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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

March 3, 1998

Mr. Thomas A. Maul
Commissioner
Office of Mental Retardation
and Developmental Disabilities
44 Holland Avenue
Albany, NY 12229

Re: Report 97-F-56

Dear Mr. Maul:

Pursuant to the State Comptroller's authority as set forth in Section 1, Article V, of the State Constitution and Section 8, Article 2, of the State Finance Law, we have reviewed the actions taken by officials of the Office of Mental Retardation and Developmental Disabilities (OMRDD), as of December 18, 1997, to implement the recommendations included in our Report 95-S-139. The report, which was issued November 14, 1996, examined OMRDD's family care program.

Background

In the family care program, OMRDD oversees care provided to disabled individuals (consumers) who do not require the intensive level of care provided by OMRDD's developmental centers. The primary care is provided by non-family members in private homes, where the consumers live. As of November 16, 1997, there were 4,725 consumers in family care homes. A typical family care home has one or two consumers. A total of 2,418 such homes are in operation; 2,049 of these are State-sponsored, and the remaining 369 are not-for-profit provider homes. During the 1996-97 fiscal year, OMRDD spent about \$23.9 million for family care.

Summary Conclusion

During our prior audit, we found that OMRDD could make improvements in the procedures used to monitor program care, screen providers, train providers, and administer loans to providers. In our follow-up review, we found that OMRDD has made progress in implementing the prior audit recommendations. However, OMRDD has not been successful in its attempts to obtain the means to research the possible criminal history of prospective family care providers.

Summary of Status of Prior Audit Recommendations

Of the 12 recommendations in our prior audit, OMRDD has fully implemented 10

recommendations and partially implemented 2 recommendations.

Follow-up Observations

Recommendation 1

Ensure that individuals and homes in the family care program are visited in accordance with OMRDD regulations. Evaluate whether the regulations should be modified to require fewer visits when providers are more skilled.

Status - Fully Implemented

Agency Action - OMRDD's regulations require "periodic visitations and inspections" to each family care home. According to OMRDD's policies, the home is to be visited each month. An administrative memorandum OMRDD issued in May 1996 stated a requirement that each OMRDD District Developmental Services Office (DDSO) develop and implement systems to ensure that individuals and homes are visited in accordance with the regulations.

Recommendation 2

Develop procedures to prevent individuals and homes from being unsupervised for long periods of time.

Status - Fully Implemented

Agency Action - OMRDD Central Office staff conduct periodic reviews of sample DDSOs to ensure that visitations are made as stipulated. Results of the reviews are provided to the appropriate DDSO Director and Associate Commissioner for corrective action, where necessary.

Recommendation 3

Determine whether one or two staff should be used by DDSOs to monitor the homes and individuals in the family care program.

Status - Partially Implemented

Agency Action - As part of an agency-wide review of service coordination, OMRDD is currently in the process of reevaluating this issue. When Central Office Family Care staff visit DDSOs to provide training and home visits, they discuss the pros and cons of monitoring visits by either one or two staff. Some DDSOs have decided to have one person perform both functions. OMRDD Central Office staff anticipate that the recommendation will be fully implemented by March 31, 1998.

Recommendation 4

Pursue means to verify the criminal histories of prospective providers seeking certification and of providers seeking recertification.

Status - Partially Implemented

Agency Action - OMRDD officials proposed legislation that would have allowed them to conduct criminal history searches of prospective family care providers and providers seeking recertification. However, the proposal was not introduced to the Legislature. Therefore, the criminal histories of prospe

ctive family care providers or those seeking recertification are still not available to OMRDD. OMRDD officials state they will pursue other avenues to gain such information.

Recommendation 5

Ensure that all providers and other adults living in family care homes have been checked against the Child Abuse Registry.

Status - Fully Implemented

Agency Action - OMRDD policy now requires DDSOs to conduct Child Abuse Registry checks on applicants for family care positions, as well as the adult household members of the applicant. The Social Service Law allows OMRDD to process the names of all family care applicants who will operate homes that will serve children. Although not all family care homes serve children, OMRDD has interpreted this law to allow the submission of all family care home applicants; since they may, at some time, serve children.

Recommendation 6

Require sitters and respite providers to attend an appropriate training program.

Status - Fully Implemented

Agency Action - OMRDD has developed and issued policies requiring that sitters and respite providers receive ten hours of formal training as a prerequisite for approval. OMRDD staff from the Central Office Family Care and the Education and Training units, with the assistance of DDSO staff and the Commissioner's Advisory Council on Family Care, have recommended formal training. The ten-hour basic course, which covers reportable incidents and abuse, emergency medical techniques, administration of medication, and infection control, is provided by DDSO staff. To ensure that sitters/respite providers are prepared to care for specific individuals, family care providers are also required to supplement this basic training with person-specific training in the home.

Recommendation 7

Establish a complete and detailed centralized recordkeeping system for the loans made to family care providers.

Status - Fully Implemented

Agency Action - OMRDD's Central Office Family Care Unit has established a file that identifies all providers who have received home loans, by type of loan and amount. The status of each loan is verified periodically with the DDSO, which monitors the loan; collects repayment, if necessary; and reviews certification status. The maximum amount available for a family care home loan to cover a down payment is limited to \$20,000. There is also a funding ceiling that varies from year to year for environmental modifications or adaptive devices (such as wheelchair ramps, motor vehicle wheelchair lifts, plumbing adaptations, etc.) that benefit a consumer.

Recommendation 8

Establish a complete and detailed recordkeeping system describing the occupancy and the capacity of the family care program in each DDSO, and ensure that this information is considered when loans are evaluated.

Status - Fully Implemented

Agency Action - The certification file maintained by the OMRDD Division of Information Support Services contains an accurate listing of all family care homes and their certified capacities. OMRDD's Tracking and Billing System (TABS) also contains accurate information. This

information, which links consumers with specific homes, is entered into a central data base by the DDSO and OMRDD Central Office staff and is reviewed when loans are evaluated.

Recommendation 9

Ensure that loans to providers are administered in accordance with OMRDD guidelines.

Status - Fully Implemented

Agency Action - All family care loans now require Central Office Family Care Unit approval. A standard format for the submission of information has been developed. Central Office approval is granted based upon the DDSO's ability to demonstrate that:

- loans are necessary to achieve the stated goals of the program;
- loan funds are equally available to all providers and potential providers;
- funding amounts are within specific limits; and
- capacity/occupancy within the DDSO family care program is evaluated carefully before the loan is made.

OMRDD Central Office staff have provided training for all DDSO family care coordinators on the new requirements of the home loan program.

Recommendation 10

Modify the standard provider loan agreement to include a provision for interest charges on unpaid balances in the event a provider leaves the family care program prematurely.

Status - Fully Implemented

Agency Action - The loan agreement has been modified to require repayment of the balance, as well as any interest due on the outstanding balance, by providers who leave the family care program without having the loan forgiven.

Recommendation 11

Modify the standard provider loan agreement to include a provision giving OMRDD a security interest in the improved or purchased property. Ensure that appropriate property liens are filed.

Status - Fully Implemented

Agency Action - OMRDD Counsel's Office has modified the standard loan agreement. OMRDD now has a security interest in all property purchased or improved with a loan from OMRDD.

Recommendation 12

Clearly and fully disclose the criteria for awarding loans to providers.

Status - Fully Implemented

Agency Action - In August 1997, OMRDD issued a policy that addresses loan criteria for individualized environmental modifications, loans to assist with leasing, and loans for down payment and/or renovations. This policy is published in a handbook that is made available to all providers, and it is also covered during

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Major contributors to this report were Brian Lotz and Richard Loveless.

We would appreciate your written response to this report within 30 days, indicating any action planned or taken to address the unresolved matters discussed in this report. We also thank the management and staff of the Office of Mental Retardation and Developmental Disabilities for the courtesies and cooperation extended to our staff during this review.

Very truly yours,

Frank J. Houston
Audit Director

cc: Robert L. King