



NEW YORK STATE  
OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE  
40 NORTH PEARL STREET  
ALBANY, NEW YORK 12243-0001

Andrew M. Cuomo  
Governor

Kristin M. Proud  
Commissioner

August 27, 2014

Honorable Thomas P. DiNapoli  
Comptroller  
Office of the State Comptroller  
Division of State Government Accountability  
110 State St, 15<sup>th</sup> Floor  
Albany, NY 12236

Re: Office of the State Comptroller's Final  
Audit Report (2012-S-51) regarding the  
Benefit Eligibility Determination Process

Dear Comptroller DiNapoli:

As required by Section 170 of the Executive Law, this is the New York State Office of Temporary and Disability Assistance's (OTDA's) response to Office of State Comptroller's (OSC's) Final Audit Report (2012-S-51) regarding the Benefit Eligibility Determination Process. This response will also be sent under separate cover to the Governor, the State Comptroller, and the leaders of the State Legislature and legislative fiscal committees as required by statute.

With regard to OTDA, the audit found that "procedural revisions are necessary to reduce the number of hearings held, and to reduce the number of New York City Human Resource Administration (HRA) determinations that are reversed at hearings." The audit also determined that OTDA's case resolution codes should "more accurately describe case outcomes". The following details the actions OTDA has taken in response to the two recommendations offered in the report:

**OSC Recommendation 1 - To HRA and OTDA:**

"Work together to expand the Pre-Hearing Disposition process, or similar interventional follow-up to the initial interview, to reduce the number and cost of Fair Hearings conducted."

OTDA Response to Recommendation 1:

The Pre-Hearing Disposition process was recently developed as a joint effort by OTDA and HRA to reduce the number of hearings where HRA withdraws its proposed action at the hearing. The Pre-Hearing Disposition process allows HRA to identify hearing issues which would have been withdrawn by HRA at the hearing, and notify OTDA that it intends to withdraw those issues prior to the hearing being scheduled. The Appellants receive a written Pre-Hearing Disposition advising them of HRA's determination to withdraw its action, thereby eliminating the need to schedule and hear the matter. This process not only saves HRA, OTDA and the Appellant the time and expense of an unnecessary hearing, but it also makes more calendars available for OTDA to address issues which cannot be resolved between the Appellant and HRA.

*"providing temporary assistance for permanent change"*

In recent months, HRA's use of the Pre-Hearing Disposition has grown considerably. The number of Pre-Hearing Dispositions issued by OTDA rose from 708 in April 2014 to 18,801 in June 2014. This concerted effort on the part of both HRA and OTDA to better utilize Pre-Hearing Dispositions, should significantly reduce the number of unnecessary fair hearings. OTDA will continue to work with HRA to effectively utilize Pre-Hearing Dispositions in the future.

**OSC Recommendation 2 - To OTDA:**

"Take steps to more accurately assign case resolution codes to closed cases."

OTDA Response to Recommendation 2:

OTDA has also undertaken an effort to reduce and clarify its case resolution codes. Case resolution codes are assigned at the end of a hearing to describe the resolution of the issue being heard. The audit advised OTDA to assign more accurate resolution codes to resolved issues. Of particular concern to the audit was the confusion arising from certain outcome codes when HRA withdrew its action. In an effort to both simplify and clarify such codes, OTDA has reduced the number of Agency withdrawal codes from seven to three, eliminating certain codes which were duplicative or could be confused with other similar codes. The three withdrawal codes that will be used are:

- Code 20 – Agency is not prepared to proceed and/or does not have Appellant's case record;
- Code 22 – Appellant submitted information/verification/documentation following Agency determination but before or at fair hearing, accepted by Agency;
- Code 26 – Agency reevaluated position prior to hearing (including SOS process).

With the elimination of codes 21 (Agency re-evaluated its position and/or settled the issue with the Appellant) and 24 (Agency resolved issues to client satisfaction) in particular, the selection is limited to more accurate codes that are descriptive of the action taken at the hearing. These codes encompass all the scenarios for which a fair hearing could be withdrawn. In order for these updated codes to provide for a clearer indication of the situation surrounding the withdrawal, the HRA representative has to be forthright in explaining the reason for the withdrawal and that the Hearing Officer has to properly ascertain that reason from the HRA representative. OTDA has also had instructional training as to the use of such codes to emphasize that the code utilized must accurately reflect the resolution of the issue. OAH will continue to provide training to its Hearing Officers in this regard.

We trust that these comments are responsive to the recommendations cited to in OSC Final Audit Report 2012-S-51. OTDA will continue to work to promptly resolve any procedural matters identified by HRA that may impact the efficiency and fairness of the fair hearing process.

Sincerely,



Kristin M. Proud  
Commissioner

Cc: Frank Patone