Thomas P. DiNapoli
COMPTROLLER

Audit Objective 2

Audit Results – Summary 2

Background 3

Audit Findings and Recommendations 4

Controls Over Late Separations 4
Recommendations 5
Accountability Over Late Separation Checks 6
Recommendation 6

Audit Scope and Methodology 6

Authority 6

Reporting Requirements 7

Contributors to the Report 7

Appendix A - Auditee Response 8

OFFICE OF THE
NEW YORK STATE COMPTROLLER

DIVISION OF STATE
GOVERNMENT ACCOUNTABILITY

OFFICE OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES

BERNARD FINESON DEVELOPMENTAL DISABILITIES SERVICES OFFICE

INTERNAL CONTROLS OVER EMPLOYEE SEPARATIONS

Report 2007-S-116

AUDIT OBJECTIVE

The objective of the audit was to determine whether the Bernard Fineson Developmental Disabilities Services Office has adequate controls over employee separations.

AUDIT RESULTS - SUMMARY

The Office of Mental Retardation and Developmental Disabilities (OMRDD) provides a wide range of services to individuals with developmental disabilities. OMRDD operates 14 Developmental Disabilities Services Offices throughout the State. The Bernard Fineson Developmental Disabilities Services Office (Fineson), located in Queens, New York, employs about 1,000 individuals and provides services to approximately 600 consumers.

The State's Payroll System (PayServ) is maintained by the Office of the State Comptroller's (OSC) Payroll Services Unit. All State agencies are required to enter all relevant payroll information for their employees into PayServ (e.g., starting dates, raises, and separation dates - the subject of this audit) and to implement controls to prevent overpayments. The date on which a transaction is entered into PayServ is called the "action" date, and the date on which the personnel transaction (e.g., resignation, termination) takes effect, is the "effective" date.

For an on-time separation to occur, the action date should be prior to, or within the same pay period as, the effective date. If the action date falls after the effective date, a "late separation" check is generated which includes payment for days after the effective date of the employee's separation. If an employee does not have sufficient leave credits to cover the days he or she is paid for after the effective date, an overpayment occurs.

According to the Payroll Services Unit, 269 separation checks were issued to former Fineson employees for the April 1, 2004 to July 31, 2007. Of these, 58 (22 percent) were late separation checks. These 58 checks pertained to 38 separated employees (some employees received more than one check), and totaled $22,768. Of these 38 separated employees; 24 resigned, 4 retired, and 10 were terminated.

According to the NYS Department of Civil Service's Attendance and Leave Manual, employees who intend to resign are required to provide their employer with written notice two weeks prior to their effective date of resignation. The purpose of this requirement is to allow the employer sufficient time to process the resignation to avoid an employee being paid for more days than he or she had actually worked. It is Fineson's practice that the notice of resignation should be given by the employee to his/her immediate supervisor who enters this information onto a Personnel Transaction Request Form (PTR). The information on the PTR is subsequently submitted by the supervisor to Fineson's Human Resources Office (HR) for data entry into PayServ.

For the 24 employees who resigned, HR staff entered the PTR information into PayServ from 8 to 83 days after the effective dates of the respective resignations. We were unable to determine the specific reasons for the data input delays for 12 of these resignations since there was no trail of when the employee notified his or her supervisor, or when in turn the supervisor notified HR. However, for 6 of the resignations we found that the supervisors notified HR before the effective dates, but HR staff did not enter the information into PayServ in sufficient time to prevent a late separation check. The six remaining employees did not give the required two weeks prior notice. Although HR had sufficient time to prevent the late separation check for one of the six employees, it did not do so. HR did not explain the reason for the delay.

For the four employees who retired from Fineson, HR received formal notice of their respective retirement dates from the New York State and Local Retirement System in sufficient time to prevent their late separation checks. However, HR staff waited until they received confirmation directly from the employees before entering the information into PayServ. As a result, HR entered their respective information into PayServ 12 to 90 days after their effective retirement dates.

Lastly, for three of the 10 terminated employees, HR was not notified by the supervisory personnel requesting the terminations until after their respective effective dates of termination. As a result, each was issued a late separation check. For two other terminated employees, HR was notified prior to the effective dates, however HR staff did not enter the information into PayServ in sufficient time to avoid their late separation checks. For the remaining five terminated employees, HR staff provided us with reasonable justification for their respective late separations checks such as employee contract requirements.

Our audit determined that five of these 38 separated employees did not have sufficient leave credits to cover the extra days they were paid for in their late separation checks. As such, they received an aggregate overpayment of $4,333.

Our audit report contains five recommendations addressing the reporting and recording of employee separations and Fineson's handling of related overpayments.

In general, OMRDD and Fineson officials agree with our recommendations and state that they have already begun to address them.

This report, dated October 9, 2008, is available on our website at:http://www.osc.state.ny.us. Add or update your mailing list address 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

BACKGROUND

The Office of Mental Retardation and Developmental Disabilities (OMRDD) provides a wide range of services to individuals with developmental disabilities. OMRDD operates 14 Developmental Disabilities Services Offices throughout the State. The Bernard Fineson Developmental Disabilities Services Office (Fineson), located in Queens, New York, employs about 1,000 individuals and provides services to approximately 600 consumers. Fineson's payroll costs approximated $42.6 million for fiscal year 2005-2006, was $44.6 million for fiscal year 2006-2007, and $49 million for fiscal year 2007-2008.

New York State's payroll system (PayServ) is maintained by the Office of the State Comptroller's (OSC) Payroll Services Unit. State agencies have direct access to the system and are required to enter all relevant employee payroll information into PayServ on an ongoing basis (e.g., employee starting dates, pay raises, and the subject of our audit - employee separations). Agencies are required to implement sufficient controls over payroll transactions to prevent overpayments.

AUDIT FINDINGS AND RECOMMENDATIONS

Controls Over Employee Separations

In the normal course of events, thousands of State employees leave their respective agencies of employment each year. The most common methods of separation are resignations, retirements and terminations. The effective date of an employee's separation reflects the last workday the employee should be compensated for unless they have unused accumulated leave. As such, it is imperative that each agency have sufficient controls in place to ensure that separated employees are removed from the payroll promptly to avoid potential overpayments.

According to OSC's Payroll Services Unit, the date on which a payroll transaction is entered into PayServ by an agency's HR is called the "action" date, and the date on which the personnel transaction (e.g., resignation, retirement, etc.) takes effect is the "effective" date. When the action date occurs after the effective date, a late separation check is generated which will include payments for time not worked.

Between April 1, 2004 and July 31, 2007, 249 employees left the employ of Fineson. These 249 separations resulted in 269 separation checks. Of these, 58 were late separation checks, totaling $22,768, pertaining to 38 former employees whose effective dates of separation (24 resignations, 4 retirements and 10 terminations) were processed late by Fineson's HR. Several of the 38 employees received more than one late separation check.

According to the NYS Department of Civil Service's Attendance and Leave Manual, state employees planning to resign from their positions are required to provide their employer with written notice at least two weeks prior to the effective date of their resignation. Fineson requires its employees to submit such notice to their immediate supervisor who is responsible for preparing a Personnel Transaction Request Form (PTR) and submitting it to Fineson's HR staff for data entry into PayServ.

For the 24 employees who resigned, HR staff entered the PTR information into PayServ from 8 to 83 days after the effective dates of their resignations. These delays resulted in 35 of the 58 late separation checks. We were unable to determine the specific reasons for the data input delays for 12 of these resignations since there was no documented trail of when the employee notified his or her supervisor, or when the supervisor in turn notified HR. For six of the resignations we found that the employees' supervisors did notify HR staff before their respective effective dates of resignation but HR staff did not input the data into PayServ in sufficient time to prevent their late separation checks. The six remaining resignations did not give their supervisors the required two week prior notice. Although HR staff had sufficient time to prevent one of the six late separation checks made to these employees, they did not do so.

When employees decide to retire, they are required to file a retirement application with the New York State and Local Retirement System (Retirement System) between 30 to 90 days before their respective effective dates of retirement. Fineson also requires these employees to provide HR with two weeks prior written notice. Upon formal notification by the Retirement System of the effective date of an employee's retirement, HR should enter the information into PayServ whether or not prior written notice from the employee has been received.

For the four employees who retired from Fineson, HR received formal notice of their respective retirement dates from the Retirement System in sufficient time to prevent the issuance of late separation checks. However, HR staff waited until they received confirmation directly from the employees before entering the information into PayServ. As a result, HR entered their respective information into PayServ 12 to 90 days after their effective dates of retirement.

When supervisory personnel recommend an employee be terminated, he/she must submit a PTR to HR with the requested termination date along with documentation justifying the termination.

The supervisors for three of the 10 terminated employees did not notify HR until after the employees' effective dates of termination resulting in their late separation checks. For two other terminated employees, although HR was notified by the supervisors prior to their effective dates of termination, HR staff did not enter the information into PayServ in sufficient time to avoid late separation checks. The delayed data input for these five terminations ranged from 18 to 102 days after their effective dates of termination. For the remaining five terminated employees, HR provided us with reasonable explanations to support the delayed data input such as contract requirements or insufficient support.

Although the majority of the 58 late separation checks did not result in overpayments, since the additional days each was paid for were supported by the unused accrued leave of the separated employees, seven of the late separation checks, to five separated employees, resulted in a total of $4,333 in overpayments. At the time of our audit, the overpayments had been outstanding from six months to over three years.

When we conveyed these findings to Fineson officials, they informed us that they are committed to preventing late separation checks. They have issued memoranda to employees, supervisors and HR staff reminding them of the significance of promptly reporting and recording employee separations. In addition, HR staff now use the official notice from the Retirement System as the sole justification for entering the employee retirements into PayServ. Further, they would attempt to recover the noted overpayments.

In response to our draft report, OMRDD officials further stated that they have dedicated specific staff to this effort, and are developing policies and procedures to address report concerns. In addition, as detailed below, they have followed up on the reported overpayments.

Recommendations

1. Remind supervisors to comply with the requirement to promptly report to the Human Resources Office any employee who should be removed form the payroll.

2. Encourage employees to provide two weeks written notice prior to their effective dates of resignation.

3. Reinforce the Human Resources Office to promptly enter all employee separation information into PayServ.

4. Remind Human Resources Office to promptly enter the retirement date of the employee upon notification by the new York State and Local Retirement System.

Accountability Over Late Separation Checks

Of the 58 above-noted late separation checks, Fineson staff was able to retrieve and return 35 of them, totaling $12,766, to OSC prior to issuance. However, 23 of the checks, totaling $10,002, were actually distributed to 19 separated employees. We determined that 14 of these employees, who received 16 checks totaling $5,669, were entitled to the checks because they had sufficient accrued leave to offset any wages paid to them after their respective effective dates of separation.

However, as noted above, the remaining seven checks, aggregating $4,333, were issued to five separated employees who were not entitled to the payments. As of May 27, 2008, Fineson had not recovered these overpayments.

Fineson officials informed us that their procedures call for sending follow-up letters requesting repayments from former employees who received late separation checks for which they were not entitled. However, they admitted that follow-up letters had not been sent to the five employees noted above.

In response to our discussion document, Fineson officials replied that their Payroll office had contacted the five noted employees and requested that they refund the overpayment. They further added that if a refund was not received, the matter would be referred to the Attorney General's Office for collection.

In response to our draft report, OMRDD officials note that they have since recovered the overpayments made to three of the five noted separated employees. The remaining two separated employees have been referred for collection.

Recommendation

5. Take the appropriate actions to recover the $4,333 in late separation checks issued to the five employees cited in this report.

AUDIT SCOPE AND METHODOLOGY

We conducted our audit in accordance with generally accepted government auditing standards. We audited Fineson's internal controls over employee separations for the period April 1, 2004 to January 31, 2008.

To accomplish our objective, we interviewed Fineson, OSC Payroll Services Unit and Retirement System officials, and reviewed employee personnel history folders, PTR forms, resignation letters, and PayServ related to the 58 late separation checks issued from April 1, 2004 through July 31, 2007.

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.

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 OMRDD and Fineson officials for their review and comment. Their comments were considered in preparing this final report and are attached in their entirety as Appendix A.

Within 90 days after final release of this report, as required by Section 170 of the Executive Law, the Commissioner of the Office of Mental Retardation and Developmental Disabilities shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising of the steps that were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons therefor.

CONTRIBUTORS TO THE REPORT

Major contributors to this report include Frank Patone, Albert Kee, Christine Chu, Rita Verma, Carole LeMieux, Raymond Louie, and Abe Fish.

APPENDIX A - AUDITEE RESPONSE

David A. Paterson
Governor

Diana Jones Ritter
Commissioner

STATE OF NEW YORK
OFFICE OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES
44 HOLLAND AVENUE
ALBANY, NEW YORK 12229-0001
(518) 473-1997 TDD (518) 474-3694
www.omr.state.ny.us

August 1, 2008

Mr. Albert Kee
Audit Manager
Office of the State Comptroller
Division of State Government Accountability
110 State Street, 11th Floor
Albany, NY 12236

Dear Mr. Kee:

The Office of Mental Retardation and Developmental Disabilities (OMRDD) reviewed the Office of the State Comptroller's draft audit report (Report No. 2007-S-116) regarding OMRDD's Bernard Fineson DDSO's internal controls over late termination practices.

Our responses to the recommendations contained in the report are attached for your consideration. Included in our responses are corrective actions that we have implemented.

Thank you for the opportunity to comment.

Sincerely,

Sheila McBain
Deputy Commissioner
Division of Compliance
Management

Attachment

cc: Commissioner Ritter
Mr. Picker

OMRDD Providing supports and services for people with [illegible]

Office of Mental Retardation and Developmental Disabilities (OMRDD)
Response to the Office of the State Comptroller's
Draft Audit Report No. 2007-S-116
Bernard Fineson DDSO Internal Controls Over
Late Termination Practices

Recommendation No. 1:

Remind supervisors to comply with the requirement to promptly report to the Human Resources Office any employee who should be removed from the payroll.

Response:

On April 13, 2007 all supervisors were reminded to promptly report to Human Resources (HR) all transactions regarding staff removal from payroll. Effective October 1, 2008 the requirement will be incorporated in to orientation for new supervisors, and will be reinforced during annual supervisory training. HR will continue to monitor Personnel Transaction Request Forms and when necessary will counsel supervisors who do not comply with procedures, to help ensure that employees are promptly removed from the payroll after separation.

Recommendation No. 2:

Encourage employees to provide two weeks written notice prior to the effective dates of their resignations.

Response:

HR will issue a memo to all employees reminding them of the requirement to provide two weeks notice prior to the date of their resignation. This memo will be distributed to all employees with pay checks dated July 31, 2008.

Recommendation No. 3:

Reinforce the Human Resources Office to promptly enter all employee separation information into PayServ.

Response:

An Associate Personnel Administrator has been assigned responsibility to ensure that all employee separation information is promptly entered into PayServ. By October 2008 HR will develop policy and procedures which address responsibility for the entry of separation information into PayServ and for monitoring the process to ensure that entries are timely.

Recommendation No. 4:

Remind the Human Resources Office to promptly enter the retirement date of the employee upon notification by the New York State and Local Retirement System.

Response:

An Associate Personnel Administrator has been assigned responsibility to ensure that the effective date of a pending retirement is entered in PayServ in the pay period in which it is effective. By October 2008 HR will develop a policy and procedure which addresses responsibility for entering the retirement date of the employee upon notification by the New York State and Local Retirement System. The policy and procedure will include a monitoring process to ensure compliance.

Recommendation No. 5:

Take the appropriate actions in recovering the $4,333 in late separation checks issued to the five employees cited in this report.

Response:

Three overpayments have been recovered. One of the overpayments was paid back from the employee's lump sum payment. Two other employees listed as having received overpayments are now employed by Metro NY DDSO and Brooklyn DDSO respectively, and these DDSOs recovered the overpayments.

The DDSO has taken and will be taking appropriate action for the remaining two overpayments (both to retirees). The Payroll Department has been in communication with one person. If her repayment is not received by July 31, 2008, the case will be turned over to OMRDD Counsel's Office for review and appropriate recovery action will be taken. For another person, attempts to contact her have been unsuccessful thus far. The DDSO will submit information regarding her overpayment by August 4, 2008 to OMRDD Counsel's Office for review and appropriate recovery action will be taken.