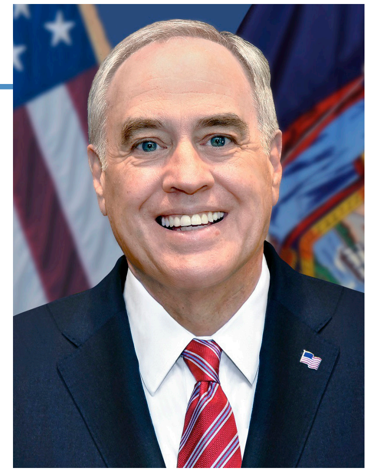
New York State Comptroller
THOMAS P. DiNAPOLI

2022–2023 Annual Report on Audits of State Agencies and Public Authorities

January 2024

Message from the Comptroller



January 2024

One of the chief responsibilities of my office is to audit State agencies, public authorities, and public programs to ensure that the public's money is appropriately protected and wisely used. The audits conducted by my staff in the Division of State Government Accountability help establish whether our tax dollars are being spent effectively and whether government officials are doing all they can to eliminate waste and prevent and detect fraud. This, in turn, helps promote transparency and accountability in New York State government, which benefits each and every one of us.

State government officials are the stewards of the State's assets and the public's trust. Our audits keep New Yorkers informed on how well agencies and authorities are living up to that responsibility, and sound a call to action when needed. This annual report summarizes the results of the State government audits my staff conducted for the 2022-23 reporting year. This office remains committed to helping officials manage government resources efficiently and to protecting taxpayer assets. I hope that New York public officials and citizens will find this report useful and informative.

Thomas P. DiNapoli
State Comptroller

Contents

About the Annual Report

As required by law, this annual report summarizes the results of all the State agency and public authority audit reports issued by the Office of the State Comptroller from October 1, 2022 through September 30, 2023. It does not include audits of New York City agencies, local governments, or other entities, as these are not included in the statutory requirements. The audit summaries in this report are divided into nine areas: Health and Human Services; Education; Transportation; Government Support; Criminal Justice and Judicial Administration; Economic Development and Housing; Other State Agencies and Public Authorities; Multi-Agency; and Special Reports. An accompanying volume lists, by State agency or public authority, the audit reports issued during the preceding five-year period — October 1, 2017 through September 30, 2022.

To obtain any of the audits cited in this report, visit osc.ny.gov or contact the State Comptroller's Press Office at (518) 474-4015.

Introduction

The New York State Constitution designates the State Comptroller as the State's Auditor. Within the Office of the State Comptroller (OSC), the Office of State and Local Government Accountability (SLGA) is the primary office that carries out the State Comptroller's functions as State Auditor. The Division of State Government Accountability (SGA) is a component of SLGA and conducts audits of New York State and New York City agencies and public authorities. Audits of New York City agencies, while not included in this report, are accessible at www.osc.ny.gov/state-agencies/audits/by-agency.

SGA employs more than 250 professional auditors, many of whom hold advanced degrees and professional certifications in the auditing field, including Certified Internal Auditors, Certified Fraud Examiners, Certified Information Systems Auditors, and Certified Public Accountants. SGA also employs staff with other professional expertise, including in health, computer science, data analytics, and the social sciences. OSC is dedicated to protecting the public interest and promoting government accountability.

Fiscal Impact

For the reporting year 2022–23 (October 1, 2022 through September 30, 2023), SGA issued 79 reports addressing the operations of State agencies and public authorities. Auditors identified over $681.5 million in actual cost savings at these agencies and authorities. These savings have already been achieved, or will be achieved, with the implementation of audit recommendations. Auditors also identified over $78.4 million in potential savings. In these cases, more action is usually required to realize the savings (e.g., legislative action or agency follow-up investigations with vendors to determine exact amounts).

The following table provides an overall summary of the fiscal impact associated with certain findings from the reports issued in reporting year 2022–23. Auditors estimate that if the agencies and authorities implement the recommendations contained in these reports, they could realize substantial monetary benefits, potentially nearly $1.56 billion (which includes non-recoverable overpayments that, once corrective actions are taken, can be avoided in the future).

Audit Cost Savings for Reporting Year 2022–23

Fiscal Category	Actual	Potential	Totals
Cost Recovery	$554,795,175	$68,793,789	$623,588,964
Cost Avoidance	–	9,610,218	9,610,218
Revenue Enhancement	126,789,515	–	126,789,515
Subtotals	**$681,584,690**	**$78,404,007**	**$759,988,697**
Non-Recoverable Overpayments & Questionable Transactions			**$790,762,040**
Total Fiscal Impact			**$1,550,750,737**

Agency Accountability

According to Section 170 of the Executive Law, when a State entity is audited by the State Comptroller, the executive of that entity must report to the Governor, the State Comptroller, and the leaders of the Legislature and the legislative fiscal committees, advising them on steps taken to implement the State Comptroller's recommendations and, where any particular recommendations were not implemented, explaining the reasons why. (Section 170 is not applicable to audits of New York City agencies.) The State Comptroller also performs follow-ups to assess auditees' progress in implementing prior audit recommendations.

In reporting year 2022–23, SGA issued 28 follow-ups, reviewing progress on a total of 141 recommendations. Of these recommendations, 113 (80%) have been fully or partially implemented, as detailed in the following table:

Agency	Report Number	Number of Recommendations		
		Total	Implemented	Percentage
Health and Human Services				
Department of Health	2022-F-21	4	3	75%
	2022-F-31	9	8	89%
	2022-F-37	5	4	80%
	2023-F-3	6	3	50%
	2023-F-4	12	4	33%
	2023-F-12	4	2	50%
Office for the Aging	2023-F-2	5	3	60%
Office of Children and Family Services	2023-F-6	3	3	100%
Office of Mental Health	2022-F-22	3	3	100%
	2023-F-11	4	4	100%
Education				
State Education Department	2022-F-17	7	4	57%
	2023-F-1	6	6	100%
	2023-F-15	3	3	100%
	2023-F-21	2	2	100%
Transportation				
Department of Transportation	2022-F-38	5	4	80%
Metropolitan Transportation Authority	2022-F-23	19*	17	95%
Port Authority of New York and New Jersey	2022-F-24	7	7	100%
Government Support				
Department of Civil Service / New York State Health Insurance Program	2022-F-29	6*	5	83%
	2022-F-30	3	3	100%
	2023-F-14	4	3	75%

Economic Development and Housing				
Homes and Community Renewal	2022-F-18	6	6	100%
	2023-F-9	6	4	67%
Other State Agencies and Public Authorities				
Department of Environmental Conservation	2022-F-20	2	2	100%
Department of State	2023-F-20	4	4	100%
Department of Taxation and Finance	2022-F-33	2	2	100%
	2023-F-5	1	1	100%
Division of Homeland Security and Emergency Services	2023-F-8	2	2	100%
State Board of Elections	2022-F-35	1	1	100%
Totals	**28**	**141**	**113**	**80%**

**One recommendation was no longer applicable.*

Audit Impairments and Impediments

State agency and public authority officials have a responsibility to the public to provide access to information to those who oversee their actions, such as OSC. Transparency and accountability are essential cornerstones of good government. When public officials are not transparent about and accountable for their actions, there is an increased risk that internal controls will not function properly — and less assurance that program goals and objectives will be accomplished efficiently and effectively. Denial of, or excessive delay in, auditors' access — or refusal of their direct access — to relevant documents or key individuals leads to incomplete, inaccurate, or significantly delayed findings or recommendations. This, in turn, may prevent agencies from promptly addressing serious problems and deprives decision makers and the public of timely critical information regarding the agency's performance.

In accordance with professional standards, OSC auditors are required to report instances where management's refusal to share all available, relevant evidence constitutes an impairment of audit work. For the reporting year 2022–23, three agencies significantly delayed, obstructed, or otherwise impaired the scope of audits.

- **Office for People With Developmental Disabilities (OPWDD): Pandemic Planning and Care for Vulnerable Populations** (2021-S-9). OPWDD officials demonstrated a lack of cooperation at the start of the audit, questioning OSC's authority to conduct the audit and rejecting initial data requests. Ultimately, it took several months for OPWDD officials to provide data and access to key personnel to complete audit tests.
- **Department of Transportation (DOT): Compliance With Freedom of Information Law Requirements** (2020-S-12). The audit was obstructed by, among other issues, DOT requiring that all meetings be attended by legal and non-legal supervisory staff from the main office and not providing all requested information. The main office did not provide the listing of Freedom of Information Law request topics deemed sensitive that its regional offices were required to forward to the main office for review, claiming they

were protected by attorney–client privilege. Auditors therefore did not have reasonable certainty that all information necessary to meet the audit objectives was provided.

- **Department of Labor (DOL): Controls and Management of the Unemployment Insurance System** (2021-S-3). DOL took excessive time—often more than 160 days, and in one case more than 180 days—to provide the information necessary for auditors to assess its compliance with applicable IT standards, and in other instances failed to provide it altogether. These actions ultimately limited the scope and depth of the audit conclusions.

Audits of Special Significance

Fiscal

- **Medicaid Program**. Medicaid is a federal, State, and locally funded government program that provides a wide range of medical services to those who are economically disadvantaged and/or have special health care needs. Eighteen Medicaid reports were issued during the period and, together, they identified more than $590.7 million in actual and potential cost savings, including $183.7 million in missed rebates from drug manufacturers. These audits also identified nearly $746.7 million in questionable and non-recoverable payments, including about $294.4 million spent on behalf of Medicaid recipients for clinic, inpatient, and practitioner claims that could have instead been covered by the federal Medicare program.
- **New York State Health Insurance Program (NYSHIP).** NYSHIP provides health insurance coverage to more than 1.2 million active and retired State, local government, and school district employees, and their dependents. Five reports were issued during this period, which identified a total of more than $40.5 million in potential and actual cost savings and more than $1.7 million in questionable and non-recoverable payments. Two audits identified more than $8.3 million in actual and potential cost savings to the State from improper payments made for physician-administered drugs under the Empire Plan program.
- **Department of Labor (DOL): Controls and Management of the Unemployment Insurance System** (2021-S-3). One of DOL's key tasks in assisting the unemployed is administering the State's Unemployment Insurance (UI) program. However, auditors found deficiencies with DOL's oversight and management of its UI system that ultimately compromised its ability to effectively mitigate risks related to the processing of claims, fraudulent claims in particular, and system and data security, particularly during the pandemic. Faced with the high demand for UI benefits and the need to process claims quickly, DOL resorted to stop-gap measures to compensate for system limitations, which proved to be costly to the State: its workarounds resulted in misclassification of claims as State instead of federal liabilities, overpayment of claims, and supplemental spending to maintain the outdated UI system infrastructure.

Vulnerable Populations

- **Office for People With Developmental Disabilities (OPWDD): Pandemic Planning and Care for Vulnerable Populations** (2021-S-9). OPWDD oversees several types of residential services that allow clients to live in a community setting. However, OPWDD did not provide consistent oversight and guidance to the community homes to ensure they were adequately prepared to manage public health emergencies. For instance, OPWDD developed and issued specific COVID-19 plans to only eight State-operated facilities, which accounted for less than 1% of OPWDD's residential clients. The remaining 6,921 facilities, which accounted for a total of 34,048 clients (99%), were required to create their own plans — but could have benefited from OPWDD's expertise. Further, while its emergency management and overarching emergency planning documents considered pandemics as a risk even before the COVID-19 pandemic, OPWDD did not take proactive steps to ensure that all homes had followed suit in their own emergency plans.
- **Office of Children and Family Services (OCFS): Oversight of Child Protective Services** (2021-S-17). OCFS' oversight of the locally administered child welfare system, including the local departments of social services (LDSSs), could be improved to better protect children from harm. Despite identifying flaws in child abuse investigations across LDSSs, OCFS did not address these on a statewide basis but instead case-by-case. Certain deficiencies, related to safety and risk decision making as well as case planning, for example, could be more effectively addressed through a statewide corrective action approach. Further, while identification of deficiencies after the fact may provide useful information and identify areas for improvement, in the case of fatality reviews, the worst outcome has already occurred. Proactively addressing systemic deficiencies statewide could save lives. Other deficiencies identified include: investigations that lacked evidence to support that the required steps had been completed, issues with progress notes, timely completion of the seven-day safety assessment, and the proper notification of reports to all appropriate persons.
- **Office of Temporary and Disability Assistance (OTDA): Homeless Services Housing Needs Assessment** (2021-S-23). OTDA was not providing sufficient oversight of local departments of social services and homeless shelter providers to ensure that clients were being set up to receive the necessary services that are crucial to their progress toward independent living. Auditors found that clients' Needs Assessments were either missing or late 40% of the time, and Individual Living Plans (ILPs) were either missing or late 38% of the time. This impacts when clients begin to receive services and support. While OTDA cited COVID-19 pandemic restrictions and staffing shortages as the cause for timeliness problems, the majority of the cases sampled (63%) had intake dates prior to the pandemic. Notably, late or missing Needs Assessments and ILPs have been an issue for more than seven years, as cited in prior audit reports.
- **Department of Health (DOH): Oversight of the Early Intervention Program** (2021-S-25). For children with a developmental delay or disability, their early years are a critical window of opportunity to intervene. However, the audit found that many children who would benefit from the State's Early Intervention Program (Program) weren't receiving services, and

children who were receiving services weren't always getting them in a timely manner, largely due to deficiencies in DOH's guidance to and oversight of the municipalities that administer the Program. Auditors also found disparities across the State in the referral and inclusion of children into the Program as well as in the availability of providers and access to Program services. Moreover, equity is an issue, with White children usually referred to the Program at a younger age than Black or Hispanic children and Black children less likely than White children to receive therapeutic services within the prescribed 30-day time frame.

Environment

- **Department of Agriculture and Markets (Ag&Mkts): Protection of Managed Pollinators (Honey Bees)** (2021-S-40). Wild and managed pollinators, such as honey bees, are critical to the health of New York State's environment and agricultural economy. Ag&Mkts monitors the health of the State's managed honey bee population through inspections of registered apiaries and testing of colonies for diseases, insects, and parasites. However, there is little assurance that Ag&Mkts has identified the full population of active, but unregistered, apiaries in the State, which is necessary for thorough monitoring and inspection purposes, or that New York colonies are healthy due to its limited testing.
- **Department of Environmental Conservation (DEC): Monitoring of Air Quality (Facility Permits and Registrations)** (2021-S-41). Auditors identified weaknesses in DEC's oversight of the Air Pollution Control Permitting Program (Program) that reduce its ability to ensure compliance with the Program and protect the State's air from harmful pollutants. For example, gaps in DEC's Environmental Justice Permitting Policy create a risk that it is not adequately allowing residents, particularly low-income and minority communities across the State within potential environmental justice communities, to obtain information about the harmful effects of pollution emitted in their communities and limiting opportunities to address concerns about their community's air quality. In certain circumstances, facilities with the highest emissions are allowed to operate beyond their permit expiration date, with no limit on time frame, increasing the risk that facilities may no longer be operating in compliance with the most up-to-date air pollution control standards. In addition, DEC did not always take action to enforce compliance with the Program for facilities operating without a valid permit.

Technology

- **State Education Department (SED): Privacy and Security of Student Data** (2021-S-29). SED is responsible for safeguarding student data and ensuring the confidentiality, integrity, and availability of its systems, and all schools must implement certain requirements to strengthen data privacy and security and protect personally identifiable information (PII). Auditors found that SED did not fully comply with its policies related to information security and data privacy, nor did it provide sufficient oversight of school districts to ensure their compliance with State requirements involving security policies, incident reporting, and Parents' Bill of Rights. SED also had not taken fundamental steps or improved the technical controls needed to secure its own critical systems and data, including students' PII. The audit also identified weaknesses in technical controls that need to be corrected to ensure selected school district information systems and their associated data are not at risk.

Audit Summaries

Health and Human Services

Department of Health
(DOH)

DOH promotes and protects the health of New Yorkers through prevention, science, and the assurance of quality health care delivery, and administers a wide range of public health programs, including the State's Medicaid Program.

Audits of the Medicaid Program

The New York State Medicaid program is a federal, State, and local government-funded program that provides a wide range of medical services to individuals who are economically disadvantaged and/or have special health care needs. The Medicaid Program pays health providers through the fee-for-service (FFS) method or through managed care. Under FFS, DOH makes Medicaid payments directly to health care providers for services rendered to Medicaid recipients. Under managed care, DOH pays managed care organizations (MCOs) a monthly premium payment for each Medicaid recipient enrolled in the MCOs. The MCOs are then responsible for ensuring recipients have access to a comprehensive range of health services. The MCOs make payments to health care providers for the services rendered to recipients and are required to submit encounter claims to inform DOH about each medical service provided. DOH's eMedNY computer system processes Medicaid claims submitted by providers for services rendered to Medicaid-eligible recipients, and it generates payments to reimburse providers for their claims. Many of the State's Medicaid recipients are also enrolled in Medicare (referred to as "dual-eligibles") or other third-party health insurance (TPHI). In these cases, Medicare or TPHI is the primary payer for items and services, and Medicaid is the secondary payer (typically covering a coinsurance or deductible). The Office of the Medicaid Inspector General (OMIG) is an independent office that works with DOH to prevent and detect fraudulent, abusive, and wasteful practices and recover improper Medicaid payments. For the 2022–23 reporting year, OSC issued 18 Medicaid program reports.

Improper Payments for Brand Name Drugs (2020-S-62)
Impact: *Fiscal*
Objective: To determine whether Medicaid made improper payments for brand name drugs.
Audit Period: July 2016–January 2022
Auditors identified more than $1.1 million in Medicaid overpayments for brand name prescription drugs where generic drugs were available and should have been dispensed, as well as over $1 million in potential cost avoidance associated with 27,455 Medicaid FFS claims for drugs that appeared to be generic but were paid using brand name pricing methods.
Key Recommendations:

- Review the improperly paid claims for brand name drugs that had generics available and ensure overpayments are recovered, as appropriate.
- Review the DOH policy that caused claims for generic drugs to be paid using brand name drug pricing methods and ensure corrective actions are taken, where appropriate.

Improper Overlapping Medicaid and Essential Plan Enrollments (2020-S-66)
Impact: *Fiscal*
Objective: To determine whether Medicaid and Essential Plan (EP) enrollments determined by NY State of Health were accurately reflected in eMedNY when individuals transitioned between the Medicaid and EP programs and to identify overpayments resulting from inaccurate enrollments.
Audit Period: January 2016–May 2022
New York's EP provides health insurance to lower-income people who, generally, don't otherwise qualify for Medicaid. As income, household makeup, and other factors change, individuals may transition between Medicaid and EP. System processing weaknesses resulted in Medicaid recipients having duplicative Medicaid and EP enrollments, which led to improper Medicaid and EP payments totaling $40.3 million and $18.4 million, respectively. DOH did not have a process to detect and correct these improper duplicative enrollments or to recover improper payments.
Key Recommendations:

- Review and correct the identified enrollment overlaps and recover overpayments, as warranted.
- Strengthen controls to prevent overlapping enrollment periods.
- Develop and implement reconciliations between the Medicaid and EP programs to detect duplicative enrollments, and take corrective actions.

Claims Processing Activity October 1, 2021 Through March 31, 2022 (2021-S-28)
Impact: *Fiscal*
Objective: To determine whether DOH's eMedNY system reasonably ensured that Medicaid claims were submitted by approved providers, were processed in accordance with Medicaid requirements, and resulted in correct payments to the providers.
Audit Period: October 2021–March 2022, and certain claims going back to June 2021
The audit identified over $22 million in improper Medicaid payments, as follows: $11.5 million paid for managed care premiums on behalf of Medicaid recipients who also had concurrent comprehensive TPHI; $8.9 million for clinic, practitioner, inpatient, managed care, and laboratory claims that did not comply with Medicaid policies, such as billing in excess of permitted limits; $1 million for claims where Medicaid was incorrectly designated as the primary payer instead of another insurer; $825,875 for FFS inpatient claims that should have been paid by managed care or that were also reimbursed by managed care; and $104,594 for inpatient claims that were billed at a higher level of care than what was actually provided. By the end of audit fieldwork, about $9.9 million of these improper payments had been recovered. Auditors also identified 11 providers in the Medicaid program who were charged with or found guilty of crimes that violated laws or regulations governing certain health care programs; DOH subsequently removed them from the Medicaid program.
Key Recommendations:

- Auditors made seven recommendations to DOH to recover the remaining inappropriate Medicaid payments and improve claims processing controls.

Excessive Premium Payments for Dual-Eligible Recipients Enrolled in Mainstream Managed Care and Health and Recovery Plans (2021-S-37)

Impact: *Fiscal*

Objective: To determine whether Medicaid overpaid Mainstream Managed Care (MMC) and Health and Recovery Plan (HARP) premiums on behalf of dual-eligible individuals.

Audit Period: March 2021–March 2022

Auditors identified over $194.1 million in excessive Medicaid managed care premium payments made on behalf of dual-eligible recipients who should have been, but were not, disenrolled from managed care, including MMC and HARP, into the generally less costly Medicaid FFS or the Integrated Benefits for Dually Eligible Enrollees Program (IB-Dual)—special coverage available within MMC and HARP that offers a lower premium rate for certain Medicaid recipients.

Key Recommendations:

- Disenroll dual-eligible recipients from MMC and HARP plans who are ineligible for IB-Dual, or who opt out, and provide them with FFS coverage.
- Review the $194.1 million in excessive premium payments and make recoveries.

Maximizing Drug Rebates Under the Federal Medicaid Drug Rebate Program (2021-S-11)

Impact: *Fiscal*

Objective: To determine whether DOH took appropriate steps to collect all available drug rebates under the federal Medicaid Drug Rebate Program (MDRP).

Audit Period: April 2018–March 2022, and certain claims going back to January 2017

The MDRP requires drug manufacturers to enter into a national rebate agreement with the Centers for Medicare & Medicaid Services in exchange for Medicaid coverage of most of the manufacturer's drugs. DOH needed to make process improvements and system enhancements in its rebate collection process, as the audit identified uncollected drug rebates totaling $183.7 million.

Key Recommendations:

- Auditors made 12 recommendations to DOH to invoice manufacturers for missed rebates, improve claims processing controls, and formally review certain rebate procedures.

Reducing Medicaid Costs for Recipients Who Are Eligible for Medicare (2021-S-16)

Impact: *Fiscal*

Objective: To determine whether DOH took sufficient steps to control the Medicaid costs of recipients who were eligible for Medicare based on age but were not enrolled in Medicare.

Audit Period: July 2016–June 2021

Individuals who are eligible or appear eligible for Medicare are required to apply for Medicare as a condition of receiving Medicaid. As a secondary payer, Medicaid can pay a recipient's Medicare premiums, deductibles, and coinsurance amounts, which allows for a significant cost avoidance for the Medicaid program. Local Departments of Social Services (Local Districts) have primary responsibility for enforcing the Medicare application requirement at the community level, and are required to identify Medicaid recipients who either are or will be turning 65 and have them apply for Medicare. However, DOH did not take sufficient steps to effectively control the Medicaid costs of recipients who appear eligible for Medicare based on age. Auditors identified 13,318 Medicaid recipients who appeared eligible for Medicare but were not enrolled in

Medicare. Medicaid could have potentially saved $294.4 million on behalf of these recipients for clinic, inpatient, and practitioner claims. Of the 13,318 recipients, 2,752 (representing $102.7 million of the potential savings) were enrolled in the Supplemental Security Income (SSI) program by the Social Security Administration (SSA). DOH does not require Local Districts to have Medicaid recipients with SSI apply for Medicare because, according to DOH officials, the SSA has already performed these Medicare eligibility checks.

Key Recommendations:

- Follow up with recipients who appeared eligible for Medicare and ensure they apply for Medicare, as appropriate.
- Work with Local Districts to develop and implement procedures to ensure all recipients are asked to apply for Medicare when they appear eligible.
- Evaluate the cost-benefit of developing and implementing processes to periodically identify recipients with SSI who appear eligible for Medicare and refer them to the SSA for Medicare eligibility determinations.

Improper Fee-for-Service Pharmacy Payments for Recipients With Third-Party Health Insurance (2021-S-20)

Impact: *Fiscal*

Objective: To determine if Medicaid made inappropriate FFS payments to pharmacies on behalf of recipients who had TPHI and, if so, whether appropriate recoveries were made.

Audit Period: July 2016–June 2021

OMIG contracts with Health Management Systems, Inc. (a Gainwell Technologies company [Gainwell]) to identify and recover Medicaid payments made for services that should have been paid for by a recipient's TPHI. However, neither DOH nor OMIG provided adequate oversight of, respectively, eMedNY's claim processing and Gainwell's recovery process to ensure that all FFS pharmacy payments on behalf of Medicaid recipients who also had TPHI drug coverage were identified and adequately pursued for recovery. For example, Gainwell did not bill TPHI carriers for the recovery of over $28.8 million in pharmacy claims where Medicaid paid as the primary insurance for recipients who had TPHI coverage. In addition, auditors found over $8.6 million in claims denied by the TPHI where Gainwell did not fully investigate the recoverability of the claims.

Key Recommendations:

- Review the $28.8 million in pharmacy payments and ensure overpayments are appropriately recovered, prioritizing claims approaching the time limit for recovery.
- Assess the recoverability of the $8.6 million in payments for pharmacy claims billed to TPHI carriers that did not result in a recovery (due to carrier denials), and ensure all necessary follow-up actions are taken to obtain appropriate recoveries, prioritizing claims approaching the time limit for recovery.
- Enhance monitoring of the TPHI recovery process for FFS pharmacy claims to ensure the completeness and timeliness of recoveries, including the monitoring of claims that are not billed to TPHI carriers and claims that are billed to TPHI carriers but do not result in a recovery.

Recovering Managed Care Payments for Inpatient Services on Behalf of Recipients With Third-Party Health Insurance (2021-S-24)

Impact: *Fiscal*

Objective: To determine whether Medicaid overpayments for inpatient services on behalf of managed care recipients who had TPHI were appropriately recovered.

Audit Period: January 2017–August 2021

OMIG contracts with Health Management Systems, Inc. (a Gainwell Technologies company [Gainwell]) to identify and recover payments made for services that should have been paid for by a recipient's TPHI. The audit found that DOH and OMIG lacked adequate oversight of the third-party liability (TPL) recovery process to ensure all available recoveries were made. For example, Gainwell did not bill TPHI carriers or initiate provider reviews for the recovery of $52.2 million in inpatient claims where MCOs paid as the primary insurance despite recipients having TPHI inpatient coverage. Gainwell's recovery files contained $39.3 million in inpatient claims that were in an unresolved status due to TPHI carrier or provider non-response—of which $15.4 million had been in an unresolved status for over two years—as well as an additional $2.1 million in claims that were denied by TPHI carriers for reasons that could potentially be rectified. Neither DOH nor OMIG performed reviews, reconciliations, or other monitoring of Gainwell's recovery efforts by comparing claims MCOs paid on behalf of recipients with TPHI inpatient coverage with the claims Gainwell recovered.

Key Recommendations:

- Review the $52.2 million in claims for inpatient services on behalf of recipients with TPHI inpatient coverage and ensure overpayments are appropriately recovered.
- Assess the $41.4 million in claims for inpatient services that were billed to TPHI carriers or were part of provider reviews that did not result in a recovery, and ensure all necessary follow-up actions are taken to obtain appropriate recoveries.
- Assess the TPL recovery process for managed care inpatient services to identify all factors that led to improper payments not being recovered, and ensure corrective actions are taken where appropriate.

Excessive Payments for Durable Medical Equipment Rentals (2021-S-36)

Impact: *Fiscal*

Objective: To determine whether Medicaid MCOs inappropriately paid for durable medical equipment (DME) beyond allowed rental limits, and whether the Medicaid program could achieve cost savings by implementation of a rental cap on oxygen equipment.

Audit Period: July 2016–December 2021 for non-oxygen-related DME rentals; September 2018–December 2021 for oxygen-related DME rentals

Auditors identified overpayments totaling nearly $1.5 million for managed care DME rentals that exceeded established monthly rental caps as well as an estimated potential cost avoidance of $8.6 million for the Medicaid FFS and managed care program had DOH adopted a similar policy to Medicare's 36-month cap on oxygen equipment rental payments.

Key Recommendations:

- Review the identified overpayments and ensure appropriate recoveries are made.
- Advise MCOs to evaluate the feasibility of developing controls to identify and prevent DME overpayments.

- Formally assess Medicaid FFS and managed care policies regarding uncapped continuous rental payments for oxygen equipment to determine whether changes are necessary.

Claims Processing Activity April 1, 2022 Through September 30, 2022 (2022-S-12)
Impact: *Fiscal*
Objective: To determine whether DOH's eMedNY system reasonably ensured that Medicaid claims were submitted by approved providers, were processed in accordance with Medicaid requirements, and resulted in correct payments to providers.
Audit Period: April 2022–September 2022, and certain claims going back to January 2022
The audit identified over $16.7 million in improper Medicaid payments, as follows: $10.2 million paid for managed care premiums on behalf of Medicaid recipients who also had concurrent comprehensive TPHI; $2.5 million for claims where Medicaid was incorrectly designated as the primary payer instead of another insurer; $2.1 million for FFS inpatient claims that should have been paid by managed care; $784,905 for inpatient claims that were billed at a higher level of care than what was actually provided; $652,210 for practitioner, clinic, inpatient, and pharmacy claims that did not comply with Medicaid policies; and $555,731 for maternity and newborn birth claims that contained inaccurate information, such as the diagnosis code or newborn's birth weight. As a result of the audit, about $4.3 million of the improper payments had been recovered by the end of the audit fieldwork. Auditors also identified 11 providers in the Medicaid program who were charged with or found guilty of crimes that violated laws or regulations governing certain health care programs. By the end of the audit fieldwork, DOH had removed three of the providers from the Medicaid program and referred two to OMIG's Medicaid Fraud Control Unit; the remaining six providers were under OMIG's review.
Key Recommendations:

- Auditors made eight recommendations to DOH to recover the remaining inappropriate Medicaid payments and improve claims processing controls.

Improper Medicaid Payments for Outpatient Services Billed as Inpatient Claims (2022-S-16)
Impact: *Fiscal*
Objective: To determine whether Medicaid made improper payments to hospitals for outpatient services that were erroneously billed as inpatient claims.
Audit Period: January 2018–March 2022
The Medicaid program reimburses hospitals for inpatient and outpatient services. Inpatient care typically requires recipients to stay overnight in the hospital for monitoring throughout treatment and recovery. Outpatient services are less involved, generally can be performed the same day, and are typically less expensive than inpatient treatments. The audit identified 34,264 FFS inpatient claims, totaling $360.6 million, where hospitals reported the Medicaid recipients were discharged within 24 hours of admission. There is a high risk that a portion of these claims were improper if the services provided should have been billed as outpatient. Of a judgmental sample of 190 claims, totaling $4,261,428 from six hospitals, auditors' review of recipients' medical records showed that 91 claims (48%), totaling $1,577,821, were billed improperly.

Key Recommendations:

- Develop and provide Medicaid guidance to hospitals to assist them in determining when services should be billed as an inpatient or outpatient claim.
- Review the improperly billed inpatient claims sampled that have not yet been voided by hospitals and recover overpayments, as appropriate.
- Develop a risk-based approach to review the remaining 34,074 inpatient claims, totaling $356 million, to identify improper payments and make recoveries, as appropriate.
- Develop an ongoing process to identify and review the appropriateness of high-risk short-stay inpatient claims such as those identified in this audit.

Improper Medicaid Payments During Permissible Overlapping Medicaid and Essential Plan Coverage (2022-S-35)
Impact: *Fiscal*
Objective: To determine whether Medicaid made improper payments on behalf of recipients with DOH-authorized overlapping Medicaid and Essential Plan coverage.
Audit Period: January 2017–November 2022
Medicaid improperly paid $93.7 million in claims during periods of overlapping Medicaid and Essential Plan coverage because DOH did not account for the Essential Plan as a liable TPHI and primary payer. Despite administering both programs and having enrollment information for both in its systems, DOH never applied payment controls and, consequently, Medicaid has been improperly paying the full amount for services as the primary payer since the inception of the Essential Plan.
Key Recommendations:

- Review the $93.7 million in improper payments and make recoveries as appropriate.
- Recognize the Essential Plan as a liable TPHI and ensure proper processing of Medicaid claim payments.

Improper Medicaid Payments for Misclassified Patient Discharges (Follow-Up) (2022-F-21)
Impact: *Fiscal*
Objective: To determine the extent of implementation of the four recommendations from the initial audit (2020-S-8), which assessed whether the Medicaid program made inappropriate FFS payments to hospitals that failed to properly report correct patient discharge codes on inpatient claims.
Initial Audit: Medicaid made over $28 million in improper and questionable payments for recipients who were reported as discharged from a hospital but then admitted to a different hospital within 24 hours, which often meets the definition of a transfer and generally results in lower payments. DOH did not have a process to identify and recover improper Medicaid payments for inpatient claims with incorrect patient status codes.
Follow-Up: DOH had made progress in addressing the problems identified, but additional action was required.
Recommendation Status: *1 implemented; 2 partially implemented; 1 not implemented*

Improper Medicaid Payments for Individuals Receiving Hospice Services Covered by Medicare (Follow-Up) (2022-F-31)
Impact: *Fiscal*
Objective: To determine the extent of implementation of the nine recommendations from the initial audit (2018-S-71), which assessed whether Medicaid made improper payments to providers on behalf of dual-eligible individuals receiving hospice care covered by Medicare.
Initial Audit: Auditors identified about $50 million in actual and potential Medicaid overpayments, cost-savings opportunities, and questionable payments for services provided to dual-eligibles enrolled in Medicare-covered hospice.
Follow-Up: DOH had made progress in addressing the problems identified, but additional actions were needed.
Recommendation Status: *3 implemented; 5 partially implemented; 1 not implemented*

Improper Payments of Medicare Buy-in Premiums for Ineligible Recipients (Follow-Up) (2022-F-37)
Impact: *Fiscal*
Objective: To determine the extent of implementation of the five recommendations from the initial audit (2020-S-35), which assessed whether Medicaid made improper Medicare premium payments on behalf of recipients enrolled in the Medicare buy-in program.
Initial Audit: Auditors identified $31.7 million in improper Medicare premium payments made on behalf of individuals who did not have a benefit eligibility period established in eMedNY, an additional $23.6 million in payments made on behalf of individuals with coverage that exceeded Medicaid's two-year premium liability, and $372,716 in premium payments made on behalf of 282 individuals who were identified as deceased but not disenrolled.
Follow-Up: DOH had made some progress in addressing the problems identified; however, additional actions were needed.
Recommendation Status: *2 implemented; 2 partially implemented; 1 not implemented*

Improper Supplemental Maternity Capitation Payments to Managed Care Organizations (Follow-Up) (2023-F-3)
Impact: *Fiscal*
Objective: To determine the extent of implementation of the six recommendations from the initial audit (2020-S-57), which assessed whether Medicaid made improper Supplemental Maternity Capitation Payments to MCOs.
Initial Audit: The audit found about $55 million in improper and questionable Supplemental Maternity Capitation Payments made to MCOs.
Follow-Up: DOH had made some progress in addressing the problems initially identified, but additional actions were still required.
Recommendation Status: *3 partially implemented; 3 not implemented*

Improper Medicaid Payments for Claims Not in Compliance With Ordering, Prescribing, Referring, and Attending Requirements (Follow-Up) (2023-F-4)
Impact: *Fiscal*
Objective: To determine the extent of implementation of the 12 recommendations from the initial audit (2019-S-2), which assessed whether DOH paid for claims in violation of federal

and State regulations that require an appropriate National Provider Identifier (NPI) for health care providers who order, prescribe, refer, or attend (OPRA) Medicaid services.
Initial Audit: System processing weaknesses allowed improper and questionable payments totaling over $1.5 billion for Medicaid claims that did not contain an appropriate NPI in the OPRA fields.
Follow-Up: DOH had made limited progress in addressing the problems identified, and additional actions were still needed. None of the improper and questionable payments had been reviewed, nor had system controls been enhanced to prevent payment for claims containing excluded or otherwise inappropriate OPRA providers. DOH did not improve controls to prevent improper use of the pharmacy override option and, as a result, auditors identified another $11.3 million in improper pharmacy payments since the initial audit.
Recommendation Status: *1 implemented; 3 partially implemented; 8 not implemented*

Improper Medicaid Managed Care Payments for Durable Medical Equipment, Prosthetics, Orthotics, and Supplies on Behalf of Recipients in Nursing Homes (Follow-Up) (2023-F-12)
Impact: *Fiscal*
Objective: To determine the extent of implementation of the four recommendations from the initial audit (2020-S-61), which assessed whether Medicaid MCOs inappropriately paid for durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS) while recipients were residing in nursing homes.
Initial Audit: Auditors identified $9.6 million in potential overpayments by MCOs for DMEPOS items that likely were already covered under the nursing home all-inclusive rate.
Follow-Up: DOH had made some progress in addressing the problems initially identified; however, additional actions were needed. In particular, OMIG needed to review and recover, as appropriate, the $9.6 million in DMEPOS claims identified.
Recommendation Status: *1 implemented; 1 partially implemented; 2 not implemented*

Other Audits of DOH Oversight

Oversight of the Early Intervention Program (2021-S-25)
Impact: *Children and Families*
Objective: To determine whether DOH was effectively administering the Early Intervention Program (Program) in compliance with all applicable laws and regulations and ensuring equitable and timely access to services for children across the State.
Audit Period: July 2018–February 2022
Auditors found that many children who would benefit from the Program were not receiving services—a situation that became more pronounced during the COVID-19 pandemic—and children who did receive services did not always get them in a timely manner. Although DOH has a Child Find system, as required, to help identify, locate, and refer children to the Program, limited guidance and oversight from DOH has resulted in significant differences in Child Find's outreach and awareness activities across the State. There were also statewide disparities in the referral and inclusion of children into the Program and the availability of providers and access to services. Equity was also an issue, with White children generally

being referred at a younger age and Black children being less likely to receive services within the prescribed time frame. Further, DOH's New York State Early Intervention System does not have the functionality or accuracy that municipalities need to administer the Program efficiently and effectively at the local level. While DOH is working with a contractor to implement a new web-based system, progress has been delayed multiple times.

Key Recommendations:

- Take steps to identify and address the underlying reasons why children are not always receiving the services they are entitled to and why services are not always provided on time.
- Develop and include more specific goals, tasks, and/or objectives on future municipal workplans related to Child Find's outreach and awareness activities.
- Take steps to better understand Program disparities and develop an action plan to improve equitable access to Program services.
- Work with the contractor of the new system to expedite its release as soon as practicable.

Office for the Aging

(NYSOFA)

NYSOFA's mission is to help older New Yorkers be as independent as possible for as long as possible through advocacy, development, and delivery of person-centered, consumer-oriented, and cost-effective policies, programs, and services. Its programs are administered at the county level through a network of 59 Area Agencies on Aging (AAAs).

Monitoring of Select Programs (Follow-Up) (2023-F-2)

Impact: *Aging, Health*

Objective: To determine the extent of implementation of the five recommendations from the initial audit (2020-S-47), which assessed whether NYSOFA's policies and procedures for select programs were adequate to ensure AAAs are appropriately monitored and the older New York population is adequately served.

Initial Audit: To address the ongoing issue of lengthy wait lists for NYSOFA's support services, the State earmarked $15 million in Unmet Need funds for each of the three fiscal years from 2019 to 2022 to be allocated through NYSOFA to its network of AAAs. However, weaknesses in NYSOFA's methodology for allocating funds to and in its oversight of AAAs potentially undermine the goal of reducing or eliminating reported Unmet Need. For example, NYSOFA based its 2019–22 allocations on the AAAs' 2017–18 Unmet Need data — and any fluctuations in Unmet Need over the ensuing years, particularly during the pandemic years, were not appropriately accommodated through reallocations. Further, NYSOFA did not perform annual on-site evaluations for all 59 AAAs as required, leaving NYSOFA with no assurance that AAAs were adequately monitoring the services provided on behalf of older adults.

Follow-Up: NYSOFA had made limited progress in addressing the issues identified.

Recommendation Status: *3 partially implemented; 2 not implemented*

Office for People With Developmental Disabilities
(OPWDD)

OPWDD is responsible for coordinating services for individuals with intellectual and developmental disabilities, including employment, day services, and housing. OPWDD oversees several residential service options, which allow clients to live in a community home setting with others and be as independent as possible. Two such community residences—Individualized Residential Alternatives (IRAs) and Intermediate Care Facilities (ICFs)—serve the majority of clients. OPWDD provides these services directly through State-operated programs and through a network of private non-profit agencies (voluntary agencies).

Pandemic Planning and Care for Vulnerable Populations (2021-S-9)
Impact: *Disabilities, Disaster Preparedness*
Objectives: To determine whether OPWDD adequately addressed the needs of the vulnerable population it serves in its emergency plans and took appropriate actions to care for this vulnerable population during the COVID-19 pandemic.
Audit Period: January 2019–April 2022
OPWDD did not provide consistent oversight and guidance to all types of community homes to ensure they were adequately prepared to manage public health emergencies. For example, while OPWDD had developed specific COVID-19 plans, it issued the plans only to the eight State-operated ICFs, which accounted for less than 1% of OPWDD's 34,117 residential clients. The remaining 6,921 facilities, which collectively account for 99% of clients, were required to create their own plans—but could have benefited from OPWDD's expertise. Further, while OPWDD's emergency management and overarching emergency planning documents considered pandemics as a risk even before the COVID-19 pandemic, OPWDD did not take proactive steps to ensure that all homes—either State- or voluntary agency-operated—had followed suit in their own emergency plans. OPWDD took some steps in response to the COVID-19 pandemic to enhance the protection of clients with intellectual and developmental disabilities, such as issuing guidance and conducting surveys to ensure compliance; however, its efforts have been largely reactive rather than proactive.
Audit Impairment:
OPWDD was uncooperative at the beginning of the audit—questioning OSC's authority to conduct the audit and rejecting initial data requests. Ultimately, it took several months for OPWDD to provide data and access to key personnel, including 10 requests over an eight-month period for data related to COVID-19 cases and deaths in homes.
Key Recommendations:

- Periodically review and update as necessary the Emergency Management Operations Protocol and supplemental documents to ensure all homes implement current policies and procedures in the event of another public health emergency.
- Develop procedures to ensure facility-level emergency plans encompass planning for and responding to public health emergencies.
- Establish effective communication with individuals responsible for infection control policies and procedures when pertinent deficiencies are identified.
- Ensure monitoring and review protocols address infection control practices, are well developed, and are consistently applied when conducting reviews at homes.

Office of Children and Family Services

(OCFS)

OCFS is charged with promoting the safety, permanency, and well-being of children, youth, families, and vulnerable populations in New York State. Its responsibilities encompass a wide range of social services programs, including foster care and adoption, child and vulnerable adult protective services, and juvenile justice. OCFS programs are administered by 58 local Departments of Social Services (LDSSs) throughout the State.

Oversight of Child Protective Services (2021-S-17)

Impact: *Children and Families, Social Services*

Objective: To determine whether OCFS was effectively overseeing LDSSs' investigation of reports of alleged child abuse or maltreatment, and ensured compliance with relevant laws, regulations, and procedures to promote the safety and well-being of affected children and families.

Audit Period: January 2018–November 2021, with subsequent information related to sample cases through September 2022

Suspected incidences of child abuse and maltreatment are received by OCFS through the Statewide Central Register of Child Abuse and Maltreatment (SCR) via phone calls, fax, and electronic submission ("calls"). For calls where there is reasonable cause to suspect a child has been impaired or is in imminent danger because of the failure of a parent or legal guardian to exercise a minimum degree of care, this will result in an intake report and the case is sent to the respective LDSS for investigation. If the report involves the death of a child, OCFS is required by law to conduct a review and issue a summary report within six months of the death of the child. To improve practices within LDSSs, OCFS implemented a Program Quality Improvement (PQI) process in January 2020. The audit found that OCFS generally has processes in place to oversee LDSSs' investigation of reports of alleged child abuse or maltreatment. However, improvements could be made to child fatality and PQI process reviews. For instance, OCFS' process is to address issues on a case-by-case basis. However, the prevalence of certain issues across multiple LDSSs indicates systemic problems that should be instead addressed statewide for proactive resolution rather after an incident has occurred. While OCFS is generally performing its required duties in receiving calls through the SCR and determining actions, auditors found closure codes for non-report calls (i.e., calls that did not meet the threshold for reporting) could more accurately reflect the nature of closure and why the call did not result in a report. Additionally, OCFS only maintains recordings of calls for 75 days—a time frame that may limit its ability to retroactively investigate whether non-report calls were properly handled.

Key Recommendations:

- Evaluate and address deficiencies found in PQI and child fatality reviews on a statewide basis across all LDSSs.
- Establish procedures to more accurately reflect the nature of the calls determined to be non-reports and the reason why the call did not result in a report; this may include, but not be limited to, adjusting the retention period for the call recording and updating closure codes.

Oversight of Adult Protective Services Programs (Follow-Up) (2023-F-6)
Impact: *Children and Families, Social Services*
Objective: To determine the extent of implementation of the three recommendations from the initial audit (2020-S-2), which assessed whether OCFS was adequately monitoring Adult Protective Services (APS) activities to protect vulnerable adults.
Initial Audit: The audit found that OCFS did not effectively monitor APS providers and their activities to ensure vulnerable adults were protected and received the services they need. While OCFS established processes to review APS activities, it did not always ensure they were being executed as required. OCFS' policies and procedures lacked explicit guidance on critical aspects of the review process, including the target time frames for conducting reviews, the follow-up with APS providers regarding deficiencies and improvement plans, and documentation of these efforts.
Follow-Up: While OCFS had made progress in addressing the issues identified, improvements were still needed.
Recommendation Status: *1 implemented; 2 partially implemented*

Office of Mental Health
(OMH)

OMH operates psychiatric centers across the State and regulates, certifies, and oversees more than 4,500 programs operated by local governments and non-profit agencies that assist New Yorkers with their mental health needs. OMH also administers several employment programs that help people develop the skills they need to attain and sustain competitive, integrated employment.

Reporting of Community-Based Services Under the Transformation Reinvestment Plan (2021-S-15)
Impact: *Fiscal*
Objective: To determine whether OMH provided adequate reporting of community-based service reinvestment funds under the Transformation Reinvestment Plan (Plan).
Audit Period: April 2018–February 2022
OMH's 2014 Plan entailed reducing capacity at its inpatient facilities and using the cost savings to enhance and expand services in lower-cost, more accessible community-based settings. OMH reported that, from 2014 through State fiscal year 2020–21, more than $82.5 million realized under the Plan was allocated to community-based services (CBS), serving more than 111,000 individuals. While OMH provided adequate reporting on the funds reinvested in CBS, auditors found OMH needed to improve its communication and data collection to ensure more accurate reporting. For instance, there were inconsistencies in how "New Individual Served" (NIS) data is collected from providers, which could impact the accuracy of the information reported. Also, OMH's monthly reports do not clearly address its progress on the overall reinvestment areas that it established for the Plan.
Key Recommendations:

- Issue updated guidance to providers and State facilities on how to identify and count a NIS.

- Provide guidance or notes on the monthly reports indicating which services and counties report quarterly versus monthly and the associated impact to provide better context to users of the reports.
- Include information on the monthly reports to clearly show progress toward achieving targets supported through Plan reinvestments.

Oversight of Telemental Health Services (Follow-Up) (2022-F-22)
Impact: *Mental Health*
Objective: To determine the extent of implementation of the three recommendations from the initial audit (2020-S-16), which assessed whether OMH was adequately monitoring the delivery and performance of telemental health (TMH) services and ensuring that related TMH activities were conducted in accordance with applicable laws and regulations.
Initial Audit: The audit found that, although OMH had expanded TMH regulations, there were opportunities to improve access and oversight to ensure the ongoing availability of TMH by approved providers as well as TMH providers' compliance with TMH regulations.
Follow-Up: OMH had made significant progress in addressing the problems identified.
Recommendation Status: *3 implemented*

Benefits Advisement Services for Individuals With Disabilities Seeking Employment (Follow-Up) (2023-F-11)
Impact: *Disabilities, Employment*
Objective: To determine the extent of implementation of the four recommendations from the initial audit (2020-S-41), which assessed whether OMH effectively addressed the findings and recommendation related to benefits advisement from the New York State Employment First Commission's 2015 report.
Initial Audit: A 2015 report from the New York State Employment First Commission established an Employment First Policy for New York State with the main goal of increasing the employment rate of individuals with disabilities by 5% while also decreasing their poverty rate by 5%. This report tasked OMH with developing a life coaching network for individuals with disabilities seeking economic self-sufficiency and creating an interactive web-based platform to provide accurate information and benefits calculators so individuals with disabilities could better assess how work would impact their benefits. The audit found that OMH had created a benefits advisement system, Work Incentives Navigator and Reports (WINR), to address the report's benefits advisement recommendation but did not include all recommended components, such as an interactive benefits advisement calculator, automated life coaching communications, and information regarding certain additional benefits such as nutritional and housing assistance. Further, WINR was only available to individuals working with an employment services provider; thus, many individuals with disabilities who would likely benefit from WINR services did not have access to the application. Additionally, OMH did not assess the effectiveness of its email notification system to ensure that active system customers were receiving notifications on important benefits; auditors found that such notifications were delivered only via email to less than half of the 40,000 WINR customers.
Follow-Up: OMH had made progress addressing the issues identified.
Recommendation Status: *2 implemented; 2 partially implemented*

Office of Temporary and Disability Assistance
(OTDA)

OTDA administers programs that provide housing, financial, and other forms of assistance to eligible low-income New Yorkers and provides support to Local Departments of Social Services (Local Districts)—comprising the New York City Department of Homeless Services and 57 county offices throughout the rest of the State—in the operation of these programs.

Homeless Services Housing Needs Assessment (2021-S-23)
Impact: *Social Services, Homelessness*
Objectives: To determine if OTDA's initial Needs Assessments and Individual Living Plans (ILPs) were completed in a timely manner and if clients were receiving services needed to transition to permanent housing.
Audit Period: January 2018–October 2022
Each client who receives temporary housing in a certified shelter must take part in a Needs Assessment (an evaluation of their housing and care needs) and the development of an ILP, setting forth a strategy for meeting the client's identified needs and outlining specific goals to help the client exit the shelter and return to self-sufficiency. However, similar to prior OSC audits, auditors determined that OTDA was not adequately ensuring that clients' Needs Assessments and ILPs were completed in a timely manner and that all client support services listed in the ILPs were being provided. For a sample of 145 cases, 40% of Needs Assessments and 38% of ILPs were missing or late. For many of these cases, there was no evidence that support services (medical, substance abuse, and/or mental health services) listed in the ILPs had been delivered. Notably, only 30% of clients in the audit sample (44 of 145) transitioned to permanent housing; 70% (101 clients) did not, including 19 who were still residing in a shelter for periods ranging from 68 to 1,507 days, or over four years.
Key Recommendations:

- Work with Local Districts and providers identified through the annual inspection process that have not prepared or have late or incomplete Needs Assessments and ILPs. Develop additional oversight processes to the annual inspection process to identify Local Districts and providers that have not prepared or have late or incomplete Needs Assessments and ILPs.
- Work with Local Districts and providers identified through the annual inspections process whose clients are not receiving needed services. Develop additional oversight processes to the annual inspection process to identify Local Districts and providers whose clients are not receiving needed services.
- Collect and analyze aggregate data that will allow OTDA to identify primary causes for clients not achieving permanent housing and address these issues.

Reimbursement of Homeless Shelter Providers: Rescue Mission Alliance of Syracuse (2021-S-34)

Impact: *Fiscal*

Objective: To determine if OTDA was adequately monitoring and appropriately reimbursing claims for homeless shelter providers, such as Rescue Mission Alliance of Syracuse (Rescue Mission).

Audit Period: January 2020–December 2020

One of the largest providers of homeless services in Onondaga County, Rescue Mission served nearly 1,100 adults and reported expenditures totaling $2.9 million in 2020. Auditors identified $26,123 in costs claimed by Rescue Mission that were improperly reimbursed. By design, OTDA does not monitor shelters' costs claimed for reimbursement to ensure they comply with the approved budget, State laws and regulations, or OTDA policies. This responsibility instead falls to the Local Districts, yet OTDA did not provide them with the guidance needed for effective monitoring, creating significant risk of improper reimbursements.

Key Recommendations:

- Review and recover, as appropriate, the $22,277 in personal service costs and $3,846 in other than personal service costs improperly reimbursed to Rescue Mission.
- Establish a system of monitoring controls to improve oversight of Local Districts' reimbursement to providers to ensure that expenses are allowable, allocable, reasonable, and consistent with approved budgeted costs and the contract.
- Ensure that the Onondaga County Department of Social Services is appropriately approving reimbursed expenses submitted by providers.
- Issue guidance and provide support to Local Districts on reimbursable shelter costs to ensure costs are allowable, allocated appropriately, and compliant with relevant regulations and guidelines.

Education

State Education Department

(SED)

SED is responsible for the oversight of more than 700 school districts, with 2.5 million students in pre-kindergarten through 12th-grade programs. SED is also responsible for the licensing and monitoring of non-degree-granting proprietary schools, which provide training in a broad range of disciplines such as business, computer/information technology, and English as a Second Language.

Preschool Special Education Program Audits

Impact: *Fiscal*
Objective: To determine if costs reported by special education program providers on their Consolidated Fiscal Reports (CFRs) were reasonable, necessary, directly related to the special education program, and sufficiently documented pursuant to SED's Reimbursable Cost Manual (RCM) and Consolidated Fiscal Reporting and Claiming Manual (CFR Manual).

Private special education providers must be approved by SED to deliver special education services, such as Special Education Itinerant Teacher, Special Class, and Special Class in an Integrated Setting programs, to children in New York. SED annually develops rates for these programs based on actual personal service and other than personal service costs reported to SED on annual CFRs. These rates are used to reimburse providers for eligible costs, which must comply with comprehensive instructions and guidelines set forth in SED's CFR Manual and RCM. Chapter 545 of the Laws of 2013 requires the State Comptroller to audit the expenses reported to SED by every program provider of special education services for preschool children with a disability, subject to the funding made available by the Legislature for such purpose. In the 2022–23 reporting year, OSC issued eight such reports, as detailed below. For these providers, auditors identified a total of more than $2.9 million in reported costs that were ineligible for reimbursement. Generally, auditors recommended that, in each case, SED review the disallowances identified and make the necessary adjustments to the costs reported on the provider's CFRs and to the provider's tuition reimbursement rates, as warranted, and remind providers of the pertinent SED requirements that relate to the deficiencies identified; and that the provider ensure that costs reported on annual CFRs fully comply with SED's requirements, and communicate with SED to obtain clarification, as needed.

Williamsburg Infant & Early Childhood Development Center, Inc. (2021-S-22)
Audit Period: Three fiscal years ended June 30, 2019
Williamsburg Infant & Early Childhood Development Center reported approximately $11 million in reimbursable costs for the SED preschool cost-based program. Auditors identified $822,224 in reported costs that did not comply with requirements.
Step Up Therapy Services, PLLC (2021-S-31)

Audit Period: Three fiscal years ended June 30, 2015
Step Up reported approximately $7.4 million in reimbursable costs for its preschool cost-based program. Auditors identified $810,382 in reported costs that were ineligible for reimbursement.

St. Mary's Hospital for Children, Inc. (2021-S-38)
Audit Period: Three calendar years ended December 31, 2019
St. Mary's reported approximately $12 million in reimbursable costs for the SED preschool cost-based program. Auditors identified $257,142 in reported costs that did not comply with RCM and CFR Manual requirements.

Field of Dreams, Inc. (2022-S-2)
Audit Period: Two fiscal years ended June 30, 2019
Field of Dreams reported approximately $2.4 million in reimbursable costs for its preschool cost-based programs. Auditors identified $172,121 in reported costs that were ineligible for reimbursement.

Cantalician Center for Learning (2022-S-7)
Audit Period: Fiscal year ended June 30, 2017
Cantalician Center for Learning reported approximately $2.23 million in reimbursable costs for its preschool cost-based programs. Auditors identified $358,254 in reported costs that were ineligible for reimbursement.

The Arc Erie County New York (2022-S-10)
Audit Period: Fiscal year ended June 30, 2019
The Arc Erie County New York reported approximately $3.6 million in reimbursable costs for its preschool cost-based programs. Auditors identified $8,724 in reported costs that were ineligible for reimbursement.

Abilities First, Inc. (2022-S-23)
Audit Period: Fiscal year ended June 30, 2019
Abilities First reported more than $4.41 million in reimbursable costs on its CFRs for its preschool special class and preschool integrated special class programs. Auditors identified $236,209 in costs that were ineligible for reimbursement.

Queens Center for Progress (2022-S-41)
Audit Period: Three fiscal years ended June 30, 2019
Queens Center for Progress reported approximately $14.8 million in reimbursable costs for its preschool cost-based programs. Auditors identified $257,297 in reported costs that were ineligible for reimbursement.

Other Audits of SED Oversight

Privacy and Security of Student Data (2021-S-29)
Impact: *Technology, Cybersecurity*
Objective: To determine if SED consistently followed all laws and regulations regarding the safety and privacy of students' data and monitored school districts to ensure they are complying with the legislation and regulations that govern data privacy and security.
Audit Period: March 2020–November 2022
SED is responsible for safeguarding student data and ensuring the confidentiality, integrity, and availability of its systems. Part 121 of the Regulations of the Commissioner of Education (Part 121) outlines numerous requirements that all schools must implement to strengthen data privacy and security and protect personally identifiable information (PII). Auditors found that SED did not provide adequate oversight of school districts' compliance with the notification requirements for data incidents and other key requirements of Part 121, nor did it complete a data classification for all the types of information it manages, processes, or stores, some of which contain student PII. The audit also identified weaknesses in technical controls that need to be corrected to ensure the selected SED and school district information systems and their associated data are not at risk. Due to their confidential nature, we disclosed these matters to SED officials in a separate report.
Key Recommendations:

- Develop and implement controls to monitor school districts' compliance with Part 121.
- Continue to work on completing a full data and asset classification of all current SED systems and data.
- Implement the recommendations detailed in the preliminary report to strengthen technical controls over the selected systems reviewed.

Oversight of Career and Technical Education Programs in New York State Schools (Follow-Up) (2022-F-17)
Impact: *Education*
Objective: To determine the extent of implementation of the seven recommendations from the initial audit (2019-S-29), which assessed whether SED's career and technical education (CTE) activities were sufficient to meet high-demand, high-growth, and high-salary job market needs; and what SED, school districts, and Boards of Cooperative Educational Services could do to enhance CTE programs.
Initial Audit: The audit found that SED did not provide adequate oversight of CTE programs to ensure they aligned with student goals and the needs of the State labor market. Auditors also identified several barriers—including scheduling restrictions, inconsistent requirements, and lack of program support—that deterred students' enrollment in CTE and their successful completion of the program, further contributing to the lack of skilled employees in certain industries.
Follow-Up: SED had made limited progress in addressing the issues identified.
Recommendation Status: *3 implemented; 1 partially implemented; 3 not implemented*

Licensing and Monitoring of Proprietary Schools (Follow-Up) (2023-F-1)
Impact: *Education, Financial*
Objective: To determine the extent of implementation of the six recommendations from the initial audit (2019-S-68), which assessed whether SED verified that non-degree-granting proprietary schools had sufficient resources prior to initial licensing and was adequately monitoring schools and utilizing its database to look for warning flags of future closings.
Initial Audit: The audit found that SED did not perform due diligence in assessing proprietary schools' financial viability and issued licenses to schools despite evidence of insufficient resources, potentially jeopardizing students' future employment prospects and their ability to repay loans.
Follow-Up: SED had made significant progress in addressing the issues identified.
Recommendation Status: *5 implemented; 1 partially implemented*

Adult Career and Continuing Education Services: Vocational Rehabilitation Supported Employment Program (Follow-Up) (2023-F-15)
Impact: *Education*
Objective: To determine the extent of implementation of the three recommendations from the initial audit (2020-S-46), which assessed whether the Adult Career and Continuing Education Services: Vocational Rehabilitation (ACCES-VR) Supported Employment Program achieved its intended objectives, namely, to provide vocational rehabilitation supported employment services for individuals with a disability.
Initial Audit: The audit found that SED did not always meet the time frames for eligibility determinations or finalization and annual reviews of Individualized Plans for Employment (IPEs). Additionally, IPEs did not contain all the required information in sufficient detail, and SED did not provide any documented evaluations to show the ACCES-VR program was being adequately monitored.
Follow-Up: SED had made progress in addressing the issues identified.
Recommendation Status: *2 implemented; 1 partially implemented*

Oversight of Mental Health Education in Schools (Follow-Up) (2023-F-21)
Impact: *Mental Health, Education*
Objective: To determine the extent of implementation of the two recommendations from the initial audit (2020-S-63), which assessed SED's actions to ensure that school districts had the necessary mental health education in place as required by law.
Initial Audit: The audit found that SED did not require school districts to submit any documentation or other information that would indicate compliance with the law, and thus had no assurance that all school districts had developed and implemented the required mental health education curriculum. Furthermore, for many school districts, their mental health teams were understaffed, falling below the staff-to-student ratios recommended by the National Center for School Mental Health and the National Association of School Psychologists.
Follow-Up: SED had made progress in addressing the problems identified.
Recommendation Status: *2 implemented*

State University of New York

(SUNY)

SUNY, the largest comprehensive system of public education in the nation, comprises 64 institutions, including research universities, academic medical centers, liberal arts colleges, community colleges, colleges of technology, and an online learning network. In the fall 2021 semester, SUNY served nearly 370,000 students.

Oversight of Disability Services (2021-S-42)

Impact: *Disabilities*

Objective: To determine whether SUNY adequately provided access to campuses, programs, and services to students with disabilities.

Audit Period: July 2018–June 2021 and observations of accessibility through October 2022

During the 2020–21 academic year, 31,367 SUNY students self-reported a disability. The Americans with Disabilities Act (ADA) prohibits discrimination on the basis of disability by public entities, including access to programs, activities, and services. Auditors found that their sample of six campuses (Binghamton University, Maritime College, Stony Brook University, SUNY Morrisville, SUNY Cobleskill, and SUNY Oneonta) provided academic accommodations to students with disabilities, provided outreach and training to students and staff about their services, and received no complaints regarding discrimination. With the exception of SUNY Morrisville, the campuses adequately documented that students who reported a disability either were provided accommodations or did not complete the self-reporting process. Additionally, buildings, structures, and parking lots at the six campuses were ADA compliant. Auditors also identified 170 areas where accessibility could potentially be improved should SUNY seek to go beyond the minimum ADA standards.

Key Recommendations:

To SUNY Administration:

- Continue to work with SED to provide training and education to campuses to accurately and consistently report data on students with disabilities.

To Campuses:

- Maintain sufficient documentation for students with disabilities who don’t follow through with the process to obtain accommodations.
- Accurately and consistently report students with disabilities in accordance with SED requirements.
- Continue to actively evaluate and improve accessibility and incorporate the potential improvement areas identified where feasible.

Transportation

Department of Transportation
(DOT)

DOT's mission is to ensure that its customers — those who live, work, and travel in New York State — have a safe, efficient, balanced, and environmentally sound transportation system.

Compliance With Freedom of Information Law Requirements (2020-S-12)
Impact: *Transportation, Consumer Affairs*
Objectives: To determine if DOT had policies, procedures, and processes in place to fulfill its responsibilities under the Freedom of Information Law (FOIL) and was in compliance with its responsibilities under FOIL.
Audit Period: January 2018–July 2021 for FOIL requests received and January 2018–September 2021 for FOIL appeals received
Under FOIL, DOT is required to make all eligible records available for public inspection or copying. Within five business days of receiving a FOIL request, DOT must make the requested records available, deny the request in writing, or furnish a written acknowledgment of the request that states the approximate date when such request will be granted or denied. Additionally, within 10 business days of receipt of an appeal, DOT must grant access to the records sought or fully explain the reasons for further denial in writing. Based on a statistical sample of 194 FOIL requests, auditors concluded, with 95% confidence, that DOT deviated from the law or its own procedures for at least 1,965 of the 15,738 FOIL requests received during the audit period.
Audit Impairment: The audit was obstructed by, among other issues, DOT requiring that all meetings be attended by legal and non-legal supervisory staff from the main office and not providing all requested information.
Key Recommendations:

- Acknowledge and respond to FOIL requests and appeals within the time frames required by law. Grant or deny access to FOIL requests within five business days, or if more time is needed, acknowledge receipt of the request in writing, indicating both the reason for the inability to grant the request within 20 business days and the approximate date when the request will be granted or denied.
- Forward all appeals to the Committee on Open Government upon receipt, as required by FOIL.
- Provide formal training for main office and regional office employees involved in processing FOIL requests.

Controls Over Vehicle Use and Transportation-Related Expenses (Follow-Up) (2022-F-38)
Impact: *Fiscal, Asset Management*
Objective: To determine the extent of implementation of the five recommendations from the initial audit (2019-S-37), which assessed whether DOT established adequate controls to effectively monitor and ensure accountability over its vehicle use and maintenance expenses.

Initial Audit: The audit found that DOT performed limited to no central monitoring of procurements made through its contractor to ensure costs were reasonable, despite concerns raised by both central office officials and regional fleet managers about purchases under the contract. DOT also did little to hold the contractor accountable for its responsibility to ensure costs complied with contract terms.
Follow-Up: DOT had made progress in addressing these issues.
Recommendation Status: *4 implemented; 1 not implemented*

Metropolitan Transportation Authority
(MTA)

The MTA is a public benefit corporation, overseen by a 23-member Board of Directors (Board), providing transportation services in and around the New York City metropolitan area. The MTA has six agencies: New York City Transit (Transit), which operates bus and subway service; MTA Bus Company (MTA Bus), which provides bus services in the Bronx, Brooklyn, and Queens; the Long Island Rail Road (LIRR) commuter railroad; Metro-North Railroad; Triborough Bridge and Tunnel Authority, which operates seven toll bridges and two tunnels that interconnect parts of New York City; and MTA Construction and Development.

Selected Aspects of the All-Agency Contractor Evaluation System at Long Island Rail Road, Metro-North Railroad, New York City Transit, and Triborough Bridge and Tunnel Authority
(2019-S-52)
Impact: *Performance, Contracts*
Objectives: To determine whether the MTA was monitoring and evaluating its contractors/consultants in compliance with its All-Agency Contractor Evaluation (ACE) system and taking appropriate action where performance ratings were less than satisfactory; and whether procurement officials at the agencies reviewed and used the ACE ratings prior to making a contract award.
Audit Period: January 2016–March 2020
The MTA did not properly handle the review of responsibility for two of 10 sampled contractors with repeated less-than-satisfactory ACEs when awarding new contracts. The MTA missed opportunities to advise project management teams about areas of known performance issues with contractors when they were awarded new contracts. Further, the MTA did not ensure that ACEs were performed in a timely manner by evaluators who were responsible for the project, or, in certain cases, that the evaluations were done at all.
Key Recommendations:

- Enforce and monitor procurement staff's adherence to the agency procedures. Require the agency President's approval of a responsibility determination in all cases where Adverse Information or Significant Adverse Information was noted.
- Require the agency ACE Administrator to contact the ACE evaluator when an evaluation is not filed within 45 days. Make an entry in the ACE database to indicate the evaluation is delinquent.
- Develop procedures to: include analysis of the category ratings over time to determine whether, in addition to the overall ratings, the categorical assessment reveals significant issues with the vendor's performance; and share performance issues found in the responsibility review with the next project manager.

Non-Revenue Service Vehicles and On-Rail Equipment (2020-S-29)

Impact: *Asset Management*

Objective: To determine whether LIRR maintained an inventory and consistently retired/disposed of its non-revenue service Highway Fleet Vehicles, performed preventive maintenance on these vehicles and on-rail equipment, and maintained an accurate inventory of parts required to repair the on-rail equipment.

Audit Period: January 2018–April 2022

LIRR has an inventory of 1,034 fleet vehicles — cars, SUVs, trailers, trucks, and vans — used by 26 departments in their day-to-day operations. It also maintains 43 pieces of on-rail equipment, with an estimated cost of almost $57 million, and a parts inventory consisting of 9,373 different part numbers/types valued at over $10.2 million. Auditors determined that LIRR did not ensure that its responsible departments were maintaining accurate inventories of these valuable assets, following procurement best practices, and/or providing the necessary preventive maintenance.

Key Recommendations:

- Verify that all required documents, such as vehicle title, are included in the hard-copy folder and ensure that documentation is periodically confirmed.
- Revisit procedures to ensure a complete cost-benefit analysis occurs on a timely basis.
- Develop and implement a procedure for visiting shops based on the nature of the repair, which at a minimum requires reporting on the vehicles examined and the expectation for their return to service — and document the visit.

Management and Maintenance of Non-Revenue Service Vehicles (2020-S-31)

Impact: *Asset Management*

Objectives: To determine whether Transit and MTA Bus maintained an accurate and complete inventory of non-revenue service vehicles; and whether the non-revenue service vehicles received scheduled preventive maintenance, were safeguarded, and were properly disposed of at the end of their useful life.

Audit Period: January 2018–April 2021

Transit and MTA Bus have approximately 1,950 non-revenue service vehicles in their fleet, with an estimated value of $150 million and a replacement cost of $216.7 million. The audit found that Transit and MTA Bus did not always adhere to their own guidance or practice to provide annual and light service operations inspections as part of preventive maintenance on their fleet of vehicles. Nor did they have an inventory system or maintain accurate and up-to-date inventory of parts purchased to be used to maintain their vehicles. Auditors also noted that maintenance costs were $50.5 million, or 21% over the $41.8 million budgeted.

Key Recommendations:

- Work with the user groups to ensure the vehicles are delivered for the scheduled annual and light service operations inspections.
- Establish a process for tracking and monitoring maintenance costs.
- Formalize procedures to record and account for the parts that were replaced on the vehicle during maintenance and repairs in the automated maintenance management system.
- Train Support Fleet Services staff on the process to establish consistency when recording parts in the automated maintenance management system.

Risk Assessment and Implementation of Measures to Address Extreme Weather Conditions (2021-S-27)

Impact: *Risk Mitigation, Disaster Preparedness*

Objectives: To determine whether the MTA–Transit identified potential damage to its system and developed plans to mitigate the effect of extreme weather conditions and flooding; and whether the MTA tested/updated the plans and inspected and maintained the equipment to ensure they can be deployed when needed.

Audit Period: April 2009–August 2022

Auditors found that the MTA had not implemented one of the most important recommendations from its 2009 Blue Ribbon Commission: the development of a climate change adaptation master plan. Capital projects intended to correct or prevent weather-related damage were often incomplete in scope of work, not finished on time or within budget, or insufficiently documented. Transit has assessed and identified areas of its system that are at risk of flooding from extreme weather events and launched capital projects to mitigate potential flooding conditions. However, Transit did not sufficiently document that individual pieces of storm surge mitigation equipment had been inspected. Also, although Transit developed several weather plans that can be activated for extreme weather-related conditions and detailed procedures to be followed before and after a storm event, auditors found these plans were not always activated, with no documentation explaining the rationale for decision making.

Key Recommendations:

Ensure mitigation-related capital projects, including scope of work, are completed on time and within budget to prevent further damage to Transit facilities.

- When conducting inspections, include enough information to identify the equipment inspected, such as serial number, equipment tag number, and model number.
- Establish and document a process to ensure weather information and instructions from Transit officials are communicated to all responsible personnel and units.

Fare Evasion (Follow-Up) (2022-F-23)

Impact: *Fiscal*

Objective: To determine the extent of implementation of the 19 recommendations from the initial audit (2019-S-7), which assessed whether Transit and MTA Bus reported accurate estimates of revenue losses from fare evasion to the MTA Board and whether the MTA took action through the Fare Enforcement and Worker Safety Program (Program) to ensure all riders pay the appropriate fare on New York City buses and subways.

Initial Audit: The MTA did not demonstrate that the Program was effective in achieving its goal of reducing annual fare evasion losses below 2017 levels ($150 million). Instead, Transit estimated that it lost more than $300 million to fare evasion in 2019. Since the initial report was issued, the subway and bus fare evasion rates have increased. The first quarter of 2023 (January–March) saw an increase of 11.1% (± 0.9%) for subways and an estimated increase of 37.6% for buses. After the audit's release, the MTA created a Blue-Ribbon Panel to reduce fare evasion across the MTA system. The panel's 2023 report incorporated several of the recommendations from the initial audit.

Follow-Up: The MTA had made progress in addressing the issues identified.

Recommendation Status: *13 implemented; 4 partially implemented; 1 not implemented; 1 no longer applicable*

New York State Thruway Authority

(Thruway Authority)

The Thruway Authority — a New York State public benefit corporation — operates the New York State Thruway (Thruway), a 570-mile superhighway that connects the State's principal cities, rural areas, and tourist destinations. The Thruway comprises 496 miles, including the main line from the New York City line at Yonkers to Buffalo and the Erie Section. There are also an additional five segments: Niagara Section, Berkshire Section, New England Section, Garden State Parkway Connector, and the Cross Westchester Expressway. It has 816 bridges, 134 interchanges, and 27 travel plazas. The Thruway Authority is vested by New York State laws and regulations to assess and collect toll revenues for use of the Thruway.

Selected Aspects of Toll Collections (2022-S-15)

Impact: *Fiscal*

Objective: To determine whether the Thruway Authority ensured that efforts are made to identify, bill, and collect tolls that are due.

Audit Period: January 2019–January 2023

In November 2020, the Thruway Authority completed a systemwide conversion to cashless tolling, which was intended to reduce congestion, improve traffic flow, and allow for non-stop travel on the Thruway. The audit found that the Thruway Authority needed to improve efforts to identify, bill, and collect tolls that are due. As of March 2023, there was a total of $276.3 million in unpaid tolls and fees in collection status. Furthermore, of $115 million in unpaid toll violation fees from 2020, the Thruway Authority dismissed $92 million, including $33 million for out-of-state vehicles. The Thruway Authority did not have formal procedures for dismissing amounts due, including the selection criteria and basis for determining amounts to be dismissed. Furthermore, State regulations permit the Thruway Authority to request the suspension of a vehicle registration for non-payment of tolls, fees, or other charges, and the State has a registration suspension reciprocity agreement with the Massachusetts Registry of Motor Vehicles. However, the Thruway Authority's suspension of the registration suspension program from January 2018 to July 2022 resulted in a backlog of past-due accounts for processing that could exceed the 6-year statute of limitations for collection of tolls and fees. Also, the Thruway Authority was not maximizing its use of images from license plate recognition cameras to identify vehicles more accurately for toll collection, accounting for an estimated $7.2 million per year in unpaid tolls.

Key Recommendations:

- Ensure that when there is a change in collection vendors, there is a smooth transition with no gaps in services.
- Establish procedures for dismissing violation fees, including the selection criteria and the basis for the amounts dismissed.
- Analyze the information for the accounts eligible for registration suspension to determine where collection efforts will have the best results, and assess the feasibility and cost-benefit of entering into agreements with additional states (in addition to Massachusetts) for registration suspensions.

- Ensure that all images rejected by the automated process that are identifiable through a manual review are billed.
- Monitor trends in the incidences of rejected images and take appropriate corrective actions.

Port Authority of New York and New Jersey

(PANYNJ)

PANYNJ conceives, builds, operates, and maintains infrastructure critical to the New York/ New Jersey region's trade and transportation network. Its facilities include: a five-airport aviation system; the Port Authority Trans-Hudson rail transit system; six tunnels and bridges between New York and New Jersey; the Port Authority Bus Terminal in Manhattan; the George Washington Bridge Bus Station; and the World Trade Center.

Selected Aspects of Accommodations for Passengers With Disabilities (Follow-Up)
(2022-F-24)
Impact: *Disabilities, Accessibility*
Objective: To determine the extent of implementation of the seven recommendations from the initial audit (2019-S-41), which assessed whether PANYNJ complied with selected requirements of the Americans with Disabilities Act of 1990 (ADA), the Rehabilitation Act of 1973 (Act), and corresponding federal regulations to make its facilities accessible to passengers with a disability.
Initial Audit: The initial audit found that PANYNJ was in compliance with selected aspects of the ADA and the Act. However, auditors noted areas of non-compliance with Department of Justice (DOJ) regulations in areas of the Port Authority Bus Terminal, where some gates at both the lower and upper levels were inaccessible to customers using a mobility device, and no signage was evident to direct customers to seek assistance from PANYNJ staff. PANYNJ did not have written agreements between the airport operator and terminal operator allocating responsibilities for meeting the boarding requirements with all airport operators and carriers, as required by federal regulation. Auditors also noted that PANYNJ's website did not follow DOJ's best practices toolkit and did not have an option to format text for visually impaired people.
Follow-Up: PANYNJ had made progress in addressing the issues identified in the initial audit.
Recommendation Status: *5 implemented; 2 partially implemented*

Government Support

Department of Civil Service
(Civil Service)

Civil Service is the principal human resources provider for the Executive Branch of State Government, serving approximately 150,000 employees. It also administers the New York State Health Insurance Program (NYSHIP), which covers more than 1.2 million current and retired State and local government employees and their family members. NYSHIP's primary health insurance program is the Empire Plan, which costs the State and local governments about $11.5 billion each year. Civil Service contracts with: UnitedHealthcare (United) to process medical/surgical claims; Empire BlueCross (Empire) to process hospital claims; CVS Health to process prescription drug claims; and Beacon Health Options to process mental health and substance use disorder claims for the plan. Civil Service also maintains the New York Benefits Eligibility and Accounting System (NYBEAS), the system of record for Empire Plan member enrollment and eligibility information.

UnitedHealthcare Insurance Company of New York: Overpayments for Physician-Administered Drugs (2021-S-32)
Impact: *Fiscal*
Objective: To determine whether United appropriately reimbursed physician-administered drugs.
Audit Period: January 2017–December 2021
Auditors identified $5,536,537 in actual and potential overpayments by United to providers for physician-administered drugs that either were double-billed under two separate Empire Plan programs, were billed in excess of provider-contracted rates, exceeded allowable dosage limits, or were billed in duplicate.
Key Recommendations:

- Review the identified overpayments and make recoveries, as warranted.
- Work with Civil Service to identify physician-administered drugs paid for by both the Medical/Surgical and Prescription Drug Programs and develop a process to prevent future overpayments.
- Enhance controls designed to prevent services from being paid at rates above provider-contracted rates.

Empire BlueCross: Overpayments for Physician-Administered Drugs (2021-S-33)
Impact: *Fiscal*
Objective: To determine whether Empire BlueCross appropriately reimbursed physician-administered drugs.
Audit Period: January 2017–December 2021
Auditors identified $2,776,510 in actual and potential overpayments by Empire BlueCross to providers for physician-administered drugs that either were double-billed under two separate Empire programs, were incorrectly processed by Empire, or were not in compliance with guidelines. As of June 21, 2023, Empire had started recoveries for $116,287 of the improper payments.

Key Recommendations:

- Work with Civil Service to review the remainder of the $2,776,510 in overpayments and make recoveries, as warranted.
- Work with Civil Service to identify physician-administered drugs improperly paid by both the Hospital and the Prescription Drug Programs and develop a process to prevent future overpayments.

CVS Health: Accuracy of Empire Plan Medicare Rx Drug Rebate Revenue Remitted to the Department of Civil Service (2022-S-1)

Impact: *Fiscal*
Objective: To determine if CVS Health appropriately invoiced drug manufacturers and remitted corresponding rebate revenue to Civil Service for prescription drugs provided under the Empire Plan Medicare Rx drug benefit.
Audit Period: January 2014–December 2019
CVS Health did not always invoice drug manufacturers for rebates, collect rebates from the manufacturers, or remit all rebate revenue to Civil Service, as auditors identified $10,723,916 in rebates that is due Civil Service from CVS Health.
Key Recommendations:

- Remit $10,723,916 in drug rebate revenue to Civil Service.
- Take corrective steps to ensure all the Empire Plan Medicare Rx rebate-eligible drug utilization is invoiced, collected from drug manufacturers, and remitted in a timely manner to Civil Service.

NYSHIP: Incorrect Payments by CVS Caremark for Medicare Rx Drug Claims That Were Improperly Paid Under the Commercial Plan (2022-S-24)

Impact: *Fiscal*
Objective: To determine whether CVS Caremark paid claims under the correct prescription drug plan.
Audit Period: January 2015–March 2022
Auditors identified claims totaling $12,358,531 that were incorrectly paid under the Commercial Plan instead of the Medicare Rx Plan. The misprocessing of claims was largely due to data transfer issues between Civil Service, CVS Caremark, and Centers for Medicare & Medicaid Services. Civil Service and CVS Caremark were able to identify the issue and develop a process to reconcile the data in their respective systems to reduce the risk of processing and paying claims under the incorrect plan.
Key Recommendations:
To Civil Service and CVS Caremark:

- Review the $12,358,531 in claims identified in this report as incorrectly paid under the Commercial Plan to determine which claims to reprocess under the Medicare Rx Plan.
- Consider and evaluate additional controls, as needed, to prevent the processing and payment of claims under the incorrect plan and continue to perform periodic reconciliations.

To CVS Caremark:

- Reprocess under the Medicare Rx Plan those claims that were identified as incorrectly paid under the Commercial Plan, as warranted.

NYSHIP: Payments by CVS Health for Pharmacy Services for Ineligible Members (Follow-Up) (2022-F-29)
Impact: *Fiscal*
Objective: To determine the extent of implementation of the six recommendations from the initial audit (2020-S-17), which assessed whether CVS Health paid pharmacy claims for Empire Plan members who were not eligible.
Initial Audit: Auditors identified 132,051 claims, totaling $30,695,221, that were paid for pharmacy services provided during periods when members were not eligible. Further, Civil Service paid CVS Health $170,359 in administrative fees for processing these claims. The overpayments stemmed from data transfer issues between the NYBEAS and CVS Health systems and retroactive disenrollments of members.
Follow-Up: Civil Service and CVS Health had made progress addressing the problems identified in the initial audit. While none of the $30,695,221 in improper payments had been recovered, Civil Service and CVS Health were taking actions to address, among other issues, the recovery of these and future improper payments and reconciliation of their eligibility data files.
Recommendation Status: *2 implemented; 3 partially implemented; 1 no longer applicable*

NYSHIP: Payments by UnitedHealthcare for Medical/Surgical Services for Ineligible Members (Follow-Up) (2022-F-30)
Impact: *Fiscal*
Objective: To determine the extent of implementation of the three recommendations from the initial audit (2020-S-34), which assessed whether United paid medical/surgical claims for Empire Plan members who were not eligible for coverage.
Initial Audit: The audit identified $5.7 million in improper payments for medical/surgical services on behalf of about 1,300 members who were not eligible for Empire Plan coverage. Civil Service did not ensure that members' eligibility information was updated promptly in NYBEAS, resulting in claims paid for members who were retroactively disenrolled or who received services before their enrollment date or after their disenrollment date.
Follow-Up: Civil Service and United had made significant progress in addressing the issues identified. United recovered about $500,000 of the $5.7 million in overpaid benefits. In addition, following the audit, Civil Service and United identified another $10.9 million in claims for ineligible members, of which about $4.9 million had been recovered, and implemented quarterly reconciliations of eligibility information between NYBEAS and United's system.
Recommendation Status: *2 implemented; 1 partially implemented*

NYSHIP–UnitedHealthcare Insurance Company of New York: Improper Payments for Acupuncture and Acupuncture-Related Services (Follow-Up) (2023-F-14)
Impact: *Fiscal*
Objective: To determine the extent of implementation of the four recommendations from the initial audit (2020-S-7), which assessed whether United appropriately reimbursed acupuncture and acupuncture-related services.
Initial Audit: The audit identified $7.3 million in actual and potential overpayments for services that were not supported by provider documentation and for services that were already paid on another claim.

Follow-Up: United had made minimal progress in addressing the issues identified, having recovered only $14,281 at the time of the follow-up. Further, United was not able to provide evidence of additional control enhancements designed to prevent duplicate payments.
Recommendation Status: *1 implemented; 2 partially implemented; 1 not implemented*

Office of Information Technology Services
(ITS)

As the State's centralized technology agency, ITS provides statewide IT strategic direction, directs IT policy, and delivers centralized IT products and services that support the mission of the State.

Windows Domain Administration and Management (2022-S-19)
Impact: *Technology, Systems Security*
Objective: To determine whether ITS had security controls in place to ensure appropriate management and monitoring of its Active Directory environment.
Audit Period: January 2021–March 2023
Auditors found that ITS did not have certain security controls in place to ensure appropriate management and monitoring of its Active Directory environment.
Key Recommendation:
- Implement the six recommendations included in the confidential draft report.

Criminal Justice and Judicial Administration

Department of Corrections and Community Supervision
(DOCCS)

DOCCS is responsible for the confinement and rehabilitation of approximately 31,000 individuals under custody held at 44 State facilities and the supervision of over 27,000 parolees throughout seven regional offices statewide.

Controls Over Tablet and Kiosk Usage by Incarcerated Individuals (2022-S-8)
Impact: *Corrections, Technology, Systems Security*
Objective: To determine whether DOCCS was providing sufficient oversight to ensure that the independent network, kiosks, and tablets used by incarcerated individuals are secure, and whether secure messaging accessed by these individuals complied with DOCCS Directives.
Audit Period: February 2019–August 2022
Through DOCCS' contract with Securus (Provider), incarcerated individuals have access to tablets and kiosks for reading, entertainment, education, and secure messaging/communication (tablet program). While DOCCS established Directives governing the tablet program, including the secure use of devices, it exerted little control to ensure that the Directives were being enforced. Thus, there was limited assurance that tablets were being used appropriately and only by the individuals to whom they were assigned; that tablets and kiosks were secure and functioning as intended; and that incoming and outgoing communications with the outside community as well as within and across facilities were appropriately restricted. DOCCS also was not adequately overseeing the security and configuration of certain assets, and did not ensure that systems were being maintained at vendor-supported levels required to preserve the accuracy and integrity of its data.
Key Recommendations:

- Strengthen responsibility and role in the relationship between the Provider and incarcerated individuals.
- Develop, implement, and adhere to an internal process to effectively monitor program participation and tablet inventory at both the facility and statewide levels.
- Implement a process to ensure that incarcerated individuals' correspondence with community members via secure messaging complies with DOCCS Directives.
- Ensure that systems are maintained at vendor-supported levels.
- Implement the remaining technical recommendations detailed in the preliminary report.

Economic Development and Housing

Homes and Community Renewal
(HCR)

HCR is the State's affordable housing agency, with a mission to build, preserve, and protect affordable housing and increase homeownership throughout New York State. HCR is composed of several different offices and agencies, including: the Division of Housing and Community Renewal (DHCR), which oversees Mitchell-Lama developments; the Housing Trust Fund Corporation, through which HCR receives funding from the U.S. Department of Housing and Urban Development (HUD); and Office of Rent Administration (ORA), which administers the State's rent laws and regulations related to both owners and tenants.

Division of Housing and Community Renewal: Physical and Financial Conditions at Selected Mitchell-Lama Developments in New York City (2022-S-9)
Impact: *Housing, Fiscal*
Objectives: To determine whether tenants living in Mitchell-Lama developments supervised by DHCR were being provided safe and clean living conditions and whether funds were being properly accounted for and used for intended purposes.
Audit Period: January 2019–January 2023
For a sample of four developments in New York City (753 Classon Avenue Housing Company, Brooklyn; Cathedral Parkway Towers, Manhattan; and Findlay House and Jamie Towers, Bronx) DHCR did not provide adequate oversight to ensure that management at those developments were providing tenants with safe and clean living conditions and were managing funds efficiently and effectively. Auditors observed hazardous conditions at all four developments and noted that DHCR also identified hazardous conditions during their own visits but often did not share their findings with the developments in a timely manner. Further, many of the unsafe conditions DHCR observed remained uncorrected, sometimes for years. In addition, all four developments misspent funds under DHCR's watch. For a sample of 280 transactions, totaling approximately $1.9 million, from the four developments, 139 transactions, totaling about $1.5 million, were either unrelated to normal operations or inadequately supported or had no documentation of approvals, competitive analysis, and/or bidding, as required.
Key Recommendations:

- Improve monitoring of developments, including, among other things, ensuring that DHCR staff who are responsible for oversight fulfill their reporting and site visit obligations.
- Review expenditures at the sampled developments, and take appropriate action, including recouping funds, for transactions that are inappropriate or unusual.
- Improve monitoring of financial conditions by enforcing compliance with regulations related to the proper use of the developments' funds, competitive analysis and bidding, and DHCR's approval requirements for annual expenditures of $100,000 or more.
- Ensure staff maintain a current and accurate list of the DHCR-supervised developments and communicate reliable data to the Legislature, State Comptroller, and Attorney General.

Housing Trust Fund Corporation: Internal Controls Over and Maximization of Federal Funding for Various Section 8 Housing Programs and the COVID Rent Relief Program (2022-S-28)

Impact: *Fiscal*

Objectives: To determine whether HCR established and maintained adequate internal controls to oversee and monitor the federally funded Section 8 Housing Choice Voucher Program (HCV), the Section 8 Performance-Based Contract Administration Program, and the COVID Rent Relief Program to ensure they meet requirements; and whether HCR was obtaining federal reimbursements on time and in a manner that recovers all eligible costs.

Audit Period: January 2017–March 2022

The audit found that HCR was not fully utilizing its HCV vouchers or budget to help families in need of housing assistance. A significant number of geographic areas had voucher utilization rates below HUD's threshold of 95%. At the same time, HCR had significant reserves available to improve utilization, including reserves available to directly fund housing subsidies as well as administrative reserves that could have been used to increase participation throughout the State. Also, although HCR developed some controls to monitor Local Administrator compliance with inspection standards, several areas could be improved to better address health and safety concerns identified during inspections, which could otherwise potentially result in injury to tenants and in HUD recouping excess reserves or reducing allocations for future award years.

Key Recommendations:

- Fully investigate and identify barriers to optimizing HCV vouchers and funding and, based on the results, develop and implement strategies to increase utilization and prevent potential reduction or loss of federal funds.
- Improve controls over housing quality standards inspections to ensure that deficiencies identified during inspections are remedied within HUD-prescribed time frames and that inspection standards are consistent across Local Administrators.

Housing Trust Fund Corporation: Oversight of the Residential Emergency Services to Offer Home Repairs to the Elderly Program (Follow-Up) (2022-F-18)

Impact: *Aging, Housing*

Objective: To determine the extent of implementation of the six recommendations from the initial audit (2020-S-4), which assessed whether Local Program Administrators (LPAs) were selected appropriately and their selection was properly documented by HCR; and whether selected LPAs were properly administering the Residential Emergency Services to Offer Home Repairs to the Elderly (RESTORE) program in accordance with program goals and requirements.

Initial Audit: The audit found that HCR could improve its process for selecting LPAs and ensuring RESTORE program funds reach elderly residents from more counties and within the prescribed time frames to better support senior homeowners in need of assistance. For example, inaccurate scoring on seven of 30 LPA applications reviewed (23%) resulted in at least three LPAs being inappropriately awarded funds while other LPAs were denied the opportunity for funding. In addition, LPAs were not properly administering the RESTORE program and were not using awarded funds within the required time frames to ensure emergency repairs were addressed promptly. Auditors also found that 49 RESTORE awards

went to just 36 LPAs, serving only 36 of the 62 counties in the State. Furthermore, there were significant delays between when HCR received notice of available funding and when funds were awarded to LPAs, which impacted the start of projects and assistance to seniors.
Follow-Up: HCR had made progress in addressing the issues identified in the initial audit report.
Recommendation Status: *4 implemented; 2 partially implemented*

Collection of Fines Related to Tenant Complaints (Follow-Up) (2023-F-9)
Impact: *Housing*
Objective: To determine the extent of implementation of the six recommendations from the initial audit (2018-S-58), which assessed whether ORA was appropriately accounting for and collecting fines (civil penalties) for non-compliance and harassment cases.
Initial Audit Findings: ORA lacked proper fiscal controls over fines and settlements, providing limited assurance that all monies due to the State were received and accounted for. ORA was also not exercising its full authority to collect outstanding fines in a more timely manner.
Follow-Up: ORA had made progress addressing the issues identified in the initial audit.
Recommendation Status: *3 implemented; 1 partially implemented; 2 not implemented*

Other State Agencies and Public Authorities

Department of Agriculture and Markets
(Ag&Mkts)

Ag&Mkts promotes New York State agriculture and its high-quality and diverse products; fosters agricultural environmental stewardship; and safeguards the State's food supply, land, and livestock to ensure the viability and growth of New York's agriculture industries.

Protection of Managed Pollinators (Honey Bees) (2021-S-40)
Impact: *Agriculture, Economy*
Objective: To determine whether Ag&Mkts was adequately monitoring the health of honey bee pollinators to prevent and mitigate harmful effects to their populations.
Audit Period: January 2017–August 2022
Among other actions to protect the health of the State's population of managed honey bee pollinators, Ag&Mkts conducts inspections of registered apiaries to certify the health of nucleus colonies (nucs) and queens for sale or transport as well as discretionary general inspections to identify the presence of harmful infections, diseases, insects, and parasites. The audit found that Ag&Mkts had established sufficient processes to meet its responsibility to certify honey bee nucs and queens for sale and to meet the needs of beekeepers requiring certificates to ship honey bees out of State, and had procedures for addressing the destructive and highly contagious American foulbrood bacterial disease upon discovery during inspections. While Ag&Mkts also provided outreach and education to beekeepers to inform them of registration requirements and to get apiaries registered, as required by Law, auditors found Ag&Mkts did not have assurance that it had identified the full population of active apiaries in the State, which is essential for thorough monitoring and inspection purposes. Also, Ag&Mkts could strengthen actions to combat disease and parasitic organisms within colonies by including additional tests for certain diseases, and could improve its efforts to ensure honey bees entering the State are healthy and free from disease.
Key Recommendations:
- Improve registration and apiary inspection efforts, such as: increasing efforts to identify and register active apiaries; incorporating testing for additional diseases, insects, and parasites; considering the use of alternative testing methods that will help preserve honey bee populations; and expanding risk assessment criteria for targeting inspection activities.
- Develop additional procedures to ensure honey bee shipments into the State are certified disease- and parasite-free and, if warranted, consider reinspection upon entering the State.

Department of Environmental Conservation
(DEC)

As the State's environmental regulatory agency, DEC's mission is to conserve, improve, and protect New York's natural resources and environment and to prevent, abate, and control water, land, and air pollution.

Monitoring of Air Quality (Facility Permits and Registrations) (2021-S-41)

Impact: *Environment*

Objective: To determine whether DEC was taking necessary action to adequately enforce certain aspects of the State's air contamination and pollution requirements to protect the public and environment from the adverse effects of exposure to pollutants.

Audit Period: January 2020–April 2022 for permit and registration data; January 2020–February 2023 for related activities

The audit identified weaknesses in several aspects of DEC's oversight of the State's Air Pollution Control Permitting Program (Program) that lessen its ability to protect the State's air from harmful pollutants. For example, gaps in policy create a risk that DEC's permitting process is not adequately allowing residents, particularly low-income and minority communities within potential environmental justice (EJ) communities, to obtain information about the harmful effects of pollution emitted in their communities and limiting opportunities to address concerns. In certain circumstances, the State Administrative Procedure Act (SAPA) allows facilities with highest emissions (Title Vs and Air State Facilities) to operate under an extended permit with no end date restriction. While DEC monitors these facilities based on the original permit conditions, for many such facilities, the permits had been extended for lengthy periods — between four and nine years — increasing the risk that they are not operating under requirements that align with the most up-to-date air pollution control standards. DEC also was not always taking action to enforce compliance for facilities operating without a valid permit.

Key Recommendations:

- Improve monitoring and enforcement of EJ requirements.
- Enhance oversight of the general Program compliance, which may include: developing a course of action to address the upcoming influx of expired permits and registrations; reducing the populations of facilities operating under permits or registrations with no expiration date; and addressing long delays in processing S completeness, or accuracy. APA extended permits to reduce the number of facilities operating with outdated permits.
- Focus efforts on monitoring and enforcement of Air Facility Registrations' compliance with Program requirements, such as: performing additional risk-based inspections, improving follow-up on inspection deficiencies to ensure violations are corrected; and issuing additional guidance on eligibility cap-by-rule classification.

Compliance With Executive Order 95 (Open Data) (Follow-Up) (2022-F-20)

Impact: *Open Data, Transparency*

Objective: To determine the extent of implementation of the two recommendations from the initial audit (2020-S-11), which assessed whether DEC was complying with Executive Order 95 (EO 95), including providing, in a timely manner, publishable State data to the Office of Information Technology Services under EO 95 and whether data posted under EO 95 was reliable and easily usable.

Initial Audit Findings: The audit found that DEC had taken steps to meet the requirements of EO 95; however, certain aspects of the order had not been fully addressed. DEC did not identify the total population of State data it maintains, providing limited assurance that it provided a complete catalogue of publishable State data that it maintains or established a

schedule for making the data public. Additionally, seven of 15 data sets reviewed had issues related to formatting, completeness, or accuracy.
Follow-Up: DEC had made progress addressing the issues identified in the initial audit.
Recommendation Status: *2 implemented*

Department of Labor
(DOL)

DOL enforces New York Labor Laws (Laws) and promotes education about the protections they offer to workers, the unemployed, and job seekers. Its mission is to protect workers, assist the unemployed, and connect job seekers to jobs.

Controls and Management of the Unemployment Insurance System (2021-S-3)
Impact: *Employment, Fraud, Systems Security*
Objective: To determine whether DOL took appropriate steps to oversee and manage the Unemployment Insurance (UI) system and to comply with selected portions of the New York State Information Security Policy and Standards.
Audit Period: January 2020–March 2022
Deficiencies in DOL's oversight and management of the UI system compromised its ability to effectively mitigate risks related to the processing of claims — fraudulent claims in particular — and system and data security. DOL did not heed warnings as far back as 2010 that the UI system was out of date and lacked the agility necessary to adjust to new laws and the scalability to handle workload surges. During the pandemic, DOL resorted to stop-gap measures to compensate for system limitations. Its workarounds resulted in misclassification of claims as State instead of federal liabilities, overpayment of claims, and supplemental spending to maintain the outdated UI system infrastructure while the new system was in development. Additionally, DOL was unable to provide support for its management of and response to fraudulent claims on the UI system, including support for $36 billion in fraudulent claims that DOL reported it had prevented, the number of claims that were actually paid to fraudulent claimants before being detected, the length of time from when claims were filed to when they were identified as fraudulent, and how the claims were originally identified as fraudulent. Moreover, DOL had not taken some fundamental, critical steps established in the State's Security Policy and Standards to secure its UI system and data and ensure its substantial information assets are protected against loss or theft.
Key Recommendations:
- Continue the development of the replacement UI system and ensure its timely implementation.
- Take steps, including collecting and analyzing data related to the identity verification process, to ensure the correct balance between fraudulent identity detection and a streamlined process for those in need of UI benefits.
- Follow up on the questionable claims identified in the audit to ensure adjustments have been made so they are paid from the proper funding source and overpayments are recovered, as warranted.

- Ensure the current and new UI system and data comply with provisions of the Security Policy, the Classification, Authentication, Encryption, and Logging Standards, as well as the Change Management Process and Policy.
- Improve the timeliness of cooperation with State oversight inquiries to ensure transparent and accountable agency operations.

Services to Workers Under the Worker Adjustment and Retraining Notification Act (2022-S-11)
Impact: *Employment, Reentry Services*
Objectives: To determine whether DOL was providing appropriate and timely services to workers affected by closings and layoffs covered under the Worker Adjustment and Retraining Notification Act (WARN Act or Act) and was effectively overseeing employer compliance with the Act.
Audit Period: WARN Notices dated January 2019–April 2022, and related activities through January 2023.
The audit found numerous weaknesses in DOL's oversight of the WARN Act that impede its success in meeting the needs of dislocated workers and may undermine public perception of its commitment to its mission. Issues include: weak monitoring of employers' compliance with the advance notice requirements; WARN Notices not being entered into DOL's One-Stop Operating System (OSOS), the system used to record related services to employers and affected employees; and late initial outreach by DOL staff to employers that submitted Notices and to affected employees, and in some cases, no record of any outreach.
Key Recommendations:
- Implement a process to substantiate that employers that file late Notices meet exemption criteria and, where applicable, to verify that they pay affected employees when they cite past or planned payments in Notices.
- Follow up on Notices that were not entered in OSOS, including those identified by the audit, and offer and provide Rapid Response services as appropriate.
- Take steps to improve timely outreach to both employers and employees affected by employment changes covered by the WARN Act.

Department of Motor Vehicles
(DMV)

DMV is responsible for issuing secure identity documents, delivering essential motor vehicle and driver-related services, and administering motor vehicle laws enacted to promote safety and protect consumers.

Assessable Expenses of Administering the Motor Vehicle Financial Security Act and the Motor Vehicle Safety Responsibility Act for the State Fiscal Year Ended March 31, 2022 (2022-M-1)
Impact: *Fiscal*
Objective: To ascertain the total expenses incurred in administering the Motor Vehicle Financial Security Act and the Motor Vehicle Safety Responsibility Act (collectively, Acts).

Audit Period: April 1, 2021–March 31, 2022
Auditors performed certain procedures, which were agreed to by DMV, to ascertain the expenses incurred in administering the Acts for the State Fiscal Year ended March 31, 2022. Expenses to administer the Acts for the State Fiscal Year totaled $22.3 million.
Key Recommendations: None

Department of State

(DOS)

DOS plays a critical role in helping to reinvigorate the State's economy and make its communities more livable. DOS provides a vast array of services, to serve as a vehicle to make communities more resilient and progressive to improve the lives of its residents by helping launch new business across the State.

Implementation of the Security Guard Act (Follow-Up) (2023-F-20)
Impact: *Safety, Security*
Objective: To determine the extent of implementation of the four recommendations from the initial audit (2019-S-42), which assessed whether DOS was adequately monitoring and enforcing the requirements for security guards under the Security Guard Act.
Initial Audit: The audit found that DOS lacked sufficient internal controls to proactively monitor training requirements for security guards classified as police and peace officers, including firearms training. Additionally, DOS lacked specific written policies and procedures for reviewing and processing arrest notifications and notifying the Division of Criminal Justice Services of inactive guards.
Follow-Up: DOS had made significant progress in addressing the problems identified.
Recommendation Status: *3 implemented; 1 partially implemented*

Department of Taxation and Finance

(Tax and Finance)

Tax and Finance is responsible for administering State and local taxes and fees and enforcing the State's tax laws.

Efforts to Collect Delinquent Taxes (Follow-Up) (2022-F-33)
Impact: *Fiscal*
Objective: To determine the extent of implementation of the two recommendations from the initial audit (2019-S-61), which assessed whether Tax and Finance was making adequate efforts, in accordance with its policy, to collect unpaid amounts—including taxes, interest, penalties, and fees—from delinquent individual and business taxpayers.
Initial Audit: For a significant number of the delinquent tax assessments reviewed, auditors were unable to determine that Tax and Finance took adequate collection actions prior to completing or closing cases, namely using applicable search tools to identify taxpayer resources that might be pursued to satisfy the debt. In addition, while Tax and Finance generally followed relevant policies in cases where it abated amounts due, in some cases,

the information used to determine taxpayer qualification for abatement was not consistent with policy.
Follow-Up: Tax and Finance had made significant progress in addressing the issues identified.
Recommendation Status: *2 implemented*

Sales Tax Vendor Registration Practices (Follow-Up) (2023-F-5)
Impact: *Fiscal*
Objective: To determine the extent of implementation of the one recommendation from the initial audit (2020-S-40), which assessed whether Tax and Finance had taken steps to ensure that persons who are required to register as sales tax vendors, including those with no physical presence in the State, had done so.
Initial Audit: The audit found that Tax and Finance could have better ensured that sales tax vendors that are required to register do so. Auditors identified vendors that were denied a Certificate of Authority but continued to operate and likely made taxable sales as well as unregistered vendors that submitted sales tax returns showing taxable sales.
Follow-Up: Tax and Finance had made progress addressing the issues initially identified.
Recommendation Status: *1 implemented*

Division of Homeland Security and Emergency Services
(DHSES)

DHSES works to protect New Yorkers, their property, and the State's economic well-being from natural and human-caused emergencies and disasters by improving readiness and response through planning, training, and programs and partnerships with government, private sector, and other organizations. DHSES also coordinates response and recovery efforts of State agencies during emergencies and disasters in support of local government and its constituents.

Cyber Incident Response Team (Follow-Up) (2023-F-8)
Impact: *Cybersecurity*
Objective: To determine the extent of implementation of the two recommendations from the initial audit (2020-S-58), which assessed whether the Cyber Incident Response Team (CIRT) was achieving its mission of providing cybersecurity support to non-Executive agencies, local governments, and public authorities.
Initial Audit: The audit found that CIRT had developed lines of service to guide its work —cyber incident response services, technical cyber services, and information sharing and outreach—but did not establish specific and measurable objectives or quantifiable goals that could be measured to evaluate its accomplishments.
Follow-Up: DHSES had made progress in addressing the issues identified in the initial audit report, but additional actions were needed.
Recommendation Status: *1 implemented; 1 partially implemented*

New York Power Authority

(NYPA)

NYPA is authorized by the Power Authority Act to help provide a continuous and adequate supply of dependable electricity to the people of the State. It generates, transmits, and sells electricity, principally at wholesale. NYPA's primary customers are municipal and investor-owned utilities, rural electric cooperatives, high-load-factor industries, and other businesses located throughout New York State, various public corporations located in southeastern New York within the metropolitan area of New York City, and certain out-of-state customers. NYPA is also responsible for administering BuildSmart NY, the State's energy efficiency program created to carry out Executive Order 88 (EO 88), pursuing energy efficiency in government buildings while advancing economic growth, environmental protection, and energy security to help facilities satisfy EO 88 requirements.

Selected Management and Operations Practices: BuildSmart NY/Executive Order 88
(2023-S-27)

Impact: *Energy*

Objectives: To determine whether the 20% reduction in energy use required by EO 88 was achieved by April 1, 2020, and whether NYPA provided the required oversight to the Affected State Entities (ASEs) in line with EO 88 Guidelines.

Audit Period: April 2010–June 2021

EO 88 mandated a 20% improvement in the energy efficiency performance of State government buildings by April 2020, setting a goal for certain government buildings (ASEs) to reduce the average Source Energy Use Intensity (EUI) by at least 20% from the baseline of State fiscal year 2010-11. Further, each ASE was required to have American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) Level II audits conducted of its buildings that fell into the bottom quarter of energy efficiency to identify energy savings opportunities. NYPA's EO 88 annual report for 2020 showed that the State fell short of the EO 88 goal, reporting an actual EUI reduction of 14.4%. Further, upon realizing it would not meet the goals of the program, NYPA adjusted the baseline data for some of the ASEs, raising concerns about the reliability of its annual reports. Also, despite being the administrator of EO 88, NYPA did not believe it had the authority to require an ASE to implement the recommendations from the ASHRAE Level II audits that the entities funded.

Key Recommendations:

Although the audited program has concluded, the lessons learned can provide valuable insights for successor programs such as BuildSmart 2025:

- Ensure that reports of results are based on the actual performance of the program, and clearly disclose the status of the projects that have been completed and those that are in other stages of the process.
- Disclose any adjustments to baseline or annual energy usage that impact the results being reported.
- Meet with agencies and document agency responses to the recommendations from the ASHRAE Level II audits they paid for, including the reasons given for any recommendations the entity decides not to implement.

Office of Parks, Recreation and Historic Preservation
(OPRHP)

The State's park system comprises over 250 State parks, including 37 historic sites, encompassing nearly 350,000 acres across 11 regions. OPRHP is responsible for managing a vast array of public amenities, including 5,000 buildings (e.g., pavilions/shelters, restrooms), 28 golf courses, 24 swimming pools and spray grounds, 57 beaches, 21 marinas, 75 boat launch sites, 25 nature centers, and more than 2,000 miles of trails. OPRHP's central administrative office oversees the regional offices as well as the State Historic Preservation Office — a branch of Parks involved in helping communities identify, evaluate, preserve, and revitalize their historic, archaeological, and cultural resources. As part of its mission, OPRHP works to provide universal access to safe and enjoyable recreational and informational opportunities for all New York State residents and visitors.

Accessibility for People With Disabilities (2022-S-3)
Impact: *Parks, Disability, Access, Tourism*
Objective: To determine whether OPRHP took adequate steps to ensure State parks and historic sites are accessible and can accommodate persons with disabilities, including meeting State and federal requirements.
Audit Period: January 2018–October 2022
The Americans with Disabilities Act (ADA) prohibits discrimination on the basis of disability by state and local governments, including access to programs, activities, and services. Among other findings, the audit determined that OPRHP did not actively incorporate accessibility into its processes for maintaining and operating its parks. Despite having developed a plan to make structural changes to achieve accessibility, OPRHP did not include a timetable for executing improvements and took little action to implement recommendations for accessibility improvements. Auditors examined 1,446 amenities at the 40 park facilities and found the amenities were ADA compliant. However, they identified 892 areas (62%) where accessibility could potentially be improved should OPRHP seek to exceed the ADA's minimum requirements. Auditors also found that information on accessibility — used to inform visitors about accessibility in each of the parks — is not always accurate.
Key Recommendations:

- Develop processes to actively incorporate accessibility into the operation and maintenance of parks, which may include but not be limited to: communicating and training park staff on ADA requirements; monitoring new construction and alteration projects to ensure compliance with the Standards; developing procedures for recording and addressing accessibility complaints; and assessing potential barriers to accessibility and, to the extent feasible, addressing the newly identified potential improvement areas as well as the barriers identified in the Plan.
- Improve the accuracy of publicly reported information on accessibility — communicated both online and through signage at parks.

State Board of Elections

(BOE)

The BOE is responsible for administering and enforcing election laws in the State. To fulfill these responsibilities, the BOE supports 57 County Boards of Elections and the New York City Board of Elections (County Boards).

Use of Federal Funding for Election Technology and Security (Follow-Up) (2022-F-35)
Impact: *Elections, Technology*
Objective: To determine the extent of implementation of the one recommendation from the initial audit (2020-S-18), which assessed whether the BOE utilized available funding from the Help America Vote Act of 2002 (HAVA) Election Security Grant to enhance the security of the State's election technology and infrastructure.
Initial Audit: The audit found the BOE utilized HAVA funding appropriately. However, of the 57 County Boards, only seven had submitted claims for reimbursement of costs to implement the needed security measures.
Follow-Up: BOE made significant progress addressing the issues identified.
Recommendation Status: *1 implemented*

Multi-Agency

Department of Health/Division of Homeland Security and Emergency Services

Oversight of Water Supply Emergency Plans (2021-S-39)
Impact: *Disaster Preparedness, Water Systems, Systems Security*
Objectives: To determine if DOH was providing sufficient guidance and oversight to ensure that water system operators have completed and submitted updated emergency response plans in a timely manner, including vulnerability assessments, to DOH as required; and whether DOH and DHSES were effectively collaborating to share relevant information regarding the vulnerability assessments and to ensure that any recommended follow-up actions occur.
Audit Period: January 2017–January 2023 for DOH; April 2019–November 2022 for DHSES
Nearly 95% of all New Yorkers receive water from public water supply systems in New York State. In recent years, water systems have become increasingly vulnerable to attack, including contamination with deadly agents, physical attacks with toxic chemicals, and cyberattacks, with the potential for causing large numbers of illnesses or casualties as well as denial of service. Pursuant to Public Health Law, community water systems that supply drinking water to more than 3,300 people (Water Systems) must prepare and submit a Water Supply Emergency Plan (Plan), including both an Emergency Response Plan (ERP) and a Vulnerability Assessment (VA), as well as a Cybersecurity Vulnerability Assessment (CVA), to DOH for review at least once every five years. As of December 2022, 317 Water Systems were required to submit a Plan.
The audit found that the Plans for most of the 317 Water Systems were current and available at DOH. However, for some Water Systems, it had been more than 10 years since the last ERP or VA submission, and some had never submitted a CVA. Further, DOH did little to follow up when Water Systems were late in submitting or didn't submit the requested Plan revisions. There was limited participation by Local Health Department (LHD) staff in the calls and site visits where DHSES communicated recommendations to Water Systems and little collaboration between DOH and DHSES to follow up on risks identified by DHSES and the related recommendations communicated to Water Systems.
Key Recommendations:
To DOH:
- Develop and implement a method to monitor the timeliness of Water Systems' Plan submissions and to follow up on revisions requested by DOH and/or LHD staff.
- Develop and communicate guidance regarding LHD participation at site visits and calls with Water Systems that incorporates consideration of the nature and extent of the risks identified.

To DOH and DHSES:
- Establish a method to strengthen the follow-up on recommendations that DHSES communicates to Water Systems.

Department of Agriculture and Markets/Department of Health

Oversight of the Nourish New York Program (2022-S-33)
Impact: *Food Insecurity, Agriculture*
Objective: To determine if Ag&Mkts and DOH were ensuring that the Nourish New York Program (Nourish NY) was providing adequate access for farmers and connecting citizens across the State to surplus agricultural products.
Audit Period: Nourish NY spending from May 2020–March 2022 and Ag&Mkts and DOH related actions through May 2023
Nourish NY was developed in 2020 in response to disrupted food supply chains during the pandemic, with the goal of expanding the State's food supply network and markets for New York farm products while also providing greater access to local, nourishing food options in food-insecure areas. Nourish NY became permanent in 2021.
The audit found that Ag&Mkts and DOH needed to strengthen controls to ensure only eligible products and expenses are funded by Nourish NY and that vendor participation is maximized to the fullest extent possible. Ag&Mkts' and DOH's processes and documentation provided by food relief organizations made it difficult to determine whether expenses were eligible for Nourish NY funding and whether products purchased with Nourish NY funds were eligible New York food products. Further, DOH provided little guidance to food relief organizations establishing what constitutes an allowable administrative cost, and conducted minimal review to determine if administrative expenses claimed were allowable. Auditors identified 571 purchases from 42 vendors, totaling $7,160,507, that were required to have accompanying documentation to support the source of the food purchased. However, neither the regional food banks and their sub-awardees nor Ag&Mkts could provide the documentation for 165 (29%) of the purchases from 20 vendors, totaling $970,667. As a result, there is a risk that funding from Nourish NY may not be going toward the purchase of eligible agricultural products to the benefit of the State's vendors and support of its overall agribusiness needs.
Key Recommendations:
To Ag&Mkts:

- Develop processes and procedures to improve data collection and reliability for information maintained on vendor participation and use the data to build the program's effectiveness and promote enhanced participation.

To DOH:

- Communicate guidance to food relief organizations on eligibility requirements for purchases made under Nourish NY.

To Ag&Mkts and DOH:

- Improve monitoring of Nourish NY, which may include but not be limited to enhancing documentation requirements, and review processes to ensure purchases are from eligible sources.
- Collaborate to develop and document criteria for Nourish NY purchases that most effectively balance the needs of its various stakeholders and communicate the criteria to food relief organizations and vendors.

Special Reports

Education

State Fiscal Year 2021–2022 Report on Preschool Special Education

SED oversees special education programs that provide services to students with disabilities between the ages of 3 and 21 in New York State. While most school-age students with disabilities in New York receive their educational services from public school districts, preschool special education services are predominantly provided by private providers. SED reports that, for the 2018–19 school year, about 81,000 preschool students with disabilities received services throughout the State from 351 approved providers at an annual cost of approximately $1.45 billion to the State and its local governments.

In State fiscal year (SFY) 2021–22 (April 1, 2021–March 31, 2022), OSC completed 10 audits of preschool special education providers' expenses submitted to SED. These audits have, collectively, identified $3.8 million in recommended disallowances, or more than 4% of the total claimed expenses of $92.8 million for the audit period.

Over the course of this initiative, OSC's audits identified widespread mismanagement and blatant misuse of public funds intended for the education of children with disabilities. OSC's audits of these special education providers also identified instances of outright fraud. Results of the years-long initiative continue to indicate steady improvement in these areas, but findings in certain categories continue to be of concern, particularly errors related to the allocation and/or inappropriate claiming of personal service and other than personal service expenses. The audits completed in SFY 2021–22 indicate ongoing inaccuracies in cost reporting by special education providers. Although the dollar amount of disallowed expenses decreased from $4.4 million for 10 audits completed in 2020 to $3.8 million in SFY 2021–22 for the same number of audits, the share of disallowed costs as a percentage of total dollars claimed is somewhat higher at 4.05% in SFY 2021–22 compared to 3.18% in 2020.

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