by a Public Administrator, once all costs of settling the estate have been paid, must be transferred to the Department of the Treasury. Funds are held for 21 years to allow for legal claims, then transferred to the State's Public School Fund. Treasury transferred about \$313,000 of such funds to the Public School Fund from Fiscal Years 2013 through 2016.

## KEY RECOMMENDATIONS

- Implement mechanisms for collecting sufficient information from Public Administrators for the courts to assess the reasonableness of fees and costs.
- Collect and maintain the fundamental data needed to oversee the Public Administrator function.
- Ensure that Public Administrators maintain bonds of sufficient value to adequately protect the estates and conservatorships they oversee.
- Ensure undistributed funds from decedent estates are handled in accordance with statute by providing guidance on the information that should be provided when transferring funds from decedents' estates.