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December 2, 2002

Ms. Vera Eggleston
Commissioner
New York City Human Resources Administration
180 Water Street – 25th Floor
New York, NY 10038

Mr. Brian J. Wing
Commissioner
Office of Temporary and Disability Assistance
40 North Pearl Street
Albany, NY 12243

Re: Report 2002-F-42

Dear Ms. Eggleston and Mr. Wing:

Pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution, Article II, Section 8 of the State Finance Law, and Article III of the General Municipal Law, we have reviewed the actions taken by officials of the New York City Human Resources Administration (HRA) and the Office of Temporary and Disability Assistance (OTDA) as of October 28, 2002, to implement the recommendations contained in our report: *Fair Hearing Process* (Report 2000-N-6). The report, issued October 15, 2001, examined whether HRA's Office of Family Independence Administration collected sufficient data to monitor Fair Hearing (Hearing) results; and used the Hearing outcome data to identify problems and best practices in the conduct of the Hearing process.

Background

OTDA administers the State's public assistance programs and oversees the activities of the State's 58 local social services districts, including New York City, that carry out these programs. The Office of Family Independence Administration (FIA) within HRA administers public assistance and Food Stamps programs in New York City. FIA operates 28 local Income Support/Job Centers, where staff applications for public assistance and Food Stamps.

FIA staff sometimes makes determinations to deny/reduce/discontinue benefits to clients. If the clients believe the FIA determination is wrong, they can appeal it by requesting a Fair Hearing before an Administrative Law Judge from OTDA's Office of Administrative Hearings (OAH). A Hearing can be avoided if FIA staff resolves the client's complaint through conciliation or the

Mandatory Dispute Resolution Process. Otherwise FIA must present evidence to support FIA's determination at the Hearing. Hearings can result in affirmation or reversal of the district's determination, or return for further action based on submission of new documentation at the Hearing. FIA can win or lose a Hearing for several reasons. FIA is considered to have lost cases, which result in reversals or FIA withdrawal from the Hearing process. According to the Mayor's Management Report for fiscal year 2002, HRA reported the following Fair Hearing outcomes:

Fair Hearing Outcomes	FY 2002 Actual
Agency Affirmations	9,521
Client Withdrawals	46,908
Client Defaults	103,111
Agency Reversals	59,325
Agency withdrawals	6,741
Total	225,606

Summary Conclusions

Our prior audit identified several improvement opportunities in OTDA's and HRA's operating practices concerning the Fair Hearing process. We found that HRA/FIA did not always collect sufficient data to identify the underlying reasons why clients filed Fair Hearing requests, and why FIA lost issues at the Hearings. We also found that FIA did not use Hearing outcome data effectively to make improvements, and to verify that FIA staff produces the evidence needed. The audit found deficiencies in developing, recording and sharing Hearing information between OTDA and HRA, as well as a need for OTDA Judges to specifically identify FIA evidence shortcomings.

Our follow-up review found that both OTDA and HRA have made substantial progress in implementing the recommendations made in our prior audit report. HRA/FIA has access to OTDA's enhanced Fair Hearings system for obtaining Hearing-related information. FIA also has its own tracking system to monitor the collection of Hearing evidence packets. FIA also collects outcome data, which it uses to monitor and improve its operations, and implement best practices. Communication and information sharing has improved between OTDA and HRA, and OTDA Judges are recording specific information relating to evidence shortcomings and Hearing outcomes.

Summary of Status of Prior Audit Recommendations

Of the eight prior audit recommendations, HRA officials implemented the four recommendations addressed to them, and OTDA officials implemented the three recommendations addressed to them. Recommendation 4, which was addressed to both OTDA and HRA, was also implemented.

Follow-up Observations

Recommendations 1 and 2

To HRA/FIA:

Develop comprehensive data for the Hearing process. Use this data to identify and correct process weaknesses and to identify and implement best practices that will improve operations.

Capture appropriate data to measure the effects of the MDR Process, including information about the underlying reasons Hearing requests occur.

Status – Implemented

Agency Action – HRA developed several tracking control mechanisms that address both Recommendations 1 and 2. For example, one report tracks information for the period July 2001 through 2002, a yearly summary, by Job Centers, such as the cumulative number of appointments scheduled, kept, and rescheduled; cases where the appellant appears at the Mandatory Dispute Resolution (MDR), withdrawals and the reasons thereof. The report also analyses the number of cases scheduled, the MDR impact rate (number of Fair Hearing cases avoided through MDR) and the client acceptance rate.

HRA's "Winning Strategies" audit teams reviewed operations at nine job centers between January and August 2002. Specifically, they reviewed the Job Centers' evidence gathering process, and HRA's use of this data to identify and correct process weaknesses and to implement best practices.

Recommendation 3

To OTDA:

Improve FHIS [Fair Hearings Information System] to allow ready access to decision data by center.

Status – Implemented

Agency Action – OTDA implemented several updates to the FHIS system, installed a new web based software program, and provided special terminals at HRA's central office and its Medical Assistance Program office, and provided training and ongoing technical phone support to HRA personnel. In addition, HRA's Welfare Management System is capable of accessing information available on the FHIS. Hearing decisions issued by OAH are recorded on the "Computer Output to Laser Disk" (COLD) system, which is available to the local social services districts (HRA). At HRA, 500 individuals have been granted access to the COLD system.

Recommendation 4

To OTDA and HRA/FIA:

Work together to resolve FHIS access and programming issues to ensure that FIA staff and managers can obtain necessary performance data in appropriate detail.

Status – Implemented

Agency Action – In addition to steps cited under Recommendation 3, HRA implemented several in-house activity and outcome tracking reports, detailing by month, each Job Center's Fair Hearing performance indicators. HRA uses information from the OTDA Fair Hearing databases to track and analyze performance data.

Recommendation 5

To HRA/FIA:

Verify that centers maintain and produce adequate evidence for Hearings.

Status – Implemented

Agency Action – HRA implemented procedures to monitor and track the evidence packets prepared for Hearings. The report entitled "Evidence Packets Received at 14 Boerum Place August 2002" evaluated the adequacy of evidence packets received from all Job Centers and Food Stamps Sites. HRA's analysis shows that 98 percent of the packets from the Job Centers, and 95 percent of the packets from the Food Stamps sites, were properly completed.

As cited for Recommendations 1 and 2, HRA's "Winning Strategies" audit teams reviewed the evidence gathering process at nine Job Centers between January and August 2002.

Recommendation 6

To HRA/FIA:

Use information recorded in Hearing decisions by OAH Judges to identify the types of Hearing documents that were missing, and to determine whether FIA Hearing preparation procedures are being properly followed.

Status – Implemented

Agency Action – Although HRA still claims that the OTDA is "slow" in providing the feedback on missing documents in evidence packets, HRA uses this information, as well as the results of its own internal audits, to focus on training issues that will result in more complete Hearing evidence packets. Presentations were made on various public assistance topics such as Food Stamps, employment, SSI, etc. Regularly scheduled monthly meetings of staff that represent HRA at Hearings address these and other issues.

Recommendation 7

To OTDA:

Confirm that Judges record specifically in their decisions what documents or evidence was lacking at Hearings.

Status – Implemented

Agency Action – Judges document missing evidence on a manually completed form specifically designed for Hearing decisions relating to New York City Hearings. If HRA loses the case, not due to withdrawal, it is noted on the form as follows:

- No appearance;
- No case record;
- No Notice of Intent; and
- Incomplete C/R because of missing (document name or description).

Recommendation 8

To OTDA:

Verify that Judges correctly document and code Hearing results.

Status – Implemented

Agency Action – Judges' decisions on Fair Hearings are documented and coded on an electronic report. This information is reviewed by the Judges' supervisor, and then sent to OTDA's Office of Administrative Hearings for review by the Commissioner's office.

Major contributors to this report were Stanley Evans, Richard Sturm, Barry Mordowitz, and Emma Wohlberg.

We thank the management and staff of the Office of Temporary and Disability Assistance and the NYC Human Resources Administration for the courtesies and cooperation extended to our auditors during this review.

Very truly yours,

William P. Challice
Audit Director

cc: Deirdre Taylor
David Dorpfeld
Hope Henderson