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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

April 5, 2005

Sharon Carpinello, RN, Ph.D.
Commissioner
New York State Office of Mental Health
44 Holland Avenue
Albany, NY 12229

Barbara Faron
Executive Director
Federation of Organizations for the
New York State Mentally Disabled, Inc.
1 Farmingdale Road
West Babylon, NY 11704

Re: Administration of Contract C005454
Federation of Organizations for the
New York State Mentally Disabled, Inc.
Report 2004-R-4

Dear Dr. Carpinello and Ms. Faron:

Pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law, we have audited the costs and revenues reported by the Federation of Organizations for the New York State Mentally Disabled, Inc. (Federation) on the Consolidated Fiscal Report (CFR) submitted to the New York State Office of Mental Health (OMH) for the reimbursement of expenditures related under contract C005454 for the year ended December 31, 2002. We also reviewed additional matters that came to our attention during the course of the audit.

A. Background

The Federation, having its headquarters in West Babylon, is a not-for-profit social service agency, founded in 1972. The Federation operates programs servicing Nassau, Suffolk and Queens Counties that seek to assist consumers to become more productive members of their community. The Federation works to improve services to consumers with disabilities and their families through education, information and referral services, legislative action, and program development. Peer support and self-help are the fundamental principles around which all programs are developed and delivered.

New York State publishes a CFR Manual that is designed to provide general guidance on what types of costs are eligible or ineligible for reimbursement under State programs and how an entity's common costs should be allocated amongst the different programs that it operates. OMH has also prepared additional guidelines for OMH service providers to follow when reporting costs on OMH funded programs. For the year ended December 31, 2002, the Federation reported total expenditures of \$2,593,883 on the CFR submitted to OMH under contract C005454. This contract provides funding for 15 programs as detailed in Exhibit B, including community residences, intensive supportive and supported housing to eligible consumers. The Federation provides a total of 180 residential beds for consumers.

B. Audit Scope, Objectives and Methodology

We audited the costs and Medicaid revenues reported by the Federation on the CFR for the period January 1, 2002 to December 31, 2002. The objectives of our audit were to determine if the costs and revenues reported on the CFR were:

- properly supported by the Federation's books and records,
- related to the contract programs, and
- allowable, as provided for in the CFR Manual.

To accomplish our objectives, we reviewed the Federation's financial records and documentation supporting a sample of transactions. We also interviewed Federation and OMH officials. We visited a sample of apartments and houses occupied by Federation consumers, sought confirmation of lease information from landlords, examined Federation Medicaid claim procedures and, where appropriate, reviewed consumers' information files. We also tested the methods used to allocate the Federation's personnel costs and to lease apartments for the consumers served by the Federation.

We conducted our audit in accordance with Generally Accepted Government Auditing Standards. Such standards require that we plan and perform our audit to adequately assess those Federation operations that are included within our audit scope. Further, these standards require that we understand the Federation's internal control structure and compliance with those laws, rules and regulations that are relevant to the operations, which are included in our audit scope. An audit includes examining, on a test basis, evidence-supporting transactions recorded in the accounting and operating records and applying such other auditing procedures, as we consider necessary in the circumstances. An audit also includes assessing the estimates, judgments, and decisions made by management. We believe our audit provides a reasonable basis for our findings, conclusions and recommendations.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State, several of which are performed by the Division of State Services. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions and public authorities, some of whom have minority voting rights. These duties may be considered management functions for purposes of evaluating organizational independence under Generally Accepted Government Auditing Standards. In our opinion, these management functions do not affect our ability to conduct independent audits of program performance.

C. Results of Audit

We found that, in general, the expenditures reported on the CFR were reported in compliance with the requirements of contract C005454. The Federation maintained proper financial records and documentation to support its expenditures. As shown in Exhibit A, we are recommending that OMH recover \$13,465 of the Federation's claimed expenses because certain expenses were not documented or not allowable.

We also recommend that OMH immediately recover \$266,993 in Medicaid funds that have unnecessarily remained in the Federation's accounts for an extensive period of time. In addition, we identified several areas that OMH and Federation officials need to address to enhance contract-related operations.

1. 2002 Contract Year Cost Adjustments

We tested selected categories of the expenditures claimed by the Federation to determine if the costs were allowable and properly supported. Based upon the items tested, we have recommended that OMH reduce the allowable costs reported on the CFR by \$13,465. The budget categories affected by the disallowances are shown in Exhibit A. The details of the specific transactions were provided to OMH and the Federation during the audit.

2. Medicaid Income

As part of their operations, the Federation bills and collects Medicaid revenues for services provided to eligible consumers. In developing the budget and contract amounts, an expectation is developed as to how much Medicaid income can be expected to be collected by the agency. If the amount collected exceeds the expectations, per OMH's Community Residence Funding and Policy Guidelines, "Agencies may retain as exempt income, 50 percent of all Medicaid income in excess of the fiscal model income expectation." The agency's share of this money should be used to enhance the program. The remaining 50 percent is due OMH and is shown as a liability on the Federation's financial statements until such time as OMH requests payment.

The Federation's 2003 Statement of Financial Position recorded an accumulated liability of \$266,993 as "Due to New York State Office of Mental Health." This represented the 50 percent share of Medicaid funds in the Federation's possession due to OMH. In May 2004 OMH requested a partial payment of \$131,569 from the \$266,993 owed to OMH. The amount requested represented the OMH Medicaid liability from the years 1996-2001. As of the end of our field work in mid September 2004, the Federation has not yet made the requested payment. The remainder of the Federation's OMH exempt Medicaid liability, \$135,424, is due from the years 2002, 2003, and pre-1996. OMH must immediately request these funds.

We reviewed all the Federation's billings and revenue collections for its 33 Medicaid eligible consumers. Nothing came to our attention that caused us to believe that the Federation had not billed Medicaid for consumers; followed up on any pending or denied claims; or had not recorded the revenue properly for the contract year reviewed.

3. Allocation of Personnel Costs

Many Federation employees split their work efforts amongst the different programs operated by the Federation. These programs are sometimes funded in different ways and the Federation needs to charge their employees' salary costs against the different programs. The CFR Manual states, "All personnel who work in more than one program should allocate their salary to the proper cost center...based on actual time and attendance records. If this does not occur, the service provider must complete a time study for each employee who works in more than one program."

The Federation does not have a system that requires employees working on different programs to record their efforts every day or week. Instead the Federation uses the results of a time distribution study performed several years ago as a basis for allocating staff salaries among the different programs. We did note that some ad-hoc changes had been made to the payroll allocations; however, a systematic review had not been performed. We randomly selected seven employees from the June 2004 payroll who worked for the Federation during the audit scope year, of the total 81 OMH funded Federation employees. Two employees acknowledged that they did not work on the particular OMH funded program listed on their time sheet, but worked instead on another OMH funded program. Federation officials stated that most of the time allocations were established several years ago and have not been updated recently. Any recent changes were done through a discussion process, but the methodology to document and justify these allocations was not retained. Federation officials will work on a time study to obtain a more accurate allocation of employees' time.

4. Consumer Housing

The Federation provides apartment and community residence type housing for over 180 individuals. We visited a judgmental sample of ten houses and apartments, which contained 45 of the 180 beds operated by the Federation, to confirm the stated capacity of the units and to observe the general condition of the facilities. Our visits confirmed that the bed capacities were accurate and that the general condition of the visited facilities was good.

The OMH spending guidelines prohibit a member, officer, director or employee of a contractor from retaining or acquiring any interest, direct or indirect, in any real estate or facility used by the contractor without a full and complete prior disclosure of such interest in the property and the date of acquisition. This must be disclosed to the provider and to OMH. This process is designed to prevent any apparent conflicts of interests. We found that the Federation does not inquire if a landlord is a member, officer, director, or employee of the Federation; or obtain any other pertinent information regarding the landlord's background. Thus, there is no assurance that the rental transaction is at arms length and in compliance with the OMH guidelines and there are no safety/security issues with the landlord.

We found that a Federation employee purchased a co-operative apartment that was already rented to a Federation consumer. (The new owner was also a relative of the consumer residing in the apartment). The relationship was not identified to either the Federation or OMH at that time. This Federation employee/landlord subsequently left Federation service in May 2003 and the consumer still resides in the co-operative apartment.

In response to our observations, Federation officials stated that they were unaware that one of their employees had become a landlord. They also agreed that obtaining pertinent landlord information would be beneficial. OMH officials stated they would begin to ask the Federation and all like contractors to perform some form of landlord review with the implementation of their 2005 procedures. OMH agrees that it is a good business practice for the provider to be aware of whom the landlords are.

Recommendations

To OMH:

1. *Recover \$13,465 from the Federation for adjusted program costs.*
2. *Recover the OMH share of exempt Medicaid of \$266,993 from the Federation. Recover all future amounts in a timely manner.*

To the Federation:

3. *Review the work activities for all employees and establish an updated allocation methodology for distributing salary costs amongst the Federation's programs. Adjust the personal service charges to new allocations.*
4. *Inform all staff that they must notify Federation officials if they become a landlord to any program consumers.*

We provided draft copies of the report to the Federation and OMH for their review and comments. Their comments were considered in preparing this audit report and are included as Appendices A and B. Federation and OMH officials agree with our recommendations and state that they have either implemented or will implement the recommendations.

Major contributors to this report were Tom Trypuc, Anthony Carbonelli, Erica Zawrotniak, Orin Ninvalle, and Hugh Zhang.

Within 90 days after final release of this report, as required by Section 170 of the Executive Law, the Commissioner of the Office of Mental Health shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons why.

We wish to express our appreciation to the management and staff of the Federation of Organizations for the New York State Mentally Disabled and the New York State Office of Mental Health for the courtesies and cooperation extended to our auditors during this audit.

Very truly yours,

Steven E. Sossei
Audit Director

cc: Ken Lawrence, OMH
Stephen McCarthy, Federation
Robert Barnes, Division of the Budget

**Schedule of Reported, Allowed and Adjusted Program Costs
For Contract C 005454
2002 Fiscal Year**

<u>CFR Budget Category</u>	<u>Reported on CFR</u>	<u>Expenses Allowed</u>	<u>Adjustments</u>	<u>Notes To Exhibit</u>
Personal Costs	\$884,915	\$884,896	\$19	1
Fringe Benefits	180,874	180,874	0	
Other Than Personnel Service	343,952	332,416	11,536	2
Equipment	20,856	19,694	1,162	3
Property	988,982	988,234	748	4
Administration	<u>174,304</u>	<u>174,304</u>	<u>0</u>	
Total	<u>\$2,593,883</u>	<u>\$2,580,418</u>	<u>\$13,465</u>	

Notes to Exhibit A

- Note 1:** Adjustment was made because employee's timesheet was not available to document hours worked.
- Note 2:** Adjustments included payments totaling \$503 for various contributions, organizational memberships, and a dinner dance. Other adjustments were made because vendor invoices were not available and/or payments were made in advance for services.
- Note 3:** Documentation was not available to support the charge.
- Note 4:** The Federation issued a \$725 replacement rent check to a landlord for one housing unit and mistakenly claimed payment twice. Travel expense of \$23 for a non-program employee was mistakenly claimed.

Exhibit A

List of Contracted Programs

<u>Name of Program</u>	<u>Contract Code</u>
Transportation	0670-02
Bethpage Permanent Housing	1070/6050-01
Patchogue Permanent Housing	1070/6050-02
Shelter Plus Care	3070-01
Shelter Plus State	6050-03
Supported Housing	6050-04/08
Nassau Reinvestment	6050-05
Suffolk Reinvestment Scattered Sites	6050-06
Suffolk 16 Bed Supported Housing	6050-09
Nassau Enriched Supported Housing	6050-10
Case Management	6050-11
Massapequa Community Residences	6070-01
Glenhead Community Residences	6070-02
Intensive Support Apartments	7070-01
Building 55 Rent	8050-A1