



New York State Office of Alcoholism and Substance Abuse Services

Contract with Daytop Village, Inc.

Report 2008-R-1



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State of New York Office of the State Comptroller

Division of State Government Accountability

May 6, 2010

Ms. Karen M. Carpenter-Palumbo
Commissioner
NYS Office of Alcoholism and Substance Abuse Services
1450 Western Avenue
Albany, NY 12203

Dear Ms. Carpenter-Palumbo:

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 of Contract C003107 between the Office of Alcoholism and Substance Abuse Services and Daytop Village, Inc. This 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*



State of New York Office of the State Comptroller

EXECUTIVE SUMMARY

Audit Objective

The objective of our audit was to determine whether Daytop's contract billings were appropriate and supported.

Audit Results - Summary

The New York State Office of Alcoholism & Substance Abuse Services (OASAS) often contracts for treatment and prevention services and other specialized programs. One such contract is with Daytop Village, Inc. (Daytop) and provides up to \$110 million over the six years ending June 30, 2010 to fund a Chemical Dependency Services Program (Program) for adolescents and adults. Under the contract, OASAS funds Daytop's Program-related expenses to the extent that they exceed Program revenues, including payments from Medicaid, third party insurance and self-paying clients. Through the end of 2009, OASAS paid Daytop about \$97 million under this contract, including about \$15.5 million for the year ended June 30, 2007.

Under the contract, Daytop must maximize all revenues that can be obtained for Program services, must ensure only appropriate costs are charged to the Program and must offset such costs with program revenues to establish amounts to be charged to and reimbursed by OASAS. We found that Daytop did not fulfill these responsibilities during the contract period. As a result, OASAS paid Daytop at least \$11.5 million more than it may have been entitled to because:

- Daytop failed to pursue and reduce Program charges to OASAS by up to \$8.3 for outstanding revenues due from third party insurers and self-paying clients;
- Daytop did not reduce Program charges to OASAS by \$2.7 million which represented the amounts of third party insurance reimbursements that could have been obtained for Program services had Daytop gotten prior approvals for services from insurance carriers or had Daytop submitted claims in a timely manner so they would have been paid by insurance carriers;
- Daytop collected about \$430,000 of Program revenue, but failed to offset charges to OASAS by this amount; and

- Daytop charged OASAS about \$76,000 for claimed expenses that were not adequately documented as reasonable, necessary or Program-related, including charges for business lunches, vehicle leases and consultant contracts.

We concluded that OASAS did not provide sufficient oversight of the contract with Daytop to detect and correct these situations that resulted in overcharges and overpayments. Had the oversight been more comprehensive, a significant amount of the overpayments may have been avoided.

Our report contains three recommendations directed toward improving oversight of provider contracts, increasing fiscal accountability, and recovering available revenues and inappropriate payments, OASAS officials generally agreed with our report recommendations.

This report, dated May 6, 2010, is available on our website at: <http://www.osc.state.ny.us>.
Add or update your mailing list by contacting us at (518) 474-3271 or
Office of the State Comptroller
Division of State Government Accountability
110 State Street, 11th Floor
Albany, NY 12236

Introduction

Background

The New York State Office of Alcoholism & Substance Abuse Services (OASAS) oversees the nation's largest and most diverse addiction treatment system. Its mission is to provide accessible, cost-effective, high-quality services that strengthen communities, schools, and families through alcohol and drug prevention and treatment; and to meet individual needs through specialized services. OASAS often uses independent contractors to assist it in carrying out its mission.

In July 2004, OASAS entered into a \$95.2 million, five-year contract with Daytop Village Inc. (Daytop), a New York City-based not-for-profit corporation, to provide a Chemical Dependency Services Program (Program) for adolescents and adults. The contract has been extended for an additional year through June 30, 2010; bringing the total contract amount to \$110 million, about \$97 million of which had been paid to Daytop through the end of 2009. The Program includes medical supervision, rehabilitation services and vocational rehabilitation to outpatient clients; and intensive residential services. Most clients are referred to Daytop through the criminal justice system.

According to contract, OASAS funds Daytop's operations on a "net deficit" basis. As such, Daytop bills OASAS for all Program-related expenses to the extent that they exceed all other Program-related revenues, including payments from Medicaid, private insurers or Program clients. Daytop must ensure all revenues are pursued and expenses are reasonable, necessary and Program related. Failure to do so increases the deficit and places greater burden on scarce State resources.

Each year OASAS and Daytop agree on an annual budget outlining the expected Program expenditures and offsetting revenues. OASAS provides quarterly advances to Daytop based on its anticipated deficit. At the end of each fiscal year, Daytop submits a Consolidated Fiscal Report (CFR) to OASAS detailing its actual expenses and revenue collections. OASAS reconciles its payment advances to the CFR and adjusts future quarterly payments to Daytop as appropriate.

Audit Scope and Methodology

The objective of our audit was to determine whether contract payments that OASAS made to Daytop were reasonable and appropriate, and supported by adequate documentation. Our audit period was from July 1, 2004 through June 30, 2008.

To accomplish our objective, we interviewed OASAS and Daytop officials. We also reviewed the contract and related documents, as well as applicable laws, and relevant policies and procedures, including OASAS' Administrative and Fiscal Guidelines manual issued to contracted service providers. We reviewed Daytop billings and collections for third party revenues, including private insurance carriers and self-pay patients. We also obtained a listing of all Medicaid payments made to Daytop on behalf of its clients and compared it to the amounts Daytop reported as received for the same period. Finally, we examined in detail the financial reports that Daytop filed for the year ended June 30, 2007, and reviewed a sample of expenses to determine whether they were Program-related and supported by sufficient documentation.

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 findings and conclusions based on our audit objectives. We believe that the evidence obtained 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 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

The 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

A draft copy of this report was provided to OASAS officials for their review and comment. Their comments were considered in the preparation of this final report and are attached in their entirety at the end of this report.

Within 90 days of the issuance of this report, in accordance with Section 170 of the Executive Law, the Commissioner of OASAS shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, detailing the actions taken by OASAS officials to implement the recommendations contained herein, and where recommendations were not implemented, the reason(s) therefor.

**Contributors
to the Report**

Major contributors to this report include Frank Patone, Michael Solomon, Christine Chu, Adrian Wiseman, Anthony Carlo, Lisa Duke, Margarita Ledezma, and Unal Sumerkan.

Audit Findings and Recommendations

We found that during the contract period, Daytop officials did not bill, pursue and report all Program-related revenues as required. Further, when we analyzed one year of financial activity in greater detail, we found Daytop officials did not have adequate documentation to support certain administrative expenses claimed during 2007. As a result, Daytop was reimbursed up to \$11.5 million more than may have been necessary had the organization properly fulfilled its fiscal responsibilities during the contract period.

Program Revenues Daytop must ensure that it pursues all available program revenues before relying on OASAS for deficit funding. Failure to do so increases the deficit and places greater burden on scarce state resources. We found that although Daytop routinely pursued and collected Medicaid payments for eligible clients, it often did not bill third party insurance carriers appropriately. Furthermore, even when Daytop did bill private insurance for services, or the clients themselves, it did not adequately follow up on unpaid balances.

To receive reimbursement from many private insurance carriers, a provider must obtain prior approval before services begin. Often, carriers will also require providers to submit claims within 60 to 90 days of treatment. We determined that, for fiscal years 2005 through 2008, Daytop's failure to meet these requirements resulted in about \$2.7 million in revenue not being collected; over \$2.3 million as a result of no prior approval and almost \$400,000 due to late billings.

We also reviewed Daytop's accounts receivable records to determine the extent to which revenues were actually collected and to identify what efforts Daytop undertook to pursue delinquent accounts. For the most part, we found Medicaid billings were collected timely and appropriately applied toward Program expenses. However, we found that \$7.3 million billed to private third party insurers between 2005 and 2008 had neither been collected nor pursued. Some of these receivables were outstanding for periods dating back to June 2005.

We also found that Daytop had significant balances due from many of its self-pay patients. For example, of over \$807,000 billed to self-paying clients during 2007, more than \$356,000 (44 percent) was still outstanding as of October 2008. Daytop officials-informed us that they had not assigned this responsibility to anyone and, as a result, no one had been following up on these receivables. We extended our examination of these self-

pay accounts back to the start of the contract in 2004 and found at least \$1 million in revenues had neither been collected nor pursued.

We also examined Daytop's accounting records in greater detail for one year of the contract to ensure that the revenues which were collected were properly reported. For the fiscal year ended June 30, 2007, the CFR that Daytop filed with OASAS resulted in contract payments totaling \$15.5 million based on \$33 million in reported Program expenses, offset by \$17.5 million in revenue collections. We obtained a listing of Medicaid payments made to Daytop during this period on behalf of individuals enrolled in the Program and compared it to Program revenues reported to OASAS. We found Daytop did not report over \$347,000 in Medicaid payments it received for services provided to 135 patients. We also found Daytop similarly underreported its self-pay and co-pay revenues by almost \$83,000. Although Daytop's accounting records show almost \$540,000 collected from these sources, only about \$457,000 was reported to OASAS.

Program Expenses In preparing its CFR for 2007, Daytop reported total administrative expenses of \$12.6 million; \$6.8 million of which was charged against the OASAS contract. We reviewed a sample of 16 transactions representing about \$400,000. We judgmentally selected our sample from a pool of 130 such charges posted to Daytop's general ledger. Our focus was to include transactions that represented the highest risk of not being Program-related, based on the dollar amount and/or the recorded purpose of the expense. Our review identified \$76,153 in charges that were not properly supported as follows:

- Two entries totaling \$3,000 were for payments made to Daytop's President for 25 business lunches, (averaging about \$120 each), for which cash register receipts were the only support available;
- Two charges totaling \$14,653 represented lease payments on two vehicles assigned to Daytop executives, neither of whom maintained a required vehicle log or any other documentation to show the Program-related use of the cars;
- Daytop paid \$10,000 to a consultant to train staff in the implementation and managing of a computer server. No agenda or certificates of course completion had been issued to employees, nor were there sign-in sheets to document their attendance;
- Daytop officials paid \$36,000 to a public relations company with no corresponding evidence of the contracted services being performed;

- and Daytop also paid two companies a total of \$12,500 to work on a new computer program, but there was no documentation that any of the contracted work was actually done.

Daytop's Director explained that management personnel employed during our audit period had not aggressively sought documentation for expenditures, and that the current management team will ensure that documentation is improved. OASAS officials also agreed that the listed administrative expenses appeared questionable and indicated that a more detailed review is necessary to determine whether other expenses may have been inappropriately charged to OASAS and if so, what portion may be recoverable.

OASAS Oversight

Many of the problems we identified could have been prevented, or at least mitigated, had OASAS performed more comprehensive monitoring of Daytop's compliance with contract terms. Although fiscal staff perform routine desk reviews of annual CFR reports that often result in questions of the provider and requests for additional information, they rarely supplement these efforts with any on-site visits or inspections to further investigate identified risks. Such visits provide the benefit of physical observation and access to program staff, while giving the reviewer the opportunity to examine the provider's books of record and review supporting documentation. As a result, we found OASAS officials were not aware of many of the revenue- and expense-related deficiencies included in this report until we brought them to their attention. Furthermore, even in cases where OASAS did become aware of certain deficiencies as a result of its desk reviews, the problems were allowed to continue because staff never followed up to determine whether changes were implemented. Prompt intervention by OASAS may have prevented much of the \$11.5 million in unnecessary payments cited in this report.

OASAS officials agree that on-site fiscal audits would be a more comprehensive approach to identifying and preventing the misuse of State funds. However, they note that such audits require significantly greater amounts of staff time than a CFR desk review. Given the State's current fiscal crisis and resulting hiring freeze, OASAS officials do not envision it will be practical to adopt a system wide audit-type approach in the near future. Instead, officials note that they have been updating their fiscal guidelines to require greater specificity and detail in provider reporting and document retention. Additionally, in light of our recommendations, OASAS intends to explore the possibility of enhancing the effectiveness of its oversight by conducting a small, defined number of audits for each annual period.

- Recommendations**
1. Examine Daytop’s fiscal activity for the full contract period, including the exceptions noted in this report, to identify all Program revenues that should have reduced contract costs, as well as to identify ineligible expenses charged to the Program. Determine to what extent the State should recover amounts paid to Daytop.
 2. Using a risk-based approach, perform more on-site reviews of providers’ fiscal operations to complement CFR desk reviews.
 3. Follow up on all recommendations made to providers as a result of on-site audits and/or CFR desk reviews to ensure that they are promptly addressed and implemented as appropriate.

Agency Comments



GOVERNOR
David A. Paterson
COMMISSIONER
Karen M. Carpenter-Palumbo

April 28, 2010

Frank Patone, CPA
Audit Director
NYS Office of the State Comptroller
Division of State Government Accountability
123 William Street, 21st Floor
New York, New York 10038-3804

Re: OASAS Contract with Daytop Village
Audit Report 2008-R-1

Dear Mr. Patone:

Thank you for the opportunity to review and respond to the findings and recommendations contained in your audit report 2008-R-1 entitled, "*New York State Office of Alcoholism and Substance Abuse Services: Contract 003107-Daytop Village, Inc.*"

OASAS believes strongly in the importance of adherence to contract terms including proper accountability in the expenditure of public funds by our contractors. However, OASAS also believes that its contractors should be held to a standard of reasonableness and that due consideration should be given to mitigating factors outside of a contractor's control that may inhibit its ability to strictly adhere to each and every contractual obligation.

OASAS welcomes this opportunity for an external and objective examination of its protocols and methods for monitoring contract compliance and will use the findings made by the audit team to increase our effectiveness in managing agency operations. Overall, OASAS agrees with the audit's three recommendations and offers the following comments relative thereto:

- 1) Examine Daytop's fiscal activity for the full contract period, including the exceptions noted in this report, to identify all Program revenues that should have reduced contract costs, as well as to identify ineligible expenses charged to the Program. Determine to what extent the State should recover amounts paid to Daytop.**

A follow-up audit by OASAS initiated in June 2009 validated, to some extent, inadequacies in Daytop's third party collection efforts. Audit activity was suspended in October 2009 to allow a CPA firm under contract with Daytop to evaluate their fiscal condition and recent claims/expenses submitted to OASAS. The OASAS audit resumed on March 30, 2010 and is expected to continue through August 2010. Upon completion of this audit, OASAS will issue a formal report addressing OSC's findings and recommendations and recommend recoupment of State funds, as appropriate.

OASAS agrees that to the extent it is able to verify that Daytop collected revenue from Medicaid, self-pay patients and co-pays for OASAS funded programs and failed to report this revenue, this amount should be recouped.

OASAS agrees that Daytop should engage in reasonable efforts to pursue payment from self-pay patients, but does not agree that a 100% collection rate is reasonable given the nature of the patient population. Daytop is statutorily and contractually obligated to treat patients regardless of ability to pay and can not discharge a patient in treatment for failure to pay. The patient population is often transient with extraordinarily limited means to pay. Further, the extent of appropriate collection activities often depends on a particular patient's stage of treatment. OASAS would not support collection efforts that would be detrimental to a patient's ongoing treatment.

OASAS agrees that Daytop should engage in reasonable efforts to pursue payment from insurance companies, but does not agree that a 100% collection rate is reasonable given the system wide issues that currently exist with insurance companies and OASAS providers. OASAS is currently in the process of conducting a survey of all providers (funded and non-funded) to obtain data regarding difficulties our providers report in obtaining insurance reimbursement for services and access to appropriate level of care for their patients. OASAS intends to categorize and prioritize areas of major concern and work with relevant governmental entities to develop and implement corrective action with insurance providers. This project is intended to achieve our goal of increasing insurance revenues system-wide.

OASAS agrees Daytop should make reasonable efforts to follow the procedures required by insurance carriers for obtaining prior approval and submission of claims. OASAS recognizes that mitigating factors exist including the requirement that a funded provider must accept a patient at the moment they present for treatment. This often conflicts with insurance company policies and results in a denial of the claim for failure to obtain approval prior to admission.

Daytop recently advised that they have now contracted with a professional billing service to upgrade their billing systems and increase revenue collections. OASAS believes that this action will significantly improve upon their third party collection performance.

Daytop expenditures are being reviewed in the follow-up audit currently in process. OASAS agrees that for any expenses that cannot be adequately documented or supported as program-related, recoveries may be warranted.

2) Using a risk-based approach, perform more on-site reviews of providers' fiscal operations to complement CFR desk reviews.

OASAS agrees that more risk based on-site fiscal reviews would greatly improve the State's ability to ensure compliance with contract terms. However, for the reasons articulated in the OSC report, OASAS does not envision that it can significantly increase the volume of such reviews without additional fiscal monitoring staff resources.

Given the economic constraints faced by the State, OASAS is working to improve provider fiscal accountability, without increasing State resources and expenditures. To this end, in March, 2010 OASAS announced the release of new Administrative and Fiscal Guidelines for OASAS-funded providers, effective July 1, 2010. These new guidelines will help to ensure a reasonable standard of accountability in the chemical dependence services system and establish a more viable basis for assessing provider compliance with OASAS fiscal requirements. OASAS is currently designing a new web-based self-assessment instrument that will be available later this spring to enable OASAS providers to conveniently access, track and evaluate their financial compliance on an ongoing basis.

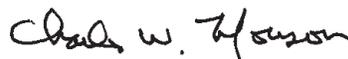
3) Follow up on all recommendations made to providers as a result of on-site audits and/or CFR desk reviews to ensure that they are promptly addressed and implemented as appropriate.

OASAS agrees with this recommendation and is committed to following-up to ensure that all audit recommendations – whether identified by OSC or OASAS – are appropriately acted upon by providers.

In closing, OASAS wishes to assure OSC that it will continue its on-site follow-up audit of Daytop to examine and address the issues identified in this report. We also want to make you aware that OASAS has been working closely with Daytop in the last year to address some identified concerns regarding their fiscal viability. Because we believe that Daytop has shown good faith and demonstrated progress on several levels, Daytop was given a one-year extension on its current contract. To ensure maximum OASAS oversight, the contract extension contained significant modifications, including the required implementation of a fiscal solvency plan. Should Daytop fail to comply with the terms of the fiscal solvency plan, OASAS has retained the right to immediate termination.

We thank you for your consideration of our comments and look forward to a prompt resolution of all OSC audit findings.

Sincerely,



Charles W. Monson
Associate Commissioner
Quality Assurance and Performance Improvement

cc: Karen M. Carpenter-Palumbo
Kathleen Caggiano-Siino
Robert A. Kent
Michael A. Lawler
Thomas Lukacs, Division of the Budget