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June 6, 2003

Antonia C. Novello, M.D., M.P.H., Dr. P.H.
Commissioner
Department of Health
Corning Tower
Albany, NY 12237

Re: Report 2002-F-50

Dear Dr. Novello:

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 reviewed the actions taken by officials of the Department of Health as of January 22, 2003, to implement the recommendations contained in our audit report, *Oversight of Food Protection Programs* (Report 99-S-47). Our report, which was issued on November 1, 2000, examined the manner in which the Department monitored the administration of food protection programs operated by local health departments (LHDs).

Background

The Bureau of Community Sanitation and Food Protection (Bureau), which operates within the Department's Center for Environmental Health, is responsible for the coordination and oversight of the Department's food protection programs. The Department's Regional Offices are responsible for monitoring the administration of food protection programs by the LHDs. The Bureau and Regional Office oversight is intended to ensure that the LHDs perform proper inspections of food service establishments (FSEs), enforce the Public Health Law and the State Sanitary Code, and investigate and report properly any suspected outbreaks of foodborne disease. During calendar years 2000 and 2001, the Department reported 148 outbreaks of foodborne disease in New York State that caused illnesses in 4,004 persons, 60 of whom had to be hospitalized.

Summary Conclusions

In our prior audit, we found that the Department needed to strengthen its oversight of the LHDs' administration of their food protection programs. We found instances in which the LHDs were not complying with the policies and procedures they were required to follow when administering their programs, resulting in an increased risk that the LHDs were not protecting the public's health adequately.

In our follow-up review, we found that Department officials have made progress in implementing the recommendations contained in our prior audit.

Summary of Status of Prior Audit Recommendations

Of the ten prior audit recommendations, Department officials have implemented six recommendations and partially implemented two recommendations. Two recommendations are not applicable.

Follow-up Observations

Recommendation 1

Enforce the requirement that LHDs submit quarterly reports within the required time frames. Consider withholding State aid from county departments of health that do not comply with reporting requirements.

Status - Partially Implemented

Agency Action - During 2000, the Bureau began implementing the Environmental Health Inspection and Permit System (EHIPS) to enable Bureau and Regional Office staff to have direct access to data reported by the 46 LHDs. The 39 LHDs that are currently using this electronic system, which allows information to be updated continuously, no longer have to submit quarterly reports. Because seven of the larger LHDs, including New York City, Westchester, Suffolk, and Nassau, have not yet implemented the system, they are still required to submit hard copy reports on a quarterly basis. Regional Office staff track completion dates manually for these reports to ensure that they are submitted on time. However, our review indicated that the seven LHDs not using EHIPS have not provided the Bureau with all of the required data. Bureau officials told us they do not have the authority to withhold funds from LHDs that do not comply with reporting requirements. They pointed out, however, that the reporting process has been improved since our prior audit, and the remaining LHDs are in the process of moving onto EHIPS.

Recommendation 2

Monitor and review all quarterly reports for accuracy and timeliness by conducting a thorough review of the data and supporting documents that accompany each report.

Status - Implemented

Agency Action - A thorough review is made of the data submitted. New software, implemented in May 2002, enables staff to analyze EHIPS data in many ways and to obtain this analysis without having to wait for a quarterly report. Regional Office staff also review quarterly reports from the LHDs that are not using EHIPS for reporting purposes. The Bureau has added performance measures to its information base, thus allowing Regional Office and Bureau staff to evaluate inspection data on a statewide basis.

Recommendation 3

Implement the policy that LHDs should perform two inspections per year, using standardized inspectors, at all high-risk State Office for the Aging sites.

Status - Partially Implemented

Agency Action - The Bureau has revised Item No. CSFP 801 and 852 of its Environmental Health Manual to clarify the inspection requirements for high-risk State Office for the Aging (SOFA) establishments. The revised policies recommend, rather than require, two inspections to be performed of high-risk SOFA sites annually. Bureau officials told us that Regional personnel work with the LHDs to maintain the two-inspection level and that EHIPS allows the Regional Office and Bureau staff to monitor the LHDs' inspection activities more closely. However, Regional staff cannot monitor non-EHIPS users as closely and therefore rely on them to submit inspection documentation manually. Furthermore, we saw no evidence that Bureau or Regional Office personnel pursue cases where SOFA sites did not receive the recommended two inspections.

Recommendation 4

Determine whether the inspection policy relating to all high-risk FSEs not sponsored by SOFA needs strengthening so that the recommended number of inspections is achieved.

Status - Implemented

Agency Action - The Bureau revised Item No. CSFP 852 of its Environmental Health Manual in September 2002 to clarify its inspection policy regarding high-risk FSEs that are not sponsored by SOFA. This CSFP continues to "recommend" that high-risk establishments be inspected an average of twice per year. Officials state that LHDs need this flexibility to adjust workplans so they can respond effectively to outbreaks of foodborne disease or other events.

Recommendation 5

Enforce the requirement that standardized inspectors working for LHDs attend the annual workshop to update their skills and knowledge.

Status - Not Applicable

Agency Action - The Bureau revised Item No. CSFP 808 of its Environmental Health Manual in November 2001, eliminating the requirement that all certified Food Service Inspection Officers receive annual training.

Recommendations 6 and 7

Require LHDs to maintain an adequate complaint log.

Establish specific requirements for surveillance systems.

Status - Implemented

Agency Action - With revisions to Item No. CSFP 803 of its Environmental Health Manual, the Bureau has taken steps to outline the role of each agency in the surveillance system, including the use of an adequate complaint log to record the outbreaks of foodborne disease or other incidents. All of the 39 LHDs that use EHIPS use this log, which is available on the system. We verified that the other seven LHDs are also using an adequate complaint log system for tracking outbreaks.

Recommendation 8

Check records of outbreaks of foodborne diseases to verify that they contain all the required components.

Status - Implemented

Agency Action - Item No. CSFP 803 of the Environmental Health Manual has been modified to allow the LHDs, in conjunction with the Regional Office and Bureau staff, to determine the required components of the final summary report. This modification changed the established report format that was in existence at the time of our audit. For example, the CDC 52.13 Outbreak Report Form is now accepted as the final report in a routine investigation. However, unless an outbreak is determined to be of special significance, the LHDs no longer must provide case histories, an epidemic curve, or food preparation information. The Bureau has included this form on EHIPS to facilitate electronic reporting and to enable Regional Office and Bureau staff to work more closely with the LHDs, tracking and reviewing the status of the investigation. The Bureau has also assigned a Research Scientist to track outbreaks and determine the adequacy of documentation received from the LHDs. We reviewed ten CDC reports and found that all ten contained information in accordance with the revised reporting criteria.

Recommendation 9

Enforce the requirement that quarterly reports be submitted within the required time frame of 60 days after the initial day of an outbreak of a foodborne disease.

Status - Not Applicable

Agency Action - The Bureau has revised Item No. CSFP 803 of its Environmental Health Manual, eliminating the 60-day reporting requirement. Reports are now due "upon completion of the investigation." To determine whether the LHDs were making more timely reports of

outbreaks, we sampled ten outbreak cases reported during 2002. We found that the average reporting time was 73 days, a significant improvement over the 291-day average cited in our prior report.

Recommendation 10

Perform periodic evaluations of LHDs.

Status - Implemented

Agency Action - Since our prior audit, the Bureau has developed performance measures that have been added to the quarterly report format. The Bureau is now able to analyze the results of these performance measures and evaluate them in terms of its policies and goals. For example, Regional Office or Bureau staff can now determine whether the LHDs are complying with established criteria by noting the number of high-risk inspections performed and the proportion that were performed by qualified inspectors. In addition, Regional Offices conduct periodic EHIPS reviews of LHD records and record keeping systems. These reviews evaluate compliance with laws, rules, and regulations; accuracy of complaint logs and annual plans; staff utilization statistics; and other applicable performance measures.

Major contributors to this report were John Buyce, Joel Biederman, and Don Wilson.

We would appreciate your response to this report within 30 days, indicating any actions planned or taken to address the unresolved matters discussed in this report. We also thank the management and staff of the Department of Health for the courtesies and cooperation extended to our auditor during this review.

Very truly yours,

Frank J. Houston
Audit Director

cc: Richard Svenson, Bureau Director
Deirdre Taylor, Division of Budget