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OFFICE OF THE NEW YORK STATE COMPTROLLER

DIVISION OF STATE GOVERNMENT ACCOUNTABILITY

ERIE COUNTY MEDICAL CENTER CORPORATION

ACCURACY OF EMPLOYEE RETIREMENT REPORTING

Report 2008-S-59

AUDIT OBJECTIVE

The objective of our audit was to determine whether Erie County Medical Center Corporation (Corporation) is complying with the requirements of the Employees' Retirement System (ERS) when it enrolls individuals in the ERS and reports information about their earnings and days worked.

AUDIT RESULTS - SUMMARY

The State Comptroller's Division of Retirement Services carries out the ERS' day-to-day operations, which include enrolling new participants in the ERS and providing employers with guidance that will help them make sound decisions. Both New York State Law and the ERS have established requirements for employers that enroll both employees and elected and appointed officials in the ERS, then report the enrollees' employment data.

The Corporation must enroll all full-time, permanent employees in the ERS and notify in writing all part-time, temporary, and provisional employees of their right to membership in the ERS; and must enroll them if they elect to participate. We found the Corporation needs to improve its practices to ensure it enrolls all full-time, permanent employees in the ERS. It also needs to ensure it properly enrolls those employees who elect to participate in the ERS but are not required to do so.

We identified three full-time Corporation employees who were required to participate in the ERS, but their employment data was not reported. We also found one provisional employee who opted to participate, but whose enrollment was never processed by the Corporation. Corporation officials agreed to work with ERS officials to enroll these four employees and determine the amounts owed to the ERS by the employees and the Corporation.

The ERS has rules for determining how earnings and days worked should be calculated and reported. With the exception of the enrollment errors previously discussed, we found the Corporation is accurately reporting employee earnings and days worked to the ERS.

The ERS also requires that only employees, and not independent contractors, be enrolled in the ERS. We found the Corporation is enrolling only employees in the ERS. Also, certain rules apply to participating employers who report the time and earnings of appointed officials to the ERS. We found the Corporation has enrolled two appointed officials in the ERS and reports their data appropriately.

Our report contains four recommendations to the Corporation to correct the problems we identified during our audit.

This report, dated September 11, 2008, is available on our website at: http://www.osc.state.ny.us.
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BACKGROUND

The New York State and Local Retirement System (NYSLRS) comprises two different retirement systems: the Police and Fire Retirement System and the Employees' Retirement System (ERS). The ERS provides service and disability retirement benefits, as well as death benefits, to employees of

participating public employers in non-teaching positions, exclusive of New York City. As of March 31, 2007, the NYSLRS held cash and investments with a value of more than $154.5 billion. More than 3,000 participating employers had enrolled about 1 million individuals in the NYSLRS, of whom about 627,000 were enrolled in the ERS.

To qualify for membership in the NYSLRS, an individual must be a paid employee of a participating employer. The employers are required to enroll all permanent full-time employees in the ERS, and offer participation in writing to part-time, temporary, and provisional employees. Participating employers are responsible for complying with enrollment and reporting requirements contained in the New York Codes, Rules and Regulations and the ERS Employer's Guide.

The Corporation is a public benefit corporation established pursuant to Article 10-C of the Public Authority Law. Its purpose is to function as a general, municipal hospital and provide health care services and health facilities for the benefit of the residents of the State of New York and Erie County. As of November 30, 2007, 2,664 of the Corporation's 2,850 employees were participating in the ERS.

AUDIT FINDINGS AND RECOMMENDATIONS

Enrollment of Eligible Employees

The Corporation is a participating employer in the ERS. According to the ERS Employer's Guide, a participating employer must enroll all full-time, permanent employees in the ERS. The ERS refers to this group as mandatory employees. Other employees, such as those who are part-time, temporary, or provisional, must be given the option to enroll in writing, although they cannot be required to do so. The ERS refers to this second group as optional employees.

The Corporation is required by Section 45 of the New York State Retirement and Social Security Law to notify all optional employees of their right to membership in the ERS, and to obtain a signed acknowledgment from the employees that they were so notified. The Corporation must also retain these signed acknowledgments.

The ERS Employer's Guide also requires that participating employers report information on earnings and days worked only for eligible employees. Such information should not be reported for non-employees, such as independent contractors or consultants, because they are not eligible to join the ERS.

Each month, the Corporation reports the earnings and days worked to the ERS for each enrolled employee. The ERS provided us with reports for the months of September, October, and November 2007. We compared the names on the ERS reports with the payroll registers provided to us by the Corporation for the same three months. Our tests showed that the names of all individuals on the ERS reports also appeared on the payroll registers and they appeared to be valid employees. However, we also found the Corporation does not ensure that it enrolls everyone who is required, or opts, to participate in the ERS. As a result, we identified three full-time employees who were required to participate in the ERS, and one optional employee who had elected to participate, but were not enrolled:

- One employee had been enrolled previously in ERS, but had left service in 2005. The Corporation failed to report this person's earnings or workdays when she was rehired as a full-time employee in October 2007.

Through the end of February 2008, her unreported earnings totaled $20,114 for 90 workdays.

- Another unreported full-time employee, who was hired in October 2007, had accumulated $15,198 in unreported earnings for 80 workdays through the end of February 2008.
- A third employee, who had been a non-participating part-time employee since May 2004, was hired for a full-time permanent position in October 2007, thereby making ERS participation mandatory. By the end of February 2008, this employee's unreported earnings totaled $10,476 for 86 days of work.
- One provisional employee elected to participate before beginning work on September 4, 2007. However, the Corporation failed to process the enrollment or report this employee's earnings or service, which had totaled $12,505 for 118 workdays by the end of February 2008.

As a result of these errors, both the Corporation and the individual employees will be responsible for making retirement contributions based upon their unreported earnings. Specific amounts will have to be calculated based on adjustment reports submitted by the Corporation. Through the end of February 2008, we estimate the Corporation's liability to be about $5,200 for the four errors we identified. Since employees are generally responsible for contributing 3 percent of their earnings during their first ten years of service, we estimate the staff liability totals about $1,750.

Corporation officials indicated they have already begun the process of enrolling these individuals and providing information necessary to calculate amounts due for past periods. Officials also committed to amending their hiring procedures to provide greater assurance that all newly-hired or rehired employees are enrolled properly in the ERS or notified of their eligibility to participate.

ERS provided us with a list of Corporation employees who were also reported as working for another ERS-participating employer during our scope period. Although most individuals who are reported by more than one employer have either changed jobs during the period or worked part-time at a second job, reporting by multiple employers could indicate that a reported employee may actually be a consultant. Our analysis of this information, however, did not disclose any irregularities. We, therefore, concluded that the Corporation is enrolling only valid employees in the ERS, not independent contractors or other ineligible individuals.

Recommendations

1. Enroll the four employees identified in our report, calculating and reporting all unreported earnings and days worked for each employee.
2. Develop a system for identifying employees who are required to enroll in the ERS, and ensure that these employees are enrolled in and reported to the ERS.
3. Ensure that optional employees who elect to participate in the ERS are enrolled and that their employment data are reported to the ERS.

Accuracy of Reported Earnings and Days Worked

ERS rules require participating employers to establish a standard workday for each employee title. A standard workday can be as many as eight hours, but no fewer than six hours. We found the Corporation has established a standard workday for all its employee titles. The ERS also has rules for determining how earnings and days worked should be calculated and reported. Generally, the employer should calculate days worked by dividing total hours worked for the month by the number of hours in the standard workday for that position. Days worked includes paid sick leave, vacation leave, holidays, and certain other types of leave. Earnings include gross amounts paid during the reporting period, less amounts such as payments for unused sick leave.

To test the Corporation's reporting to ERS of employee earnings and days worked, we selected a random sample of 20 employees. For each of the 20 employees in our sample, we compared the days worked and gross earnings reported to the ERS for the months of September, October, and November 2007 with the corresponding Corporation payroll registers. We calculated the days worked by adding up the hours worked according to the payroll registers and dividing by the standard workday. We calculated the gross earnings by adding up the earnings according to the payroll registers for that month and deducting any amounts not allowed by the ERS. We found the Corporation did not report the earnings or the days worked for one employee in our sample for the month of October 2007. The error occurred because the Corporation does not have an automated system for verifying that days worked and earnings are reported to the ERS accurately. Rather, Corporation staff manually match payroll and ERS report totals, which can allow mistakes to occur.

ERS rules also require employers to report earnings and days worked for full-time, permanent employees from the date of their appointment in their position. For employees with optional membership, earnings and days worked should generally be reported from the ERS registration date forward. We reviewed a judgmental sample of 20 employees who were either added to or deleted from the Corporation's payroll between September 2007 and November 2007 to determine whether the Corporation accurately reported the earnings and days worked for these employees. We found the Corporation reported the information appropriately for these employees.

Lastly, the ERS has rules for determining how the days worked by appointed officials should be calculated and reported if these officials do not have pre-set work hours or do not complete time records. The Corporation has two appointed Board members who also hold full-time positions with the Corporation and are enrolled in the ERS. We found that a standard workday has been established for all Corporation positions, including these officials' positions. The Corporation also requires the officials to complete time records, which are then used appropriately to compute the days worked to be reported to the ERS.

Recommendation

4. Report to the ERS the earnings and days worked during the month of October 2007 for the one unreported employee we identified during the audit.

AUDIT SCOPE AND METHODOLOGY

We conducted our performance audit in accordance with generally accepted government auditing standards. We audited the Corporation's enrollment of individuals in the ERS and its reporting of retirement information to the ERS. Our audit covers the period April 1, 2005, through January 25, 2008.

To accomplish our audit objective, we reviewed State laws and regulations addressing employer participation in the ERS, focusing on the requirements for employee enrollment and reporting of earnings and days worked. We also reviewed the Corporation's guidelines in these areas. We interviewed Corporation officials and staff to identify the policies and procedures in place for enrolling employees in the ERS and reporting information about their earnings and days worked to the ERS.

To determine whether the individuals who were not enrolled in the ERS had been notified appropriately of their eligibility for enrollment, we reviewed the Corporation's personnel files for selected employees. We also reviewed personnel files to determine whether any consultants or independent contractors had been reported erroneously as employees.

To determine whether earnings and days worked information was reported accurately to the ERS, we compared the information on file at the ERS with Corporation payroll registers for September, October, and November 2007. We also reviewed these payroll registers to determine whether the employees reported to the ERS by the Corporation for those months were, in fact, on the payroll. In addition, the ERS provided us with a list of Corporation employees who were also reported to the ERS by another participating employer.

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. 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 functions do not affect our ability to conduct independent audits of program performance.

AUTHORITY

This audit was performed pursuant to the State Comptroller's authority under Article X, Section 5, of the State Constitution and Section 2803 of the Public Authorities Law.

REPORTING REQUIREMENTS

A draft copy of this report was provided to Corporation officials for their review and comment. Corporation officials did not provide us with a formal response to the draft report.

Within 90 days of the final release of this report, as required by Section 170 of the Executive Law, the Chairman of the Erie County Medical Center Corporation 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 therefor.

CONTRIBUTORS TO THE REPORT

Major contributors to this report include Frank Houston, John Buyce, Greg Petschke, Sharon Salembier, Jennifer Paperman, Raymond Barnes, W Sage Hopmeier, Richard Podagrosi, Andre Spar, and Dana Newhouse.