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**New York State Office of the State Comptroller**  
Thomas P. DiNapoli

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Division of State Government Accountability

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# **Association for the Advancement of the Blind and Retarded: Options for People Through Services Program**

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## **Office for People With Developmental Disabilities**

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Report 2011-S-11

July 2013

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## Executive Summary

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### Purpose

To determine whether payments made by the New York State Office For People With Developmental Disabilities (OPWDD) to the Association for the Advancement of Blind and Retarded (AABR) for the Options for People Through Services (OPTS) Program (Program) were supported and Program-appropriate. The audit covered the period July 1, 2006 through June 30, 2011.

### Background

OPWDD provides services to developmentally disabled individuals (Individuals) through various programs, including the OPTS Program. Program services include prevocational job-based training to help prepare Individuals for future employment and eventual integration back into their communities. Program services are usually provided through third party contractors such as AABR, which had a five-year \$46.9 million contract with OPWDD covering the period July 1, 2006 through June 30, 2011. The contract was subsequently extended through June 30, 2016 for an additional \$65.8 million. Payments to AABR are based on rates set by OPWDD.

### Key Findings

- Based on a sample of paid claims, we concluded that payments by OPWDD to AABR were supported and program-appropriate.
- However, we estimate OPWDD overpaid AABR \$1.139 million during a sampled six month period as a result of using budgeted, rather than actual, expenses when developing its contractor reimbursement rates.
- OPWDD needs to enhance its monitoring of Program services claimed by AABR.

### Key Recommendations

- Recalculate reimbursement rates using actual expenses for future OPTS contractor billings.
- Periodically verify, on a sample basis, the Program services reportedly provided by AABR as well as other Program service providers.

### Other Related Audits/Reports of Interest

[Office for People With Developmental Disabilities: Administration of Contingency Contracts \(2010-S-28\)](#)

**State of New York  
Office of the State Comptroller**

**Division of State Government Accountability**

July 26, 2013

Ms. Courtney Burke  
Commissioner  
NYS Office for People With Developmental Disabilities  
44 Holland Avenue  
Albany, NY 11229

Dear Ms. Burke:

The Office of the State Comptroller is committed to helping State agencies, public authorities and local government agencies manage government resources efficiently and effectively and, by so doing, providing accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of State agencies, public authorities and local government agencies, as well as their compliance with relevant statutes and their observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations. Audits can also identify strategies for reducing costs and strengthening controls that are intended to safeguard assets.

Following is a report of our audit entitled *Association for the Advancement of the Blind and Retarded: Options for People Through Services Program* administered by the Association for the Advancement of the Blind and Retarded. The audit was performed pursuant to the State Comptroller's authority under Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law.

This audit's results and recommendations are resources for you to use in effectively managing your operations and in meeting the expectations of taxpayers. If you have any questions about this report, please feel free to contact us.

Respectfully submitted,

*Office of the State Comptroller  
Division of State Government Accountability*

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This report is also available on our website at: [www.osc.state.ny.us](http://www.osc.state.ny.us)

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## Background

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The mission of the New York State Office for People with Developmental Disabilities (OPWDD) is to help individuals with developmental disabilities (Individuals) by providing them access to needed support services, enhancing their independence, and promoting their successful integration into their communities. OPWDD often contracts with third party independent contractors, such as the Association for the Advancement of Blind and Retarded (AABR), to provide such services. As such, OPWDD awarded a five year \$46.9 million contract (ended June 30, 2011) to AABR to administer its “Options for People Through Services (OPTS) Program.” The OPTS Program is designed to provide Individuals with a wide array of service options that promote inclusion and personal choice. Service options range from part-time services to 24 hour residential programs. The AABR contract was subsequently extended for another five-year period through June 30, 2016 for an additional \$65.8 million. As of August 17, 2011, AABR was servicing approximately 200 Individuals and had received \$46.3 million on the initial contract which is the subject of this audit.

AABR submits its requests for Program reimbursement (claims) through an OPWDD managed database which lists all Individuals approved for services by OPWDD. AABR can submit claims for reimbursement from the OPWDD date of entry until the Individual’s name is removed from the database. AABR claims are based on rates set by OPWDD for full-day (at least four hours) and half-day (at least two hours) units of service. AABR must submit an annual consolidated fiscal report (CFR) summarizing its major expenses by expense category (e.g., payroll, equipment, etc.). As a practice, State agencies use the actual costs reported on CFRs when developing their respective reimbursement rates.

## Audit Findings and Recommendations

We found that OPWDD officials use AABR budgeted, as opposed to actual, expenses when developing rates to reimburse AABR for its OPTS Program. As a result, for the six-month period we reviewed, ended December 31, 2010, we estimate AABR was over reimbursed by \$1.139 million. We also note that OPWDD needs to enhance its Program oversight.

### Rate Calculations

According to OPWDD's contract with AABR, Program operating costs are reimbursed via a base fee for services and component add-ons. The base fee is composed of direct care and operating support costs (e.g., fringe benefits), while component add-ons include items such as clinical oversight, non-personal services and administrative costs. The base fee and component add-ons may be revised periodically, as appropriate. In fact, during the contract period, rates were increased 12 times.

When developing the original Program reimbursement rates for full and half day service units, OPWDD officials used AABR's budgeted expenses for 2006 (the first year of OPTS Program operations) after comparing them to AABR's reported costs on its 2004 CFR for similar programs. Rates were to be adjusted thereafter based on Program needs and changes in the consumer price index. Although, after 2006, OPWDD officials had the benefit of reviewing actual annual Program expenses, they continued to use AABR budgets for the upcoming years when revising rates.

We believe this process does not provide the most accurate way of determining the amount a provider should be reimbursed as budgeted costs often significantly differ from actual costs incurred for the Program and may result in overpayment by the State. For example, based on budgeted figures, AABR reported \$2.5 million for transportation costs during 2010. Documented transportation costs for this period totaled \$1.8 million, \$700,000 less than budgeted.

By using budgeted as opposed to actual expenses to calculate Program reimbursement rates, OPWDD officials reimbursed AABR a higher amount than necessary for our sampled six-month period as detailed in the following table.

	Using Budgeted Expenses	Using Actual Expenses	Difference
2010 Program Expenses	\$11,675,367	\$9,199,010	\$2,476,357
Full Unit of Service Reimbursement Rate for the Period (07-01-10 to 12-31-10)	\$177.47	\$139.83	\$37.64
Half Unit of Service Reimbursement Rate for the Period (07-01-10 to 12-31-10)	\$111.02	\$ 85.99	\$25.03
Program Reimbursement for the Period (07-01-10 to 12-31-10)	\$5,356,599	\$4,217,586	\$1,139,013

Applying OPWDD's reimbursement rates to AABR's reported OPTS full and half units of service for the six month period July 1, 2010 to December 31, 2010 ( $28,952 \times \$177.47 + 1,968 \times \$111.02$ ), AABR was actually reimbursed \$5,356,599 for this period.

Applying the audit team's reimbursement rates to the reported units of service for the same period ( $28,952 \times \$139.83 + 1,968 \times \$85.99$ ) would have resulted in a total Program reimbursement of \$4,217,586—a savings of \$1,139,013.

The overpayments for each six month period would obviously vary depending on the actual units of service reported each month.

OPWDD officials stated it would not be an efficient use of staff resources to pursue contract amendments to change the reimbursement language in OPTS contracts given the fact that the OPTS program is being phased out, and they are currently in negotiations to develop a more accurate reimbursement rate methodology acceptable to all parties.

We acknowledge that OPWDD officials have initiated negotiations to develop a more accurate and mutually agreeable methodology to develop Program reimbursement rates. However, most OPTS contracts provide services over several years and aggregate over \$2 billion in overall funding. If the overpayment we calculated for AABR is indicative of those at other providers, there is a potential that millions of dollars in additional overpayments will be made before a new methodology is developed and applied.

## Service Verification

Once an Individual is approved for OPTS services at AABR, OPWDD adds that individual's name to its database, a needs evaluation is performed, and AABR begins to provide Program services. AABR prepares a billing sheet for each Individual signed by the instructor(s) who provided the Individual's direct service(s). AABR inputs the service units, dates and times for each individual from these sheets into the OPWDD database semi-monthly for claim reimbursement purposes. OPWDD staff does not routinely audit the supporting documentation for the claimed services.

We reviewed a sample of three semi-monthly claims (dated September 7, 2006, March 19, 2008 and March 3, 2011), focusing on services rendered to ten randomly selected Individuals on each of the claims. We found that AABR had adequate supporting documentation for the claimed services. We also compared the service plans prepared for these sampled Individuals per their intake evaluations to the services the sampled Individuals were actually provided and found no exceptions.

Although we found no exceptions in our sampled billings, periodic audit by OPWDD can help ensure that such future billings are adequately supported.

When discussing this issue with OPWDD officials, they stated that they have various systems in place to verify that the appropriate services are provided to each Individual. They asserted that OPWDD's Office of Audit Services performs Limited Fiscal Reviews of not-for-profit agencies,



including AABR, on a periodic basis. However, they admit that these reviews do not always cover all OPWDD funded Programs. Thus, there is no guarantee that all OPTS providers will be audited within any particular time period.

## Recommendations

1. For future claim reimbursements, use actual provider expenses, rather than budgeted amounts, to calculate reimbursement rates. Revise future contracts accordingly.
2. On a sample basis, periodically verify claimed services reported by Program service providers such as AABR.

## Audit Scope and Methodology

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Our audit determined whether payments made by OPWDD to AABR for the OPTS Program were supported and Program-appropriate. Our audit covered the five-year contract period from July 1, 2006 through June 30, 2011.

To accomplish our objectives, we interviewed OPWDD and AABR officials; selected a sample of AABR expenditures and associated documentation; and reviewed OPWDD's rate-setting process for Program reimbursements.

We conducted our performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained by our staff during this audit provides a reasonable basis for our findings and conclusions based on our audit objectives.

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 duties 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 perform independent audits.

## Authority

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This audit was performed 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.



## Reporting Requirements

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We provided a draft copy of this report to OPWDD and AABR officials for their review and comment. We considered their comments in preparing this final report and they are included in their entirety at the end of the report.

OPWDD officials substantially agree with the issues raised in our report. They also provided us with information and documentation of steps being taken by OPWDD to address such matters which caused us to revise some of our report wording and our estimated over reimbursement calculation.

Within 90 days of the final release of this report, as required by section 170 of the Executive Law, the Commissioner of the Office for People With Developmental Disabilities 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.

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## Contributors to This Report

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**Frank Patone**, Audit Director  
**Michael Solomon**, Audit Manager  
**Stu Dolgon**, Audit Supervisor  
**Orin Ninvalle**, Examiner-in-Charge  
**Kamal Elsayed**, Staff Examiner  
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## Division of State Government Accountability

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### Vision

A team of accountability experts respected for providing information that decision makers value.

### Mission

To improve government operations by conducting independent audits, reviews and evaluations of New York State and New York City taxpayer financed programs.

# Agency Comments



## NYS Office For People With Developmental Disabilities

Andrew M. Cuomo, Governor  
Courtney Burke, Commissioner

May 7, 2013

Frank Patone, CPA  
Audit Director  
Division of State Government Accountability  
NYS Office of the State Comptroller  
123 William Street (fl 21)  
New York, NY 10038

Dear Mr. Patone:

The Office For People With Developmental Disabilities (OPWDD) has reviewed the Office of the State Comptroller's (OSC) draft audit report (No. 2011-S-11) entitled: Association for the Advancement of the Blind and Retarded (AABR) Options For People Through Services Program (OPTS). Please be assured that OPWDD considers itself a responsible fiscal steward of State resources and we have carefully reviewed the concerns raised in your report. As you will see in our response to the audit recommendations, OPWDD substantially agrees with the issues and they have been, and will continue to be, addressed.

That being said, it should be noted that there has been a significant length of time since the completion of OSC's field work (the last preliminary report was issued in March 2012) and the issuance of the draft report. Also, OPWDD didn't know the results of the audit (e.g., didn't receive feedback to our response to the preliminary reports) and didn't have the opportunity to discuss the results of the audit with OSC before the draft audit report was issued (e.g., a pre-draft report closing conference as described in OSC's online document "[Understanding the Audit Process](#)"). As we discussed, we believe it's vital for readers to have a clear understanding of this audit and the OPTS program and to ensure that, OSC should update the draft report to more accurately reflect the following points:

- OPWDD's aggressive approach to phase out/eliminate OPTS contracts and also negotiations with the Federal Government regarding changing the reimbursement methodology for waiver services (including OPTS - which will result in any remaining contracts needing to be amended to reflect the new methodology); the report briefly mentions that contracts are being phased out and does not mention the negotiations. This is important information as it is part of showing how OPWDD is dealing with the concerns stated in the report in an effective and efficient manner, contrary to what the report concludes. The suggestion in the report that that we start to amend existing contracts we believe to be premature - an inefficient exercise given OPWDD's aggressive phase out of the OPTS contracts and the emergence of a new funding mechanism.
- OPWDD reviewed documentation for some of AABR's OPTS claims for service and had a comprehensive internal control system in place regarding the verification of OPTS' claims (both of which were explained and documented in OPWDD's response to OSC's second preliminary report). The report does not acknowledge that there were reviews of AABR's OPTS claims, as it states that OPWDD did not review supporting

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### Executive Office

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TTY: 866-933-4889, [www.opwdd.ny.gov](http://www.opwdd.ny.gov)

We help people with developmental disabilities live richer lives

\* See State Comptroller's Comments, page 17.

documentation of any of AABR's claims for services; the report also does not mention the internal control system.

- The audit report overstates the amount of surplus/over budgeting regarding reimbursement to AABR for claimed services. For example, the report states that actual transportation costs were \$700,000 less than budgeted (surplus) for a one year period. OSC's calculations were faulty as they did not include all transportation costs and used incorrect revenue figures; using the correct revenue and all reported costs, the surplus was \$51,405 for the sampled period. Just for the transportation category alone, the report overstates the surplus/over budgeting by \$648,595. We are unable to tell what other appropriate costs were not included or were not available to OSC for use in its calculation.

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Comment  
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Our responses to the contents and the specific recommendations in the draft report are attached for your consideration. If you have any questions or concerns, please don't hesitate to contact me directly at 518-474-4376 or [Mary.E.Peck@opwdd.ny.gov](mailto:Mary.E.Peck@opwdd.ny.gov).

Respectfully,



Mary E. Peck, CIA, CCSA, CGAP, CRMA  
Director, Office of Internal Control

Attachment

\* See State Comptroller's Comments, page 17.



**Office For People With Developmental Disabilities (OPWDD)**  
**Response to the Office of the State Comptroller's (OSC)**  
**Draft Audit Report (2011-S-11)**  
**Association for the Advancement of the Blind and Retarded (AABR):**  
**Options For People Through Services Program**

OSC's audit of the Association of the Advancement of the Blind and Retarded's (AABR) Options for People Through Services Program (OPTS) began in April of 2011; field work was completed/the final preliminary report was issued in March 2012.

Our response reiterates the positions we communicated in our response to the preliminary reports and provides updates, where applicable, related to issues emerging in the intervening period between the completion of OSC's field work and the issuance of their draft. It is organized as follows:

(1) General comments and corrections on the following areas: Rate Calculation, OPWDD Use of Budget-based OPTS Contracts, Service Verification.

(2) Our formal response to the two audit recommendations.

Regarding the general comments and corrections, we request that OSC update their final report on these matters to ensure all readers have a clear understanding of this audit, the OPTS program and how OPWDD's new funding initiative will impact OPTS.

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**A. RATE CALCULATION**

**1. OSC Statements (Page 5):**

- "We found that OPWDD officials use AABR budgeted, as opposed to actual, expenses when developing rates to reimburse AABR for its OPTS Program. As a result, for the six-month period ended December 31, 2010 AABR was over reimbursed by \$1.27 million. We also note that OPWDD did not provide any Program oversight during our review period."
- "...Using available actual costs, we recalculated the rates at which AABR should have been reimbursed for the six-month period July 1 through December 31, 2010. Our recalculated rates are significantly lower than the rates calculated and used by OPWDD based on budgeted costs. The lower rates would have reduced payments to AABR for the six month period by \$1,271,630, or almost 25 percent of the payments it actually received.

For example, AABR was reimbursed \$2.5 million for transportation costs during the six month period based on budgeted figures. Actual transportation costs for this period totaled \$1.8 million, \$700,000 less than budgeted..."

**2. OPWDD Comments:**

a. Starting first with the transportation example:

- The \$2.5 million is based on the AABR's 7/1/10-6/30/11 rate sheet (the transportation reimbursement line) which is an annual budgeted value based on 100% utilization. AABR was actually reimbursed only \$2,309,546 during this period as the utilization was only 91%.

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\* See State Comptroller's Comments, page 17.



Office For People With Developmental Disabilities (OPWDD)  
Response to the Office of the State Comptroller’s (OSC)  
Draft Audit Report (2011-S-11)  
Association for the Advancement of the Blind and Retarded (AABR):  
Options For People Through Services Program

■ We respectfully request that the audit report be changed to reflect the actual reimbursement of \$2,309,546.

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• The report states “...during the six month period...” when it should state a 12 month period as figures used covered a 12 month period.

■ We respectfully request that the audit report be changed to reflect the actual time period.

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Comment  
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• The stated costs for transportation of \$1.8 million are not accurate. Per AABR’s 7/1/10-6/30/11 certified CFR the reported transportation costs were \$2,258,141.

• Per the preliminary report the \$1.8 million amount was derived from 2010 billings AABR paid to a company to transport individuals to and from the program. However, once the individuals are at the program, part of the program activity can include taking an individual or individuals on an outing, for example, to a mall; hence the need for a van, driver, etc. These types of outings are appropriate (and hence the related costs are appropriate) as such outings may be generally or specifically described as part of the individuals ISP/Hab plan, etc. and both the transportation time and the service provision time (e.g., spending time at a mall) are appropriate services of the program and can be used for billing purposes, with the staffing and related costs appropriate as a service expense.

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■ We respectfully request that the audit report be changed to reflect the actual costs of \$2,258,141.

• The \$700,000 amount in OSC’s report, therefore, is inaccurate as well — and should be replace with \$51,405 as a result of the adjustments described above (note: agencies are not required to spend the costs in the same category the revenue was received).

■ We respectfully request that the audit report be changed to reflect the actual surplus of \$51,405.

b. OPWDD is not able to go through and analyze all of the audit report’s calculations which arrived at the six month \$1,271,630. However, we did conduct an analysis using the 7/1/10-6/30/11 certified CFR (which includes the audit’s six month sample period). Per the CFR, the OPTS program for this one-year period showed a deficit of approximately \$1,600.

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OPWDD does not argue with the reports recommendation that current costs would present a better basis for establishing rates. However, the \$1,271,630 figure for six months (which insinuates that there could be a surplus of over \$2 million for a year) is clearly inaccurate – as OSC’s calculations are faulty as shown by the transportation example; just for the transportation category, OSC did not include over \$400,000 in costs. We are unable to tell what other appropriate costs were not included or were not available to OSC for use in its calculation. In addition, these are not overpayments; overpayments would be comparing actual revenue to actual costs. This is just a comparison of a rate sheet that OPWDD had in effect with one that OSC calculated.

\* See State Comptroller’s Comments, page 17.



**Office For People With Developmental Disabilities (OPWDD)**  
**Response to the Office of the State Comptroller's (OSC)**  
**Draft Audit Report (2011-S-11)**  
**Association for the Advancement of the Blind and Retarded (AABR):**  
**Options For People Through Services Program**

- **We respectfully request that the report be revised to reflect that there is a possibility for overpayment, but in this case the certified CFR shows otherwise as there was an operating deficit of \$1,600 for the year.**

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**B. OPWDD USE OF BUDGET-BASED OPTS CONTRACTS**

While OPWDD has no issue with the concerns raised by OSC in respect to using budgeted costs for reimbursement (i.e. as opposed to actual cost information), we disagree with OSC's suggestion to start to amend reimbursement language in all OPTS contracts as a practical matter and in consideration of the following:

- a. OPWDD is phasing out the OPTS contracts as aggressively as possible. As of May 1, 2013, 130 contracts have been canceled and four more are scheduled to be canceled by the end July 2013. The remaining 147 contracts are under review for phase-out decision and are being handled in a fiscally responsible manner so as not to jeopardize services to individuals who have developmental disabilities. They will be phased out as soon as possible, and OPWDD has worked with DOB on a fiscal plan that eliminates OPTS contracts by FY 2017-18.
- b. OSC's results address one agency. OPWDD will have 147 OPTS contracts at the end July 2013 and conclusions regarding the adequacy of using budgeted costs for reimbursement are therefore, not projectable (i.e. budgeted costs in other organizations may be lower than actual costs); and, more importantly;
- c. OPWDD is currently in discussion with the Centers for Medicare and Medicaid Services (CMS) regarding reimbursement methodology for the federal waiver program, which would also affect OPTS contracts. Using budgeted costs is a concern of CMS going into the negotiations, so once a revised funding methodology is agreed to and implemented while OPWDD still has OPTS contracts, OPWDD would then look to amend existing OPTS contracts to incorporate the revised funding methodology as appropriate.

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Our conversion to a new federal waiver is commonly known and was included in response to one of OSC's preliminary reports. OPWDD's reform agenda includes financial platform restructuring. This restructuring has progressed to the point that OPWDD will begin converting its program funding as soon as October of 2013. When a funding methodology is agreed to and implemented, OPWDD would be required to amend existing OPTS contracts to incorporate the revised funding methodology.

In summary, we believe OSC's calculation of actual costs at AABR failed to consider some cost elements (and we are unable to tell how many other appropriate costs were not included or were not available to OSC), and their suggestion that we start to amend existing contracts to be premature - an inefficient and unwarranted exercise given OPWDD's aggressive phase out of the OPTS contracts and the emergence of a new funding mechanism.

- **We respectfully request that the audit report be changed to include and reflect the above information, and that OPWDD is proceeding in the best interest of the State.**

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\* See State Comptroller's Comments, page 17.





**Office For People With Developmental Disabilities (OPWDD)**  
**Response to the Office of the State Comptroller's (OSC)**  
**Draft Audit Report (2011-S-11)**  
**Association for the Advancement of the Blind and Retarded (AABR):**  
**Options For People Through Services Program**

**SERVICE VERIFICATION**

**1. OSC Statements (Page 2, Page 6):**

- "OPWDD staff has not verified any of the Program services claimed by AABR."
- "... OPWDD staff does not audit, or otherwise review, the supporting documentation for the claimed services. Payment is made to AABR on the honor system."

**2. OPWDD Comments:**

- a. The Executive Summary Section of the report states that the audit covered the period July 1, 2006 through June 30, 2011. OPWDD's Medicaid Standards Unit (MSU) conducted a review at AABR of a sample number of claims to determine whether the agency followed the procedures for the OPTS billing process; it was comprehensive as it looked at key documents to support that the services claimed were provided. The letter summarizing the results of the review was issued in December 2007 – a copy of this letter was provided to the auditors upon their request. During the audit period programs reviews were also conducted by OPWDD's Division of Quality Improvement and OPWDD's Regional Office.

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- **We respectfully request that the audit report be changed to reflect that OPWD did verify Program services claimed by AABR.**

- b. We believe the OSC statement referring to an honor system to be misleading and inflammatory. Also, the report does not consider or include any information pertaining to OPWDD's significant internal controls efforts in relation to the OPTS program (including AABR):

- As indicated above, OPWDD's MSU conducted reviews at AABR to determine whether the agency followed the procedures for the OPTS billing process during the audit period, and regular programs reviews were also conducted by OPWDD's Division of Quality Improvement and OPWDD's Regional Office - and more importantly;
- As Medicaid waiver billings and ensuring the integrity of the Medicaid system was identified as a very high risk area for OPWDD, OPWDD's Office of Audit Services/OAS (Formally Division of Quality Improvement, Bureau of Fiscal Audit/BFA) provided significant training to Providers re the requirements of, and the importance of maintaining appropriate service provision documentation, and an audit/review system was also implemented to review supporting documentation for Medicaid waiver billings (including OPTS) - which resulted in severe penalties for Providers who failed the review/audit.

A detailed description and documentation of the above process (including copies of audit reports which contained in part the results of the reviews of the OPTS and other Medicaid waiver services) was provided to the auditors in OPWDD's response to OSC's second preliminary report. It is true that OPWDD was not able to provide OSC an OAS/BFA AABR report that included OPTS in the audit scope; however, this was due mainly to a timing issue related to the start of AABR's OPTS contract and OAS/BFAs audit cycle (this was also explained in the OPWDD's response to the second preliminary report).

OPWDD Response – Page 4 of 5

\* See State Comptroller's Comments, page 17.



**Office For People With Developmental Disabilities (OPWDD)**  
**Response to the Office of the State Comptroller's (OSC)**  
**Draft Audit Report (2011-S-11)**  
**Association for the Advancement of the Blind and Retarded (AABR):**  
**Options For People Through Services Program**

In summary, the report's only reference re OPWDD's service verification (i.e., verification of supporting documentation that services claimed were actually provided) is that OPWDD did not verify any of AABR's claims - Not only is this an inaccurate statement (as OPWDD's MCU reviewed documentation for a sample number of claims) none of the other significant OPWDD oversight/verification processes were included in the report. We believe the absence of this information to be significantly misleading to the reader – not only re the extent of OPWDD oversight of AABR but all OPTS contracts.

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- **We respectfully request that the audit report be changed to include and reflect the above information, that OPWDD had a significant oversight process in place over OPTS claims.**

#### RESPONSE TO THE RECOMMENDATIONS

##### **Recommendation #1:**

*For future claim reimbursements, use actual provider expenses, rather than budgeted, to calculate reimbursement rates. Revise future contracts accordingly.*

##### OPWDD Response

OPWDD is currently in discussion with the Centers for Medicare and Medicaid Services (CMS) regarding reimbursement methodology for Home and Community Based Waiver Services. Depending on the outcome of the discussions with CMS, once the revised funding methodology is agreed to and implemented while OPWDD still has OPTS contracts, OPWDD would look to amend existing OPTS contracts to incorporate the revised funding methodology if at least 6 months remain to the OPTS contract term, and a contract cancellation date has not been mutually agreed to.

##### **Recommendation #2:**

*On a sample basis, periodically verify claimed services reported by Program service providers such as AABR*

##### OPWDD Response

OPWDD is committed to quality services in safe environments by service providers and is committed to fiscal responsibility and accountability - which we think is evidenced by OPWDD's oversight as described in our response. However, OPWDD takes all audit recommendation seriously and will review the current oversight of OPTS claims to see where it can be improved - including sampling claimed services OPTS providers report through the web application.

\* See State Comptroller's Comments, page 17.

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## State Comptroller's Comments

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1. The audit staff had several meetings and exchanges with both OPWDD and AABR officials prior to the issuance of our draft report regarding the issues addressed therein. However, OPWDD officials are correct in that our formal closing conference was not held until after they had received our draft report.
2. Wording has been added to Report page 6 to acknowledge OPWDD's negotiations in this regard.
3. Report page 6 already acknowledges the systems and reviews OPWDD has in place to verify Provider claims. Certain Report sentences have been amended to acknowledge OPWDD's periodic review of program expenses.
4. OPWDD officials were informed of the data we used in our estimated overpayment calculation. All available actual expense items were provided to us by AABR staff. We revised our estimated overpayment calculation downward from what was illustrated in our draft report by adding the New York State fringe benefit rate to Program Administration Expenses. Our overpayment calculation uses the actual units of service reported by AABR during the six month illustration period. See Report page 5.
5. The Report has been revised with consideration of all points raised by OPWDD in its response.
6. Our calculated overpayment pertains to the six month period July 1, 2010 through December 31, 2010.
7. Neither OPWDD nor AABR could substantiate the \$2.258 million in transportation costs reported on AABR's CFR. As a result, we did not use this figure in our overpayment calculation.
8. Our calculation was performed using available Program-related actual expense documentation provided by AABR. Using the CFR's unsupported expenses would not provide a supported rate.
9. While we appreciate the steps OPWDD is taking regarding such programs as AABR, and recognize the discussions OPWDD is having with CMS may also impact this issue, we believe OPWDD should fully consider the prudence of the recommendations contained in this report at this time. As OPWDD officials admit in their response, it will be years before all of its OPTS contracts are discontinued. As noted in our Report, most, if not all, of these contracts are multi-year, multi-million dollar contracts. If our findings at AABR regarding overstated budgeted expenses are potentially occurring at any level at the other providers, OPWDD may be committing millions of dollar in unnecessary overpayments.
10. As noted above (Note 3), certain Report wording was deleted from our final report to correct the draft report's description of OPWDD's review of provider claims and note steps OPWDD is taking to review such costs. However, as also noted in the Report, we have not seen evidence of "significant" oversight provided by OPWDD as it pertains to OPTS expenses reported by AABR for OPTS.