

THOMAS P. DiNAPOLI
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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

March 20, 2007

Mr. Richard P. Mills
Commissioner
New York State Education Department
State Education Building
Albany, New York 12234

Mr. Christopher McDonough
President
Home Therapy Associates of New York, Inc.
1053 Saw Mill River Road - Suite 101
Ardsey, New York 10502

Re: Home Therapy Associates of New York, Inc.
Compliance with the Reimbursable Cost
Manual For the Year Ended
December 31, 2004
Report 2006-S-65

Dear Mr. Mills and Mr. McDonough:

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 sessions reported by Home Therapy Associates of New York, Inc. (HTA) on the Consolidated Fiscal Report (CFR) submitted to the State Education Department (SED) for the establishment of session rates for Special Education Itinerant Teacher (SEIT) services for the year ended December 31, 2004.

A. Background

HTA, a for-profit entity, is a sub-division of SunDance Rehabilitation Corporation (Sun). HTA contracts with independent therapists to provide a variety of client services, including SEIT, early intervention, preschool, evaluation and adult care services. The individualized education programs (IEPs) of some special education children prescribe instruction by SEITs to help them attain their educational goals. According to the State Education Law, SEIT services feature direct individual and/or group instruction to preschoolers with disabilities by a special education teacher of an approved program at a licensed Pre-K, Head Start program or child care location. The Education Law also requires municipalities that cannot deliver all the services prescribed in a student's IEP themselves to contract with approved private providers to obtain IEP-prescribed services, including SEIT services. SEIT services are generally delivered to students in 30-minute sessions. During the

period of our audit, HTA provided SEIT services to about 380 children in various preschool special education programs. HTA paid about 240 independent contractors to provide the sessions.

Municipalities use SED-established session rates to pay providers for SEIT services. To determine session rates for SEIT providers, SED uses financial statement data submitted annually by each provider on a CFR. Session rates are established by SED using the providers' eligible direct care and indirect care costs. For HTA's SEIT program, session rates are based on total allowable costs divided by the number of sessions authorized in students' IEPs and billed to the municipalities. SED updates SEIT session rates annually to reflect changes in providers' costs to deliver services and the number of authorized sessions. To help ensure the propriety of the rate-setting process, SED developed the Reimbursable Cost Manual (Manual) which prescribes certain financial reporting requirements for programs, including those of SEIT providers. The Manual further prescribes what costs are allowable and unallowable. SED requires a Certified Public Accountant (CPA) to certify the propriety of information reported on the CFR, including compliance with the provisions of the Manual. The CPA's review should include an understanding of the CFR reporting process and, as appropriate, tests of the accuracy of the reported costs.

For the year ended December 31, 2004, HTA reported total costs of about \$5,509,000 and total revenue of about \$5,569,000 on its CFR for the SEIT program. HTA also reported 146,577 thirty-minute SEIT sessions that it was authorized to provide to students.

B. Audit Scope, Objectives and Methodology

We audited the costs and the numbers of sessions reported by HTA for its SEIT program on the CFR submitted to SED for the period January 1, 2004 through December 31, 2004. The objectives of our audit were to determine if the costs and sessions reported by HTA were properly reported and adequately documented and if the reported costs were allowable per the Manual. We also reviewed the methods used to allocate HTA's non-direct care costs to the SEIT program. Our audit did not include the costs associated with HTA's non-SEIT programs.

To accomplish our objectives, we reviewed HTA's financial records and focused on selected categories of expenditures, such as contractor costs (which accounted for nearly 80 percent of HTA's reported SEIT program costs). We interviewed HTA and Sun officials and staff to obtain an understanding of HTA's financial practices. In addition, we interviewed SED officials to obtain an understanding of the CFR and its impact on the calculation of session payment rates. Further, we reviewed the method used by HTA to allocate personal service costs between its various programs and verified SEIT sessions reported on the CFR to the IEPs of students receiving services from HTA. We also interviewed officials of the CPA firm that certified HTA's CFR to determine the procedures they used to verify the information reported.

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 HTA operations that are included within our audit scope. Further, these standards require that we understand HTA'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 financial statements or program performance.

C. Results of Audit

We identified material errors in the CFR submitted by HTA for the year ended December 31, 2004. Specifically, we determined that HTA reported theoretical costs associated with the authorized number of sessions instead of the actual costs for the sessions actually provided by SEITs who work for HTA on a contract basis. Because these contractor (direct care) costs were overstated, the corresponding allocation of indirect care costs was overstated as well. The disallowances resulting from these errors total \$1,063,623 (including direct care costs of \$941,758 and indirect care costs of \$121,865) and will likely cause SED to recalculate SEIT session rates for HTA.

1. Reported SEIT Program Costs

The Manual requires costs reported on the CFR to be reasonable, necessary, directly related to the education program, and sufficiently documented. For the year ended December 31, 2004, HTA reported contractor costs of \$4,397,310 (about 80 percent of HTA's total SEIT program costs). However, instead of reporting the costs associated with actual payments to SEIT contractors, HTA reported a theoretical cost associated with the total number of sessions authorized by students' IEPs (which HTA billed to the municipalities). The theoretical cost (\$4,397,310) was based on the number of SEIT sessions authorized in students' IEPs times an average session rate paid to HTA's independent SEIT contractors.

HTA did not provide all of the authorized sessions to students, and HTA generally did not pay contractors for sessions that were not provided. Consequently, HTA did not incur costs for sessions that were not provided, and the amount of SEIT contractor costs reported on the CFR was significantly overstated. Further, HTA lacked an adequate recordkeeping system to readily determine the actual number of sessions provided and the corresponding costs that should have been reported on the CFR. Consequently, we used available financial information, such as contractor commission reports, and a recently developed data base of SEIT contractor payments (prepared by HTA officials as a result of our audit) to determine the actual SEIT contractor costs incurred by HTA for 2004. Based on our review of these records, we determined that HTA actually incurred \$3,455,552 of SEIT contractor costs (about 79 percent of the CFR-reported costs). Thus, we concluded that HTA did not incur \$941,758 (\$4,397,310 - \$3,455,552) of the reported SEIT contractor costs for 2004, and we recommend that amount be disallowed.

SED permits agencies such as HTA to allocate general administrative expenses (indirect care costs) to each education program based on the percentage of the program's direct costs (in relation to the total direct costs for all agency programs). Therefore, any reduction in the direct care costs of the SEIT program has a direct affect on that program's administrative cost allocation as well. Because we reduced HTA's reported contractor (direct care) costs by \$941,758 we determined that the allocation of HTA's general administrative (indirect care) costs on the CFR should be reduced by \$121,865 and we recommend that amount be disallowed.

The Sun official who prepared the CFR for HTA stated that the errors we identified occurred because Sun and HTA officials were unfamiliar with SED's reporting requirements. Moreover, we concluded that the CPA's review of the CFR was not sufficient to identify the improper cost reporting. The CPAs selected a sample of students (for testing) from a summary report that HTA prepared to support the CFR. However, the summary report was based on theoretical costs rather than actual payments, and consequently, it could not be used to determine or verify HTA's actual contractor costs. Thus, we concluded that the CPA firm did not have a sufficient working knowledge and understanding of the costs reported on HTA's CFR, and therefore, the firm was unable to advise HTA officials of their reporting errors. Furthermore, Sun and HTA officials indicated that the same basic methods had been used to prepare HTA's CFRs for several years prior to 2004. Consequently, we believe that there is a significant risk that Sun and HTA officials made similar errors in preparing the CFRs for those years. As a result, we question the accuracy of the information reported in the CFRs for years prior to 2004 and conclude that SED should consider reviewing them.

According to the Manual, any expenditure that cannot be charged directly to a specific program must be allocated across all of the entity's programs that benefit from the expenditure. In addition, the entity's operating programs must use allocation methods that are fair and reasonable, as determined by SED. Such methods, as well as the statistical basis used when calculating allocation percentages, must be documented and retained for each fiscal year for review upon audit. Allocation percentages should also be reviewed on an annual basis and adjusted as necessary. However, HTA did not have a documented rationale supporting how staff costs were allocated among its various programs.

HTA allocated \$205,044 of personal service costs, including salaries and fringe benefits, for direct care staff working on the SEIT program. However, HTA did not have a sufficiently documented allocation methodology to determine this amount. According to HTA officials, the percentages of HTA employees' salaries allocated to the SEIT program were estimates based on the employees' job descriptions. HTA officials further indicated that they used this method because they did not have a more formal system to efficiently allocate personal service costs among its programs. We interviewed some of the staff who were allocated to the SEIT program in 2004 and concluded that HTA's allocations of the personal service costs for them to be materially reasonable. Therefore, we did not propose any adjustments to these costs as reported on the CFR. Moreover, HTA officials advised us that they will take steps to develop and implement a computerized program that will allow them to properly calculate and document the allocation of such costs to the SEIT program in the future.

Exhibit A summarizes the costs submitted on the CFR by HTA, our audit adjustments and the amounts allowed as a result of our audit.

2. Reported SEIT Program Sessions

SED requires SEIT sessions reported on the CFR to be based on the sessions authorized in the students' IEPs. For the year ended December 31, 2004, HTA reported 146,577 SEIT sessions on the CFR. We compared the clinical records for twelve students receiving among the highest numbers of sessions from HTA to documentation used to prepare data for the CFR. Based on our review, we concluded that HTA correctly summarized IEP authorized SEIT sessions reported to SED.

Recommendations

To SED:

- 1. Review the adjustments resulting from our audit and make the appropriate adjustments to the costs reported on HTA's CFR. Recalculate the session rate based on HTA's CFR for 2004 and take appropriate actions to recover any overpayments made to HTA.*
- 2. Assess the need to recalculate HTA tuition rates based on CFR's for years prior to 2004. Require HTA to submit amended CFR data for years prior to 2004, as appropriate.*
- 3. Assess the ability of Sun and HTA officials to prepare the CFR properly and provide training and/or additional guidance to Sun and HTA, as appropriate.*

(SED officials agreed with all three recommendations. Specifically, officials stated that they will make the appropriate adjustments to HTA's session rates based on our audit determinations. Officials also noted, however, that municipalities must undertake the recovery of any overpayments directly with HTA, as SED does not pay the provider [HTA] in the first instance.)

To HTA:

- 4. Comply with the Manual's requirements for submission of SEIT program costs. Ensure all costs are reported correctly on the CFR and are based on actual expenditures.*
- 5. Comply with the Manual's requirements for allocating costs to the SEIT program. Ensure the rationale for and calculations of allocated costs are adequately documented.*

(HTA officials stated that they will comply with the audit recommendations. Specifically, officials have conducted an internal investigation of the irregularities in their cost reporting processes and created policies and procedures to ensure that future CFRs are accurate and supported by adequate documentation.)

We provided draft copies of this report to SED and HTA officials for their review and formal comment. We considered SED's and HTA's comments in preparing this report and have included them as Appendices A and B, respectively.

Within 90 days after final release of this report, as required by Section 170 of the Executive Law, the Commissioner of Education 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.

Major contributors to this report were Bill Clynes, Claudia Christodoulou, David Pleeter, Lucas McCullough and Nicole Van Hoesen.

We wish to express our appreciation to the management and staff of HTA and SED for the courtesies and cooperation extended to our auditors during this audit.

Very truly yours,

Brian E. Mason
Audit Manager

cc: Ms. Theresa Savo, SED
Mr. James Conway, SED
Mr. Thomas Hamel, SED
Ms. Lisa Ng, DOB

Home Therapy Associates of New York, Inc. Schedule of Submitted and Allowed Program Costs SEIT Program (Code 9135) For the Year Ended December 31, 2004				
	CFR Amount Submitted	Proposed Adjustment	Note	Amount Allowed
Direct Care Costs				
Personal Service	\$171,527			\$171,527
Vacation Accruals	(1,347)			(1,347)
Fringe Benefits	34,864			34,864
Total Personal Service and Related Costs	205,044			205,044
Other-than-personal-service costs:				
Contracted Direct Care and Clinical Personal Services	4,397,310	(941,758)	A	3,455,552
Other OTPS	32,604			32,604
Equipment	2,370			2,370
Property	19,572			19,572
Total OTPS	4,451,856	(941,758)		3,510,098
Total Direct Care Costs	4,656,900	(941,758)		3,715,142
Indirect Care Costs				
Agency Administration Allocation	864,219	(121,865)	B	742,354
Adjustments/Non-allowable costs	(12,483)			(12,483)
Total SEIT Program Costs	\$5,508,636	(\$1,063,623)		\$4,445,013

Notes to Exhibit

The Notes shown below refer to specific provisions of the Reimbursable Cost Manual which serve as the basis for our audit adjustments. We have summarized the applicable provisions to explain the rationales for our disallowances. Details of the specific transactions, which corresponded to the disallowances noted, were provided to SED and HTA officials during the course of the audit.

- A. Costs must be reasonable, necessary and program-related. We determined some of the claimed costs were in fact not incurred. Reported costs were not based on the actual amount paid to contractors.
- B. Agency administrative expenses (non-direct care costs) are to be allocated on a percentage of the SEIT program's direct care costs. Therefore, a reduction in the direct care costs of the SEIT program will result in a proportional reduction to the administrative costs allocated to it.

Exhibit A



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12234

DEPUTY COMMISSIONER FOR OPERATIONS
AND MANAGEMENT SERVICES
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February 1, 2007

Mr. Brian E. Mason, Audit Manager
Office of the State Comptroller
Division of State Services
State Audit Bureau
110 State Street – 11th Floor
Albany, NY 12236

Dear Mr. Mason:

I am responding to your letter of December 13, 2006 addressed to Commissioner Mills regarding the Office of the State Comptroller's (OSC) draft audit report (2006-S-65) for the Home Therapy Associates of New York, Inc. - Compliance with the Reimbursable Cost Manual for the year ended December 31, 2004. The following is the New York State Education Department's (SED) response to OSC's recommendations.

Recommendation 1: Review the adjustments resulting from our audit and make the appropriate adjustments to the costs reported on HTA's CFR. Recalculate the session rate based on HTA's CFR for 2004 and take appropriate actions to recover any overpayments made to HTA.

The Department agrees with the recommendation. SED will make the appropriate adjustments to reimbursement to the municipalities for any overpayments. However, the municipalities, in turn, must undertake the recoupment of any monies overpaid directly with HTA, as SED does not pay the provider directly.

Recommendation 2: Assess the need to recalculate HTA tuition rates based on CFR's for years prior to 2004. Require HTA to submit amended CFR data for years prior to 2004, as appropriate.

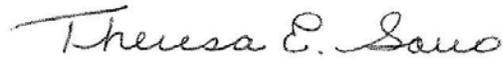
The Department agrees with the recommendation.

Recommendation 3: Assess the ability of Sun and HTA officials to prepare the CFR properly and provide training and/or additional guidance to Sun and HTA, as appropriate.

The Department agrees with the recommendation.

If you have any questions, please contact Thomas Hamel, Chief of the Rate Setting Bureau, at (518) 486-2991.

Sincerely,

A handwritten signature in cursive script that reads "Theresa E. Savo".

Theresa E. Savo

c: Commissioner Mills
James Conway
Thomas Hamel



Offices and Facilities
located in:

Westchester County
Rockland County
Putnam County
New York City

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February 6, 2007

Mr. Brian Mason
Audit Manager
NYS Office of the State Comptroller
110 State Street
Albany, NY 12236

Dear Mr. Mason,

Please find enclosed HTA's written response to the OSC Working Draft audit (2006-S-65). If you have any questions please contact me directly at 914-674-0733 x221.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris McDonough".

Chris McDonough
President, HTA of New York

HTA of New York
Response to OSC Audit 2006-S-65

Home Therapy Associates of New York (HTA) and its parent company, Sun Healthcare Group, Inc. (Sun), have reviewed the working draft of the Office of the State Comptroller's audit of the costs and sessions reported by HTA on the Consolidated Fiscal Report (CFR) submitted to the New York State Education Department (SED) for the establishment of session rates for Special Education Itinerant Teacher (SEIT) services for the year ended December 31, 2004; report 2006-S-65. HTA and Sun provide the following response.

Sun has taken steps to ensure compliance with the reporting and documentation requirements of the Reimbursable Cost Manual and Consolidated Fiscal Reporting and Claiming Manual in the future. Sun has hired a new President of HTA, who is a NYS certified School District Administrator with extensive experience in not only the delivery of services, but the regulations governing the CFR. Moreover, Sun's Senior Vice President and Chief Compliance and Risk Officer, its Senior Vice President of Reimbursement, its General Counsel and its Vice President of Internal Audit have conducted an internal investigation of the irregularities in the cost reporting process and have, together with the President of HTA, created policies and procedures to ensure that future CFRs are accurate and supported by adequate documentation.

Responsibility for the production and accuracy of the CFR has been moved to Sun's reimbursement department, which has expertise in the discrete cost finding process required by both federal and state agencies. In addition, HTA has implemented a computer based service unit management system that will allow it to accurately track all units of service authorized and delivered. Accordingly, as of February 2007, HTA and Sun believe that the issues have been identified and addressed.

We at HTA and Sun, are committed to correcting past issues and delivering quality services to children with disabilities in the State of New York. We do not want to jeopardize a clinically successful program due to past inaccurate record keeping that has now been corrected. To the extent that this audit has assisted us in improving the systems and processes that will allow us to continue our mission to assist children with disabilities, we are grateful to the Office of the Comptroller. To that end, we will comply with the recommendations made to HTA that HTA correctly report its costs on future CFRs and adequately document such costs.

We trust that this ameliorates the concerns raised by the audit. Should you have any further questions, please do not hesitate to contact me.

Signed:



Chris McDonough, PhD, SDA
President, HTA of New York