



Office of Alcoholism and Substance Abuse Services

Phase Piggy Back, Inc.

Report 2009-R-1



Thomas P. DiNapoli

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Table of Contents

	Page
Authority Letter.....	5
Executive Summary.....	7
Introduction	11
Background	11
Audit Scope and Methodology	11
Authority	12
Reporting Requirements.....	12
Contributors to the Report	13
Audit Findings and Recommendations.....	15
Use of Contract Funds	15
Offsetting Revenues	18
Personal Needs Allowance Account	19
Contracted Services	19
OASAS Oversight.....	20
Recommendations	21
Exhibit A.....	23
Agency Comments	25
State Comptroller's Comments	33

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State of New York Office of the State Comptroller

Division of State Government Accountability

November 21, 2011

Arlene Gonzalez-Sanchez
Commissioner
NYS Office of Alcoholism and Substance Abuse Services
1450 Western Avenue
Albany, NY 12203-3526

Dear Ms. Gonzalez-Sanchez:

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 doing so, 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 the Office of Alcoholism and Substance Abuse Services: Phase Piggy Back, 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*

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State of New York Office of the State Comptroller

EXECUTIVE SUMMARY

Audit Objective

Our objective was to determine whether Phase Piggy Back's claims for reimbursement paid by the Office of Alcohol and Substance Abuse Services (OASAS) are supported and Program-appropriate.

Audit Results-Summary

OASAS administers programs for the prevention and treatment of alcohol and substance abuse. On July 1, 2004, OASAS entered into a five-year \$11.1 million contract with one such contractor, Phase Piggy Back, Inc. (Phase Piggy Back). The contract was extended annually thereafter, and as of June 30, 2010, \$13.2 million was paid on the contract. The contracted services include chemical dependence treatment and prevention services in either a residential or outpatient setting. During the five-year contract period audited, Phase Piggy Back reportedly treated over 519 residential patients and almost 200 outpatients annually.

Phase Piggy Back is required to support its claims for reimbursement with adequate written documentation. If Phase Piggy Back receives any non-OASAS revenues for the individuals they serve (e.g., Medicaid, third party insurers, etc.), it is to reduce claimed expenses by those amounts. If any such revenues were available but not pursued by Phase Piggy Back, OASAS is authorized to reduce claimed expenses by the amount collectible.

We found that OASAS paid Phase Piggy Back about \$1.029 million for expenses unrelated to the contracted Program (See Exhibit A). We recommend OASAS officials recover these payments and enhance their oversight of contract operations.

Phase Piggy Back is affiliated with a number of programs and facilities unrelated to its contract with OASAS. We identified a series of payments to one of these unrelated facilities, the George and Eva Barbee Family Health Center (Health Center). The Health Center was created by Phase Piggy Back's Executive Director, and according to Phase Piggy Back officials, the payments we identified represent interest-free loans. There were no formal loan documents to support this assertion. Further, according to its contract, Phase Piggy Back is not to be reimbursed by the State for loans of any kind. As of August 31, 2009, the recorded loan balance was \$391,939.

We also found Phase Piggy Back was using contract monies to pay the utility and telephone bills for the Health Center, a religious facility affiliated with Phase Piggy Back's Executive Director, and a federally funded outreach program for the homeless. Such payments totaled \$30,013 for the contract year ended June 30, 2008.

Phase Piggy Back operates a total of seven programs, three of which pertain to its contract with OASAS. According to OASAS policy, Phase Piggy Back is required to allocate administrative costs to its various programs in the same proportion as direct costs (ratio-value) or another accepted basis for allocation. According to Phase Piggy Back records, OASAS funded programs accounted for 81 percent of its total direct costs. As such, these programs should have been allocated a total of \$1,094,108 in administrative expenses. However, Phase Piggy Back instead allocated its entire \$1,352,672 of administrative costs solely to the three OASAS's funded programs – an overcharge of \$258,564.

During our audit period, OASAS paid two special funding enhancements to Phase Piggy Back, mandated by the State Legislature. One enhancement was to be used solely for cost of living salary adjustments for existing employees, and the other was to be used for new staff recruitment and retention purposes. Phase Piggy Back received a total of \$284,195 in special funds for these purposes. We found that Phase Piggy Back used only \$52,298 for these purposes and applied the remaining \$231,897 to offset its operating deficit.

From July 2005 through August 2008 (38 months), Phase Piggy Back leased space from an affiliated entity (NIA). The lease was for temporary space at three locations while one of Phase Piggy Back's primary facilities was being renovated. Phase Piggy Back paid NIA a total of \$4,000 a month for the space at the three locations. However, Phase Piggy Back did not occupy any of the three leased locations during the last six months of the lease period. As such, Phase Piggy Back made \$24,000 in inappropriate rent payments.

We also examined a judgment sample of 67 expenditures, totaling \$180,076, recorded in Phase Piggy Back's cash disbursements journals and general ledger. We found that 29 of them, totaling \$93,070, were either unsupported or inappropriate. These expenditures include untraceable food purchases, tuition payments for certain office staff, credit card payments to a jeweler, and the Home Shopping Network, etc.

Phase Piggy Back did not pursue all potential third party revenues, nor did it offset its reimbursement claims by those potential collections as authorized. As a result, OASAS paid Phase Piggy Back \$9,167 more than necessary. We recommend OASAS require Phase Piggy Back to pursue such offsetting revenues and reduce future claims for reimbursement by those amounts. Further, the in-patients (residents) in Phase Piggy Back's residential program who are not able to pay for their own toiletries and incidentals may qualify for a Personal Needs Allowance (PNA) provided by the New York State Office of Temporary and Disability Assistance (OTDA). Phase Piggy Back is to keep the funds in a special PNA account and use the funds for the purposes specified by OTDA. Unspent PNA funds should be returned to OTDA within 30 days of the date a recipient resident completes or leaves the Program. We found that Phase Piggy Back was not returning unspent PNA funds to OTDA. We identified

a total of \$170,340 in such funds and are recommending OASAS require Phase Piggy Back to return them to OTDA.

Lastly, residential patients are to receive at least 40 hours each week of therapeutic services in a structured environment. If group therapy is provided, no therapy session is to contain more than 12 patients. We selected a random sample of 13 residential patients and found none of them received the minimum required 40 hours per week.

Our report contains 13 recommendations including the recovery of funds. OASAS officials generally agree with our audit recommendations and have begun to implement them.

This report, dated November 21, 2011, 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

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Introduction

Background

The NYS Office of Alcoholism and Substance Abuse Services (OASAS) administers programs for the prevention and treatment of alcohol and substance abuse. Many of these programs are operated by not-for-profit organizations pursuant to contract with OASAS. On July 1, 2004, OASAS entered into a five-year \$11.1 million contract with one such contractor, Phase Piggy Back, Inc. (Phase Piggy Back), for the provision of substance abuse rehabilitation services. The contract was extended annually thereafter, and as of June 30, 2010, \$13.2 million was paid on the contract.

The contracted rehabilitation services were to include medically managed detoxification and chemical dependence prevention services. These services could be provided in either a residential or outpatient setting. During the five-year contract period audited, Phase Piggy Back reportedly treated over 519 residential patients and almost 200 outpatients annually.

According to the contract, OASAS was to reimburse Phase Piggy Back for the net costs it incurred to provide the contracted services. As such, if Phase Piggy Back received any noncontract revenues for the individuals they serve (e.g., Medicaid, third party insurers, etc.), it is to offset (reduce) claimed Program expenses by those amounts. If any such revenues were available but not pursued by Phase Piggy Back, OASAS is authorized to reduce claimed expenses by the amount collectible.

Phase Piggy Back is required to support its claims for reimbursement by adequate written documentation (e.g., vendor invoices, proof of services, etc.). In addition, before each contract year (July 1 through June 30), it was to submit an annual budget to OASAS illustrating its anticipated expenses and estimated offsetting revenues. At the end of each contract year, Phase Piggy Back was required to submit a final cost report illustrating its actual reimbursable expenses and offsetting revenues for the year. OASAS would compare actual reimbursement claims to the budget and make final payment for the year after inquiry and reconciliation.

Audit Scope and Methodology

We audited OASAS Contract C003155 awarded to Phase Piggy Back to determine whether the expenses Phase Piggy Back claimed for reimbursement were supported and Program-appropriate. Our audit of Phase Piggy Back's reimbursed expenses covered the period July 1, 2004 through August 31, 2009. To accomplish our objectives, we interviewed OASAS and Phase Piggy Back officials and staff, reviewed relevant contract documents, and consulted with OSC's legal staff and Bureau of Contracts.

We also reviewed Phase Piggy Back’s contract-related financial records and patient case files, as well as contract-related policies, procedures and OASAS’ oversight of contract operations. As part of our testing we performed floor checks of selected employees, reviewed employee timesheets and assignment records, and supporting source documents for claimed expenses and reported contract services.

We conducted our audit in accordance with generally accepted government auditing standards. These 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 during our 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 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 V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law.
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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.
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Within 90 days of the final 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.

OASAS officials informed us that they have already begun to implement most of our recommendations, including the recovery of funds, and that

they have issued administrative and fiscal guidelines to all of their funded providers, and plan to continue their enhanced oversight of Phase Piggy Back operations.

Contributors to
the Report

Major contributors to this report include Frank Patone, Mike Solomon, Stu Dolgon, Orin Ninvalle, John Ames, Margarita Ledezma, Cheryl Miles and Dana Newhouse.

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Audit Findings and Recommendations

Use of Contract Funds

We found that OASAS paid Phase Piggy Back about \$1.029 million for expenses unrelated to the contracted Program including almost \$400,000 to a privately owned health center. (See Exhibit A.) We recommend OASAS officials recover these payments and enhance their oversight of contract operations.

Payments to Affiliated Entities

Phase Piggy Back is responsible for, and is affiliated with, a number of programs and facilities that are unrelated to its contract with OASAS. When we reviewed Phase Piggy Back's contract-related general ledgers for the period July 1, 2004 through June 30, 2009, we identified a series of ongoing payments to one of these unrelated facilities, the George and Eva Barbee Family Health Center (Health Center).

The Health Center was created by Phase Piggy Back's Executive Director, and according to Phase Piggy Back officials, the payments we identified represent interest-free loans. However, there were no formal loan documents to support this assertion. Furthermore, according to its contract with OASAS, Phase Piggy Back is not to be reimbursed by the State for loans of any kind. As of August 31, 2009, the recorded loan balance was \$391,939.

We also found Phase Piggy Back was using contract monies to pay the utility and telephone bills for the Health Center, a religious facility affiliated with Phase Piggy Back's Executive Director, and a federally funded outreach program for the homeless. Such payments totaled \$30,013 for the contract year ended June 30, 2008.

These inappropriate payments contributed to Phase Piggy Back's financial hardship throughout 2008 and 2009. In fact, Phase Piggy Back could not meet its payroll in September 2009 and its staff was paid only 50 percent of their normal biweekly pay.

Allocation of Administrative Costs

Phase Piggy Back operates a total of seven programs, three of which pertain to its contract with OASAS. In addition to the direct expenses of the authorized programs (e.g., staff salaries, facility rent, etc.), Phase Piggy Back is entitled to reimbursement for the indirect expenses (e.g., administrative overhead) incurred to operate these programs.

Phase Piggy Back is required to follow certain procedures when allocating administrative expenses to its three OASAS-funded contract programs. Specifically, its administrative costs should be allocated to its various programs in the same proportion as direct costs (e.g. ratio-value) or another accepted basis. Thus, if a particular program incurs 10 percent of Phase Piggy Back's direct expenses, that program would be allocated 10 percent of Phase Piggy Back's indirect administrative expenses.

We examined Phase Piggy Back's compliance with these allocation procedures for the first four years of the contract. (The fifth year allocations had yet to be finalized). According to Phase Piggy Back's books and records, its OASAS funded programs accounted for 81 percent of its total direct costs. As such, the OASAS programs should have been allocated a total of \$1,094,108 in administrative expenses. However, we found that Phase Piggy Back was not complying with its required procedures and, instead, allocated its entire \$1,352,672 of administrative costs solely to the three OASAS's funded programs – an overcharge of \$258,564. None was allocated to the four non-OASAS programs.

Special State Funding Enhancements

During our audit period, OASAS paid two special funding enhancements, mandated by the State Legislature, to its contracted providers of substance abuse services – one of which is Phase Piggy Back. One enhancement, which covered the 2005-06, 2006-07 and 2007-08 fiscal years, was to be used solely for cost of living salary adjustments for existing employees. The other enhancement, paid in April 2007, was to be used for new staff recruitment and retention purposes. Phase Piggy Back received \$167,395 for the cost of living adjustments, and \$116,800 for staff recruitment and retention, for a total of \$284,195 in special funds.

We examined whether these enhancements were used for their intended purposes and found that Phase Piggy Back paid a total of only \$49,798 for the cost of living adjustments, and a total of only \$2,500 for staff recruitment and retention. It applied the remaining \$231,897 to offset its operating deficit caused largely by its diversion of funds to non-OASAS Program purposes.

Lease Payments to an Affiliated Entity

From July 2005 through August 2008 (a period of 38 months), Phase Piggy Back leased space from NIA Management Corporation, an affiliated entity (Phase Piggy Back's CEO is one of NIA's principal owners). The lease was for temporary space at three locations while one of Phase Piggy Back's primary facilities was being renovated. Under the lease, Phase

Piggy Back paid NIA Management Corporation a total of \$4,000 a month for the space at the three locations.

We determined that Phase Piggy Back did not occupy any of the three leased locations during the last six months of the 38-month lease period, because renovations to its primary facility were completed and it had re-occupied its newly-renovated facility. As such, Phase Piggy Back made \$24,000 in rent payments for unused space further contributing to its periodic operating deficits.

Other Expenses

We also reviewed other selected expenses that were funded by OASAS to determine whether they were, in fact, reimbursable under the contract. For example, we conducted floor checks of selected employees in Phase Piggy Back's substance abuse rehabilitation programs to verify that they were bonafide employees working on authorized contract activities. We tested a total of nine of its 54 employees and found that all nine to be bonafide employees working in authorized substance abuse rehabilitation programs.

We also attempted to examine all of the credit card purchases charged to the OASAS contract by Phase Piggy Back's Chief Executive Officer, his Executive Assistant and Phase Piggy Back's administrative manager for the 12 month period ended June 30, 2009. Together, these three individuals incurred 13 credit card transactions totaling \$26,947. However, other than credit card receipts, there were no supporting records indicating exactly what was purchased. As such, we could not determine whether these purchases were related to the OASAS programs. Based on some of the vendor names (e.g., Zales Jewelers, Home Shopping Network, Always Love - beauty aids), we question the purpose of such payments to the funded Programs. Phase Piggy Back's bookkeeper admitted that the credit cards were at times used for personal purposes, but maintained that they were later reimbursed by the employees. However, the bookkeeper did not supply us with any records documenting such reimbursements.

We also examined a judgment sample of 50 of the 7,572 expenditures recorded in Phase Piggy Back's cash disbursements journal for the period July 1, 2007 through June 30, 2008 (\$104,119 of \$2,144,749). We found that 12 of the 50 expenditures, totaling \$17,113, were not adequately supported. There was no evidence that the goods had actually been received by Phase Piggy Back. All 12 expenditures were for food items that were supposedly used in the residential treatment program. However, these purchases could not be adequately accounted for because Phase Piggy Back does not maintain inventory records for such food items.

In addition, Phase Piggy Back's general ledgers reported that between July 1, 2004 and March 31, 2009, contract funds were used to defray tuition expenses, totaling \$49,010, for four Phase Piggy Back employees: a counselor, the Executive Assistant, the CEO's Executive Secretary, and the bookkeeper. Tuition expenses are not authorized expenses under the contract.

Offsetting Revenues

During the patient intake process, Phase Piggy Back staff is supposed to determine whether incoming patients have insurance (i.e., Medicaid or private) that covers substance abuse rehabilitation services. If so, their insurance carriers are to be billed for the services that Phase Piggy Back provides to the patients. Where patients are not covered, Phase Piggy Back staff is to determine whether the incoming patients should be charged fees for the services each receives on a sliding scale based on their individual ability to pay. Any OASAS Program-related revenues received by Phase Piggy Back, or potential revenues not pursued by Phase Piggy Back, are to be offset against contract related claims for reimbursement. Further, according to the Mental Hygiene Law, those providers who do not prepare a sliding fee scale for services could lose their ability to receive State aid.

We found that Phase Piggy Back correctly offset its reimbursement claims with the third party revenues that it received. However, we also found that Phase Piggy Back did not pursue all potential third party revenues, nor did it offset its reimbursement claims by those potential collections as authorized by contract.

During our audit period, Phase Piggy Back collected a total of \$1,955,472 in Medicaid payments for contract-related services. To determine whether Phase Piggy Back collected all of the Medicaid revenues it should have during this period, we selected a random sample of 30 patients who were admitted to Phase Piggy Back's outpatient program during the period May 1, 2008 through April 30, 2009. We then reviewed their case files to determine whether each was Medicaid eligible and found that 20 of them were actually covered by Medicaid. We then reviewed Phase Piggy Back's billing records to determine whether Medicaid was billed for the services that were provided to these 20 patients. We found that Medicaid was not billed for all the days of service that had been provided to these patients. In fact, Medicaid was billed for only 695 of the total 814 days of service provided to these patients. The 119 days of service for which Phase Piggy Back did not bill Medicaid could have resulted in an additional \$9,167 in offsets to reimbursed claims. According to Phase Piggy Back officials, the unbilled days are the result of human error.

Ten of the thirty outpatients in our sample were not covered by Medicaid. According to their case files, two of these patients had private health insurance. However, there is no indication that Phase Piggy Back staff attempted to contact these insurers to determine whether the services they would be receiving from Phase Piggy Back were covered. As a result, Phase Piggy Back may have missed opportunities to collect offsetting revenues.

We also found that Phase Piggy Back did not establish a sliding fee scale for uninsured patients who had the ability to pay for their services. As a result, none of the uninsured patients in our sample were charged fees. If these ten patients had been found to be financially able to pay for their services, and were charged a similar fee as Medicaid, Phase Piggy Back could have collected up to an additional \$16,100 in offsetting revenue.

Personal Needs
Allowance
Account

The patients in Phase Piggy Back's residential program (residents) reside at Phase Piggy Back's residential facility while receiving treatment. Certain of their living expenses are covered by the Program (e.g., food and housekeeping); while other living expenses (e.g., clothing, personal hygiene and other incidental needs) are not. Patients who are financially able to pay for these other living expenses are expected to do so. Patients who are not able to pay may qualify for a Personal Needs Allowance (PNA) provided by the New York State Office of Temporary and Disability Assistance (OTDA).

If a resident qualifies for a PNA, OTDA pays the funds directly to Phase Piggy Back. Phase Piggy Back is to keep the funds in a special PNA account and use the funds for the purposes specified by OTDA. Any unspent PNA funds should be returned to OTDA within 30 days of the date a recipient resident completes or leaves the Program.

We found that Phase Piggy Back was not returning unspent PNA funds to OTDA. We identified a total of \$170,340 in such funds in Phase Piggy Back's PNA account. Phase Piggy Back officials told us that they were not aware the unspent PNA funds should be returned to OTDA.

Contracted
Services

Although service provision does not precipitate contract payments, the clinical services provided by Phase Piggy Back have to meet certain requirements that are specified in OASAS's Program guidelines. Specifically, residential services are to be provided in a structured environment 24 hours per day, seven days per week; and residential patients are to receive at least 40 hours each week of services including clinical, social, educational and recreational skills in a structured therapeutic environment. In addition, if group therapy is provided, no therapy session is to contain more than 12 patients. Outpatient services

also have to meet certain requirements and individual case records are to be maintained detailing the services provided to each patient. Phase Piggy Back outpatient plans are more individualized for each patient. However, each outpatient must also participate in group therapy sessions (no more than 15 persons in a class), and one out of every 10 counseling sessions must be a one-on-one with the counselor.

To determine whether Phase Piggy Back provided these required services, we selected a random sample of 13 residential patients and 10 outpatients and reviewed their case files. We selected the residential patients from the 133 residents who received services between May 2008 and April 2009, and we selected the 10 outpatients from the 212 which received outpatient services between March 2007 and March 2009. Our review focused on the first three months of each sampled patient's treatment as this is reportedly the most intensive therapeutic period of a patient's treatment.

According to available documentation, all ten sampled outpatients were provided with the required group therapy sessions and individual counseling sessions during the review period. Conversely, none of the sampled residential patient files documented the minimum required 40 hours per week. The case file for one of the 13 sampled patients was not available. As such, it cannot be determined whether this patient received any clinical services during our review period.

OASAS Oversight

OASAS is responsible for having an oversight system in place to ensure that clients are being properly and fully served, and that any identified program and fiscal weaknesses or adverse findings are expeditiously and fully addressed and corrected. We found that OASAS officials responsible for monitoring Phase Piggy Back had, for the most part, limited their monitoring activities to reviewing and commenting on Phase Piggy Back's claims for reimbursement. According to OASAS officials, at least five on-site visits were made to the contractor during the audit period. Even when visits were made, OASAS did not follow up on the recommendations or enforce restrictions it had placed on Phase Piggy Back. For example, as a result of one site visit, Phase Piggy Back was told that OASAS would not reimburse it for contract monies diverted to non-Program related activities such as the aforementioned Health Center. Nevertheless, OASAS did in fact reimburse Phase Piggy Back for those diverted funds which were misrepresented as program-related expenses.

Upon completion of our field work, we met with OASAS representatives to discuss our findings. OASAS representatives informed us that they were very concerned about our findings and would send a team of staff

to Phase Piggy Back to follow up on our findings. We were informed that OASAS officials have been taking steps to recover the inappropriate claims noted in our report.

- Recommendations
1. Enhance OASAS monitoring of Phase Piggy Back operations by complementing desk reviews with routine site visits. Site visits should include a review of contractor books of record, selected supporting documentation and a verification of services provided. It is also recommended that OASAS develop a system of even more intensive oversight and/or conditional contract awards for vendors and contractors with frequent or serious adverse findings.
 2. Immediately discontinue reimbursing Phase Piggy Back for non-program related expenditures as outlined in this report.
 3. Seek recovery of any contract funds diverted to non contract related purposes (e.g., Barbee Health Center). Include the \$421,952 in diverted expenses identified in our audit.
 4. Allocate indirect administrative costs between programs in compliance with OASAS requirements. Seek recovery of the \$258,564 of indirect costs inappropriately charged to OASAS funded programs.
 5. Seek recovery of the \$231,897 of special state funding enhancements that were not used for their intended purposes.
 6. Seek recovery of the \$24,000 in lease payments paid to NIA Management Corporation for the six-month period where Phase Piggy Back did not use the leased premises.
 7. Establish effective inventory controls over the program related food products purchased with OASAS monies.
 8. Investigate the circumstances surrounding the \$17,113 paid for food products that were not accounted for. Seek recovery as appropriate.
 9. Reinforce the requirement that OASAS funded credit cards be used only for authorized contract purposes. Investigate the circumstances surrounding the \$26,947 in unsupported and unjustified credit card reimbursements. Seek recovery as appropriate.
 10. Recover the \$49,010 paid for the non-program related tuition expenses of Phase Piggy Back personnel.
 11. Work with Phase Piggy Back to ensure that every effort is made to maximize Medicaid, third party insurance and self-pay revenues (pursuant to a sliding scale). Inform Phase Piggy Back that OASAS reserves the right to reduce claimed expenses by recoverable amounts that are not pursued.

12. Require Phase Piggy Back to forward the \$170,340 of unspent PNA monies identified during the audit, and any future accumulated unspent PNA funds, to the OTDA.
13. Work with Phase Piggy Back officials to ensure that all contracted services are provided to both in- and out-patients covered under OASAS programs. Where required services cannot be provided, contract payment terms should be revised accordingly.

Summary of Recommended Recoveries

Unauthorized loans to Health Center	\$391,939
Over allocation of administrative expenses	258,564
Inappropriate use of enhancements	231,897
Inappropriate tuition payments	49,010
Inappropriate utility and telephone Payments	30,013
Unrelated credit card purchases	26,947
Overpayments for leased space	24,000
Unsupported expenses	17,113
	\$1,029,483

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Agency Comments



NEW YORK STATE
OFFICE OF ALCOHOLISM & SUBSTANCE ABUSE SERVICES
Addiction Services for Prevention, Treatment, Recovery

Governor
Andrew M. Cuomo

Commissioner
Arlene González-Sánchez, M.S., L.M.S.W.

October 7, 2011

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

Re: OASAS Contract with Phase Piggy Back, Inc.
Audit Report 2009-R-1

Dear Mr. Patone:

Thank you for the opportunity to review and respond to the findings and recommendations contained in your audit report 2009-R-1 entitled, "*New York State Office of Alcoholism and Substance Abuse Services: Contract 003155-Phase Piggy Back, Inc.*"

Attached to this letter is a response describing steps taken by OASAS to address the recommendations contained in the audit report. OASAS will use the findings made by the audit team to increase our effectiveness in managing agency operations.

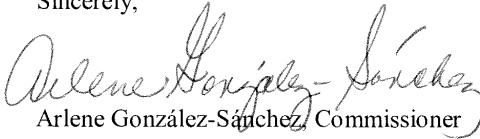
Since the OSC audit exit conference, OASAS has taken significant steps to enhance the oversight and accountability of our funded providers through the issuance of Administrative and Fiscal Guidelines, the release of a provider fiscal self-assessment tool and the establishment of an enhanced oversight team. We also continue to assess our oversight and monitoring functions to evaluate their effectiveness and efficiency in an effort to continually improve our operations.

While we generally agree with the recommendations in the audit, OASAS has been conducting its own on-site follow-up audits to validate the OSC findings and establish accurate and appropriate disallowance amounts to be recovered from the contractor. During the pendency of your on-going audit OASAS took the initiative to begin recovery of funds inappropriately used by this contractor. Further, OASAS Field Office and the OASAS Fiscal Audit and Review unit have been working closely with Phase Piggy Back since 2009 to improve their contract performance and as a result Phase Piggy Back has instituted many changes in their operations and fiscal practices.

OASAS wishes to assure OSC that it will continue its oversight of Phase Piggy Back to examine and address the issues identified in this report.

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

Sincerely,


Arlene González-Sánchez, Commissioner

cc: Kathleen Caggiano-Siino
Robert A. Kent
Thomas Lukacs, Division of the Budget

OSC Audit Report Phase Piggy Back Inc. ("PPB") 2009-R-1 – Summary of Action Taken

In addition to the comments in our cover letter, OASAS offers the following:

Comments and Corrections

There are several comments in the body of the draft audit report that are inaccurate or incorrect and OASAS requests they be modified accordingly.

Page 7, Paragraph 2:

The contracted services include medically managed detoxification and chemical dependence prevention services in either a residential or outpatient setting should be modified to state that the contracted services include chemical dependence treatment and prevention service. (PPB is not certified or funded to provide medically managed detoxification services)

*
Comment
1

Page 8, Paragraph 2:

PPB is required to allocate administrative cost using ratio-value or another accepted basis for allocation.

Page 11, Paragraph 3:

If revenues were not pursued by PPB, OASAS is authorized to reduce claimed expenses, not required to.

Page 14, Paragraph 2:

Administrative costs should be allocated using ratio value or another accepted basis for allocation.

Page 17, Paragraph 2:

When determining an appropriate fee on a sliding fee scale, Medicaid rates are not the minimum fee a patient may be charged. OASAS recommends this reference and the statement "Phase Piggy Back could have collected an additional \$16,100 in offsetting revenue" be removed.

Page 18, bottom:

OASAS disagrees with the statement "Very few on-site visits were made to the contractor during the audit period." Throughout this 5 year period there were visits (at least annually) by field office, reviews by the OASAS facilities unit, reviews by the fiscal audit unit and program reviews.

Page 19, First Paragraph:

OASAS did not reimburse PPB for diverted funds. OASAS paid claims submitted by PPB indicating that program-related expenses were incurred.

* See State Comptroller Comments on page 33.

OASAS Response to Recommendations

In response to the recommendations set forth in the draft audit report of the contract between OASAS and PPB for the period July 1, 2004 through June 30, 2009:

- 1. Enhance OASAS monitoring of Phase Piggy Back operations by complementing desk reviews with routine site visits. Site visits should include a review of contractor books of record, selected supporting documentation and a verification of services provided. It is also recommended that OASAS develop a system of even more intensive oversight and/or conditional contract awards for vendors and contractors with frequent or serious adverse findings.**

OASAS agrees that accountability and fiscal oversight of contractors is critically important. The Agency's general approach to fiscal monitoring is two-fold. First, to maximize the effectiveness of our audit staff resources and successfully manage a case load of 350 OASAS funded providers, we use a risk-based system as a basis for identifying and scheduling fiscal reviews. Second, we consider other provider audit risk indicators, as well as requests for audits by OSC and other governmental agencies, to help prioritize our fiscal audit/review schedules. *Fiscal reviews*, the predominant form of fiscal monitoring conducted, involve a focused (5-10 day) examination of OASAS funded service providers' financial operations, in relation to their compliance with applicable OASAS requirements. We currently perform approximately 80 to 100 fiscal reviews per year. In general, we try to schedule fiscal reviews of each provider on a two-year cycle to three-year cycle. *Fiscal audits* of OASAS-funded service providers, which are reserved for those providers at highest risk, are comprehensive examinations of longer duration, which are performed to ensure that program revenues and expenditures are adequately documented, authorized in the approved budgets, and applied/incurred for appropriate program services. Fiscal audits also examine the adequacy of the service provider's financial and general operating procedures and practices, and related internal controls. In consideration of the recommendations of OSC in this and other audits, OASAS has increased the volume of these audits. We have completed 3 in the past year and currently have two fiscal audits underway.

Additionally, to ensure enhanced accountability and provide further guidance to providers, OASAS issued comprehensive Administrative & Fiscal Guidelines in March of 2010. These guidelines better help ensure a standard of accountability for OASAS funded providers and establish a more viable baseline for assessing provider compliance with OASAS fiscal requirements. In addition OASAS has made available a self assessment instrument on the OASAS web-site to assist providers in evaluation of their fiscal compliance. As part of our efforts to continually improve the OASAS risk assessment process, we intend to require all funded providers to electronically submit to OASAS a self-assessment instrument for use as an additional tool in our risk assessment analysis.

In April of 2011, OASAS established an "Enhanced Oversight Team" which has primary responsibility for coordinating and enhancing the monitoring and data collection systems to detect and proactively address provider level, program level and system level deficiencies. The Team meets monthly to:

- Review high risk referrals;
- Identify and schedule providers for unannounced site visits;
- Assess need for additional interventions (e.g. referrals to other units or agencies)
Schedule follow-up and plan of corrective action compliance; and
- Recommend sanctions.

OASAS also agrees with the recommendation that conditional contract awards be made to contractors with frequent or serious adverse findings and has implemented this recommendation in two instances. In light of the findings made by OSC and confirmed in part by OASAS, PPB was not offered a five year renewal contract after the expiration of its last multi-year contract. Instead, OASAS, with input from the OSC contact and vendor responsibility units, entered into a one year simplified renewal contract with numerous conditions and monitoring provisions, including the filing of monthly reports and regular contact with Field Office to enhance program monitoring and review contractor compliance. OASAS also has a policy of not awarding any new grants or contracts to providers who do not meet minimum program and fiscal standards.

2. Immediately discontinue reimbursing Phase Piggy Back for non-program related expenditures as outlined in this report.

OASAS will disallow any expenditure it finds that is determined to be “non-program related” and require repayment by PPB. Rather than wait for issuance of this OSC draft report, OASAS initiated 2 on-site fiscal audits to address the concerns expressed by OSC at the audit exit conference. The first audit focusing on an inter-fund transfer to a non-OASAS Article 28 Health Center has been completed. (See response #3 below). The second audit focusing on program related expenses and other issues identified by OSC is nearly completed and an audit report is expected to be issued in October 2011. When issued, this report will identify specific recommended recoveries for charges that could not be supported or documented. This audit focused on the issues identified by OSC as well as other fiscal issues. These include:

- Allocations of indirect administrative costs between programs (it should be noted that PPB is required to allocate administrative costs using a ratio-value or another accepted basis) (See #4 below);
- Inappropriate use of special state targeted funds (e.g. funds targeted for staff COLA's)
- Lease payments to related entities; and
- Payments for food products and other inventory, tuition reimbursement, credit card reimbursement.

3. Seek recovery of any contract funds diverted to non contract related purposes (e.g. Barbee Health Center). Include the \$421,952 in diverted expenses identified in our audit.

OASAS agrees with this recommendation and has implemented a recoupment plan. OASAS completed a targeted audit to identify the amount of OASAS funds used to support services and an unapproved loan by the contractor to a non-OASAS Article 28 program (Barbee Health Center). PPB

acknowledged the loan but disputed the remaining outstanding balance. A final determination was made by OASAS on March 3, 2011 and the outstanding debt was referred to OASAS Financial Management for recoupment. OASAS has determined \$428,939 of improperly diverted funds remains to be repaid and the contractor was notified on August 23, 2011 that recoupment will begin with the November advance and will conclude after four months with the March advance (the end of the state fiscal year).

- 4. Allocate indirect administrative costs between programs in compliance with OASAS requirements. Seek recovery of the \$258,564 of indirect costs inappropriately charged to OASAS funded programs.**

OASAS agrees allocation of indirect administrative costs between programs should be in compliance with OASAS requirements. The OASAS program audit expected to be issued in October will determine whether the method of allocation used was appropriate and to the extent any costs were improperly allocated they will be identified, quantified and recovered. (See response to #2 above)

- 5. Seek recovery of the \$231,897 of special state funding enhancements that were not used for their intended purposes.**

OASAS agrees that any special state funding enhancements not used for their intended program purposes should be verified, calculated and recovered. The OASAS program audit expected to be issued in October will identify these expenditures and to the extent any of them were improperly used they will be quantified and recovered. (See response to #2 above)

- 6. Seek recovery of the \$24,000 in lease payments paid to NIA Management Corporation of the six-month period where Phase Piggy Back did not use the leased premises.**

OASAS agrees that any inappropriate lease payments should be recovered. The OASAS program audit expected to be issued in October examined lease payment made to NIA Management and to the extent there are any improper payments they will be identified, quantified and recovered. (See response to #2 above)

- 7. Establish effective inventory controls over the program related food products purchased with OASAS monies.**

The OASAS program audit expected to be issued in October examined PPB's inventory controls over food products. The report will include recommendations relative to inventory controls over food.

- 8. Investigate the circumstances surrounding the \$17,113 paid for food products that were not accounted for. Seek recovery as appropriate.**

OASAS agrees that payments for food purchases that cannot be substantiated as program related should be recovered. The OASAS program audit expected to be issued in October examined food purchases and to the extent there are any improper payments they will be identified, quantified and recovered. (See response to #2 above)

- 9. Reinforce the requirement that OASAS funded credit cards be used only for authorized contract purposes. Investigate the circumstances surrounding the \$26,947 in unsupported and unjustified credit card reimbursements. Seek recovery as appropriate.**

OASAS agrees that OASAS funded credit cards should only be used for authorized contract purposes. The OASAS program audit expected to be issued in October examined credit card purchases and to the extent there are any improper payments they will be identified, quantified and recovered. (See response to #2 above)

As part of the 2009-2010 contract renewal, PPB was required to update its policies and procedures to address internal controls and appropriate usage of corporate credit cards that charge OASAS program related expenses.

- 10. Recover the \$49,010 paid for the non-program related tuition expenses of Phase Piggy Back personnel.**

OASAS agrees improperly paid non-program related expenses should be verified, calculated and recovered. The OASAS program audit expected to be issued in October will identify these expenses and to the extent there are any improper payments a repayment schedule will be implemented. (See response to #2 above)

To prevent such improper expenditures in the future, the conditions of the vendor's 2009-2010 one year contract required PPB to establish a tuition assistance policy and application and obtain approval from the OASAS field office.

- 11. Work with Phase Piggy Back to ensure that every effort is made to maximize Medicaid, third party insurance and self-pay revenues (pursuant to a sliding scale). Inform Phase Piggy Back that OASAS reserves the right to reduce claimed expenses by recoverable amounts that are not pursued.**

This issue has been identified and will be reported in the OASAS program audit expected to be issued in October. PPB has issued a new sliding fee policy and process and OASAS continues to work with PPB to assist their performance in seeking third party reimbursement. PPB will be informed that they will be subject to monetary penalties for failure to pursue payment.

- 12. Require Phase Piggy Back to forward the \$170,340 of unspent PNA monies identified during the audit, and any future accumulated unspent PNA funds, to the OTDA.**

The authority to recoup inappropriately retained PNA funds rests with the local social services district and the Office of The Temporary and Disability Assistance ("OTDA"). This issue has been identified in the OASAS program audit report expected to be issued in October. PPB will be advised of their responsibility to return unspent PNA funds to the appropriate local services district and that the consequence of failure to comply will affect their eligibility for future PNA and congregate care funding.

13. Work with Phase Piggy Back officials to ensure that all contracted services are provided to both in and out-patients covered under OASAS programs. Where required services cannot be provided, contract payment terms should be revised accordingly.

OASAS believes that this recommendation is in reference to the OSC finding that 40 hours of clinical services were not provided to the sample of residential clients examined. If our understanding is accurate, this is a misinterpretation of the OASAS regulatory standard requiring 40 hours of programming in a residential treatment setting. OASAS regulation 14 NYCRR Part 819.8 (b) requires that this level of residential service provide a minimum of 40 hours of services per week in a structured therapeutic environment. The range of services that a program may offer to meet this requirement includes both clinical and other programmatic services as follows:

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- Individual, group and family counseling;
- Peer support; supportive services;
- Educational and child care services;
- Structured activity and recreation;
- Orientation of community services;
- Vocational and education services; and
- Life, parenting and social skills training.

PPB provided activity schedules which demonstrated sufficient programming to meet the 40 hour requirement. In light of this OASAS recommends that the finding contained in OSC's draft report relative to the required 40 hours of services in a structured therapeutic environment and related recommendation be withdrawn.

* See State Comptroller's Comments on page 33.

State Comptroller's Comments

1. OASAS officials cited several draft report inaccuracies incidental to our audit findings. This final report has been revised to address those inaccuracies.
2. OASAS officials believe that we have misinterpreted the contractual requirement for Phase Piggy Back to provide 40 hours of clinical services each week to patients in its residential program. They explain that the 40 hour minimum pertains to a range of therapeutic services such as counseling, education, social skills and recreational training - which they assert Phase Piggy Back has indeed provided to its residential patients. However, documentation of those expanded services was not provided to us. We have revised our report wording to acknowledge the information provided by OASAS officials.