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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

September 27, 2012

Ms. Courtney Burke
Commissioner
Office for People With Developmental Disabilities
44 Holland Avenue
Albany, NY 12229-0001

Re: Report 2012-F-5

Dear Ms. Burke:

According 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 followed up on the actions taken by officials of the Office for People With Developmental Disabilities and Central New York Developmental Disabilities Services Office to implement the recommendations contained in our report, *High Overtime Payments by the Central New York Developmental Disabilities Services Office* (Report 2006-S-92).

Background, Scope, and Objective

The New York State Office for People With Developmental Disabilities (Office) is responsible for coordinating services for more than 126,000 New Yorkers with developmental disabilities. It provides services directly and through a network of approximately 700 nonprofit service providing agencies, with about 80 percent of services provided by private nonprofits and 20 percent provided by state-run services.

The Central New York Developmental Disabilities Services Office (Central NY DDSO) provides a wide range of support and services to individuals with developmental disabilities and their families throughout Oneida, Herkimer, Madison, Lewis, Onondaga, Oswego, Cortland, and Cayuga Counties. Central NY DDSO oversees the care that is provided to about 1,450 persons with mental retardation and developmental disabilities. This care is provided in 195 community-based group homes, 161 family care homes, and 19 other program sites. During fiscal year 2011-12 Central NY DDSO had 2,989 employees. Of this total, 1,963 employees earned overtime totaling approximately \$11.1 million.

As of July 2, 2012, after the completion of our audit work, the Office reorganized merging Central NY DDSO with Broome Developmental Disabilities Services Office (Broome DDSO) to create Broome and Central New York Developmental Disabilities Services Office. Our work was limited to only the Central NY DDSO; no testing was done at Broome DDSO.

Our initial report, issued December 28, 2007, reviewed overtime payments, payroll procedures and dual employment for employees at Central NY DDSO. Our objective was to determine if Central NY DDSO made efforts to effectively distribute overtime hours among its employees; if overtime was appropriately documented and worked, and if other payroll procedures were adequate. We found Central NY DDSO management had not made enough effort to effectively monitor the distribution of overtime hours among its employees. Central NY DDSO was not following the Memorandum of Understanding (MOU) agreed upon between Central NY DDSO and the Civil Service Employees Association (CSEA). Also, we found that Central NY DDSO had not fully implemented the Time Information Management Electronic (TIME) System for their payroll process, making the process less efficient than it could be. Additionally, a few Central NY DDSO employees were not properly authorized for dual employment. The objective of our follow-up was to assess the extent of implementation as of May 4, 2012 of the six recommendations in our initial report.

Summary Conclusions and Status of Audit Recommendations

We found the Office and Central NY DDSO officials have made significant progress in implementing recommendations from our prior report. Five of the six recommendations have been implemented. The other recommendation has been partially implemented.

We found, while Central NY DDSO has updated current overtime and extra time policies, at the time of our follow-up, not all staff had been trained on the new guidelines and not all sites were following the policies as written.

Follow-Up Observations

Recommendation 1

Verify the number of hours worked by employees before assigning extra work and overtime to comply with the MOU.

Status - Implemented

Agency Action - Management, as it did during our initial audit, relies on part-time employees to self-report when additional hours worked are going to be charged as overtime rather than extra time (time that is paid at the normal rate rather than the overtime rate because the employee has not yet exceeded 40 hours in the workweek). However, since our initial audit Central NY DDSO has implemented procedures to track and monitor whether employees are being accurate regarding their overtime/extra time status and to discipline consistent violators.

In April 2012, Central NY DDSO developed a Canvass Relief sheet. This sheet is a formal list of questions which must be asked to each employee before assigning them overtime or extra time hours. Responses to the questions are required to be recorded on the sheet. One of the questions specifically addresses whether extra hours worked will be overtime hours or extra time hours. While similar procedures and forms were in place during our prior audit, not all House Directors were following the process. Currently, however, we found House Directors are using the forms and have become

proactive about contacting out of house staff to determine whether their overtime/extra time status has changed before assigning them additional hours. This is consistent with the Memorandum of Agreement (MOA) requirements. Also, Central NY DDSO management is requiring all Canvass Relief sheets be saved for four years on site to verify that extra time and overtime is being distributed correctly.

Additionally, Central NY DDSO's payroll department runs reports to track overtime usage and determine if staff is violating overtime policies. Supervisors and management discuss possible violations and any necessary disciplinary action to take. We reviewed these reports and found when staff has misrepresented their overtime or extra time statuses they have been counseled by upper management and/or sanctions have been imposed. For example, one employee's ability to work extra time or overtime at locations outside their official station was rescinded due to that employee's consistent misrepresentation of their overtime/extra time status.

Recommendation 2

Review current overtime and extra time practices, and determine if other schedules or overtime distribution methods can be used that will allow for a more equitable allocation of overtime to individuals.

Status - Partially Implemented

Agency Action - Central NY DDSO has made changes to their overtime distribution practices to attempt to achieve consistency throughout the DDSO when allocating overtime and to reinforce that staff must be able to safely work overtime assigned to them. The most recent changes were made in April 2012. While Central NY DDSO has updated the policies, at the time of our follow-up, not all staff had been trained on the new guidelines and not all sites were following the policies as written. Central NY DDSO was in the process of training staff on the new guidelines during our follow-up.

Office officials updated the policy for Overtime and Extra Time Practices and Central NY DDSO, in response, created guidelines to comply with these policies. According to the most updated guidelines extra available hours must be distributed as extra time, if possible, before distributing it as overtime. Extra time eligible employees should be canvassed both in-house and out of house before overtime eligible employees. Also, staff must be qualified and be able to safely work the proposed overtime. Those canvassing for overtime must ask each employee if they have:

1. worked more than 16 consecutive hours,
2. worked more than 3 double shifts in any seven consecutive days, or
3. worked seven consecutive days without a day off.

If an employee does not accurately answer these questions or disclose the hours they have worked, it is reported to the Team Treatment Leader. Additionally, the MOA between Central NY DDSO and CSEA states that overtime should be distributed beginning with the most senior person on the available lists.

We visited 20 sites within Central NY DDSO to determine if they were in compliance policies and the MOA and if employees received training regarding overtime distribution policies. We found some sites were not following the guidelines for distribution of unscheduled overtime. Of the 20 sites visited we found:

- 8 out of 20 had a seniority list, but only 4 canvassed their list by seniority,
- 10 out of 20 assigned hours as extra time before overtime; however three of the 20 canvassed only in-house extra time employees,
- 16 of the 20 sites received the new guidelines; however only 11 of the sites were trained on the new guidelines,
- 4 sites did not receive the guidelines or the training.

We did, however, find that House Director's and Team Treatment Leaders at Central NY DDSO documented and counseled employees, on an individual basis, who were not in compliance with the Overtime and Extra Time Guidelines.

Recommendation 3

Establish deadlines for the submission and approval of overtime and extra time at each level in the approval process.

Status - Implemented

Agency Action - Central NY DDSO officials have issued directives specifying that overtime and extra time should be submitted no later than the first week after the hours are earned. The directive was sent to all staff and includes payroll submission deadlines for each time period. In addition, the DDSO's payroll office runs reports to identify delinquent timesheets and notifies employee's supervisors of the delinquency.

Despite established deadlines, not all timesheets are being submitted timely. We noted 20 of 481 supervisors were consistently delinquent in approving staff timesheets for processing. Most of the employees were overtime eligible making approval of their timesheets more critical when attempting to track overtime usage. One supervisor in particular had not approved one employee's timesheets since November 2011. We do not believe these findings show a systemic problem as only approximately 2 percent of employees had delinquent timesheets at the time of our testing. However, Central NY DDSO officials should consider counseling or retraining those staff and supervisors that are consistently delinquent in submitting and approving timesheets.

Recommendation 4

Fully implement the TIME system and or any other system that will reduce the need for manual data entry and create a more efficient process.

Status - Implemented

Central NY DDSO implemented the TIME System on January 1, 2009. We verified the system was active and being used. Also, we received copies of correspondence that went out to all staff on December 30, 2008 confirming the TIME System would be in effect starting January 1, 2009.

Recommendation 5

Develop and implement procedures for complying with dual employment laws and policies. These procedures should include a means of tracking and documenting existing approvals for dual employment and reviewing the hours worked. Procedures to determine if employees are in dual employment status should include:

- *Contacting the Office of the State Comptroller's Bureau of Payroll Services periodically to obtain an analysis of Central New York DDSO employees with dual employment, and*
- *Asking employees when hired if they work for another State entity.*

Status - Implemented

Agency Action - The Office has established policies for outside activities (including dual employment) which Central NY DDSO has adopted as their policy. Additionally, Central NY DDSO sent out advisories and established annual expiration dates for dual employment approvals. Dual employment approval forms are sent annually for renewal to employees who are already dually employed and reminders are sent to all staff with regards to employment at the State Fair. Also, in an effort to implement the recommendation, Central NY DDSO officials are requesting and analyzing dual employment reports quarterly from the Office of the State Comptroller. They also require new hires to declare whether or not they are working another job.

Recommendation 6

Continue to regularly communicate and emphasize to all employees the importance of getting approval for dual employment and proactively communicate with employees who routinely or seasonally request dual employment/extra service to verify they are complying with procedures.

Status - Implemented

Agency Action - Central NY DDSO annually sends memos to employees reminding them of their obligations to comply with the dual employment policies and Civil Service rules for dual employment. Also, employees who have been dually employed are sent an additional memo reminding them to renew their approval for dual employment.

Major contributors to this report were Melissa Little, Sharon Salembier, Abe Fish, Heather Pratt, Andre Spar, Matt Luther, Amanda Halabuda, and Gayle Clas.

We would appreciate your response to this report within 30 days, indicating any actions planned to address the unresolved issues discussed in this report. We thank the management and

staff of Central New York DDSO and the Office for People With Developmental Disabilities for the courtesies and cooperation extended to our auditors during this review.

Very truly yours,

Melissa Little
Audit Manager

cc: V. Sleasman, Director of Internal Audit
T. Lukacs, Division of the Budget