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OFFICE OF THE STATE COMPTROLLER

June 16, 2016

Mr. Samuel D. Roberts  
Commissioner  
Office of Temporary and Disability Assistance  
40 North Pearl Street  
Albany, NY 12243

Mr. Steven Banks  
Commissioner  
Human Resources Administration  
4 World Trade Center  
150 Greenwich Street, 38<sup>th</sup> floor  
New York, NY 10007

Re: Benefit Eligibility Assessment Process  
Report 2015-F-28

Dear Mr. Roberts and Mr. Banks:

Pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article III, Section 33 of the General Municipal Law, we have followed up on the actions taken by the New York State Office of Temporary and Disability Assistance (OTDA) and the New York City Human Resources Administration (HRA) to implement the recommendations contained in our audit report, *Benefit Eligibility Assessment Process* (Report 2012-S-51).

**Background, Scope, and Objective**

OTDA oversees the State's public assistance benefit programs (i.e., temporary cash assistance, health insurance, and emergency food programs) administered by the counties and local governments. In New York City, HRA is the local government entity responsible for administering these programs. As such, HRA is responsible for determining new applicant and existing recipient (client) eligibility for benefits. HRA makes its eligibility determinations after interviewing clients and reviewing the paperwork the clients are required to submit based on the specific benefits they are seeking. Examples of required paperwork include proof of identity and residency, the names of household members and their associated incomes, and proof of employment.

When HRA makes a determination to deny, reduce, or terminate a client's benefits, the client is provided with a "Notice of Intent" (NOI) from OTDA. The NOI advises the client of the reason for the denial, reduction, or termination; the effective date of the decision; the client's right to appeal the determination at a Fair Hearing; and the process and time lines that need to be followed to do so. At a Fair Hearing, the client and HRA representatives appear before an Administrative Law Judge from OTDA's Office of Administrative Hearings (OAH). After the hearing, OTDA issues a written decision stating whether HRA's decision was correct or incorrect. OTDA assigns an outcome code to the outcome of each Fair Hearing which is intended to describe how the case was resolved.

During the fiscal year ended June 30, 2015, OTDA received 300,160 requests for Fair Hearings statewide, including 66,703 requests regarding denials, reductions, and discontinuances relating to Cash Assistance (i.e., Family Assistance and Safety Net Assistance), the focus of our prior audit. The total number of Fair Hearings actually held during this period was 111,621, including 54,778 relating to our issues of concern. Approximately 57,810 or 86.67 percent of the above-noted 66,703 requests originated from New York City-based clients; 51,324 or approximately 93.69 percent of the 54,778 hearings held originated from New York City-based clients.

Our initial audit report was issued on May 28, 2014. For the period July 1, 2011 through September 30, 2013, the audit examined whether HRA's public assistance benefit eligibility assessment process was in compliance with applicable policies and procedures, and whether OTDA's Fair Hearing process was used only as necessary. We found that HRA applied a fair and consistent assessment process when determining client eligibility, and its process was in compliance with governing policies and procedures.

However, we also determined that procedural changes were necessary to reduce the number of overturned HRA determinations and costly, and in some cases unnecessary, OTDA Fair Hearings. These hearings were unnecessary because the case had either already been resolved to the client's satisfaction, or HRA could not proceed due to missing case file support or erroneously prepared documents. We also found that OTDA's closed-case coding system did not always adequately describe the case resolution.

The objective of our follow-up was to assess the extent of implementation, as of May 5, 2016, of the three recommendations included in our previous report.

### **Summary Conclusions and Status of Audit Recommendations**

We found OTDA and HRA officials made significant progress in addressing the issues identified in our prior report. Of the three prior audit recommendations, two were implemented and one was partially implemented.

## **Follow-Up Observations**

### **Recommendation 1**

#### **To HRA and OTDA:**

*Work together to expand the Pre-Hearing Disposition process, or similar interventional follow-up to the initial interview, to reduce the number and cost of Fair Hearings conducted.*

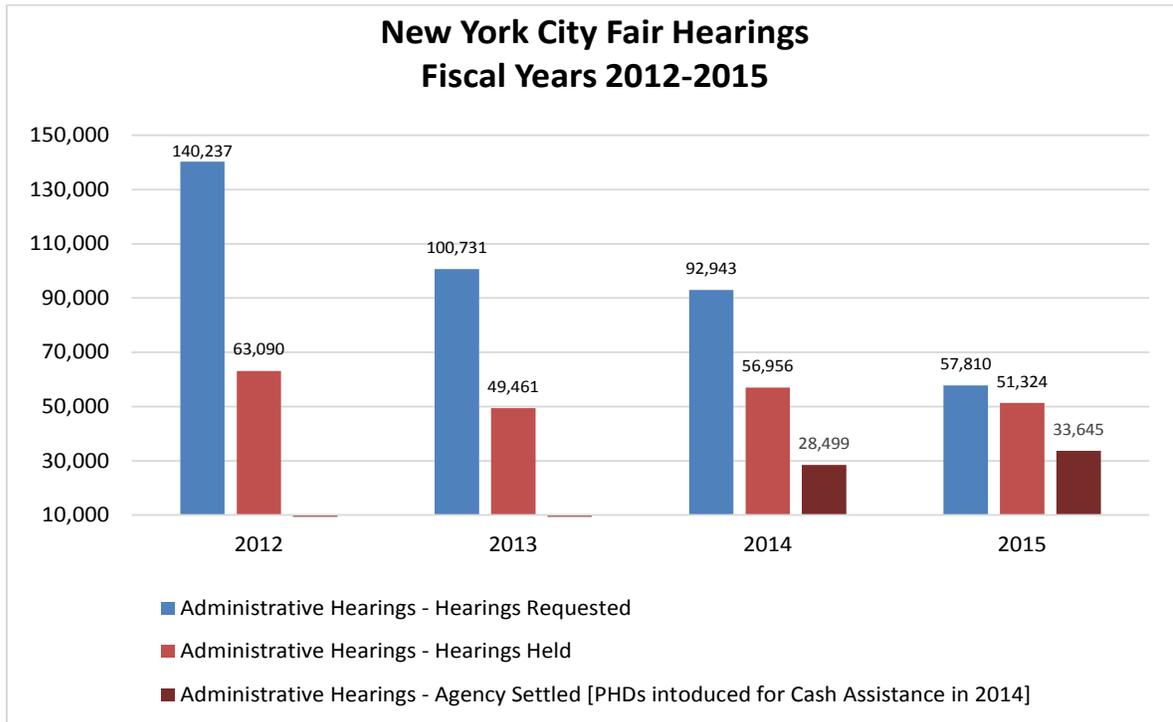
Status – Implemented

Agency Action – OTDA and HRA have worked together to reduce the number of Fair Hearings held by instituting and expanding the Pre-Hearing Disposition (PHD) process as well as by instituting various additional intervention processes/procedures. The Pre-Hearing Disposition process is a case review and resolution process of unscheduled Fair Hearing requests to determine whether the case should be resolved or subsequently defended by HRA at a Fair Hearing. It is intended to bring an early resolution for clients whose benefits have been denied, reduced, or discontinued, thereby avoiding unnecessary hearing costs. The PHD process for Cash Assistance was introduced in 2014.

According to OTDA's annual statistical reports on operations, the total number of Fair Hearings requested and held have been reduced for New York City-based clients. Between fiscal years 2014 and 2015, the number of hearings requested decreased from 92,943 to 57,810, and the number of hearings held dropped from 56,956 to 51,324. Further, the number of PHDs held significantly increased, from none in 2013 to 28,499 in fiscal year 2014 and 33,645 in fiscal year 2015.

The following graph depicts the downward trend in the numbers of Fair Hearings requested and held, as well as the increase in the use of PHDs.

**Graph 1**



To help further reduce the number of hearings requested and held, in October 2014, HRA created the Pre-NOI Review Unit to resolve employment related sanctions before the NOI is sent to the client. The main purpose of this unit is to identify and resolve HRA errors, thereby eliminating incorrect NOIs, and thus reducing both the numbers of Fair Hearings requested and held. According to HRA, of the 62,798 cases reviewed by the Pre-NOI Review Unit since inception, 43,623 or 69.47 percent had “good cause granted” (i.e., the initial issue was settled, and an NOI was not generated). While the Pre-NOI Review Unit is still in its pilot stage, HRA plans to make it a permanent unit.

HRA has also established units/procedures to deal with disputes when hearings have been requested and scheduled. In July 2014, HRA established the Centralized Packet Preparation and Processing Unit (CPPPU) as a pilot program, where 22 staff members prepared and reviewed hearing evidence packets for scheduled hearings, with the goal of resolving cases prior to the actual hearing. HRA subsequently replaced this unit in January 2015 with its Centralized Packet Review Unit (CPRU). By August 2015, HRA increased CPRU staffing to 83 members, who review hearing requests received from OAH when the Fair Hearing is initially requested (but prior to scheduling), to determine whether the case should be resolved prior to a hearing or defended at a hearing.

Toward this goal, CPRU staff prepares and reviews evidence packets from documents pulled from HRA’s Fair Hearing Evidence Management System (FHEMS) to assess the adequacy of available documentation necessary to resolve or defend the case. The evidence packets

include Pre-Hearing Notes documenting the reviewer's reasons for defending or resolving each issue, as well as all relevant case exhibits necessary to appropriately represent HRA. A Centralized Resolution Unit (CRU) was also developed to process the increased number of resolutions and to support the expansion of the CPRU.

While the cost of administering the Fair Hearing process (from the issuance of the NOI to holding hearings) has not decreased, the number of hearings held has decreased, and HRA's efforts to improve this process have been successful. Further, OTDA officials stated that OTDA's related costs for this process were \$35 million during the 2014-15 fiscal year, in line with the costs incurred during our prior audit. In addition, OTDA employed 88 Administrative Law Judges and 63 support staff at the time of our follow-up review, as compared with 81 and 60, respectively, during the prior audit. The increased staffing was intended to address the Fair Hearing backlog.

### **Recommendation 2**

#### **To HRA:**

*Take action to better protect case files and reduce the number of document errors.*

Status – Implemented

Agency Action – HRA has instituted various steps to protect case files and reduce the number of document errors. As stated above, the newly created CPRU reviews cases when a Fair Hearing is requested, to resolve the issue before the Fair Hearing is actually scheduled. HRA staff reviews and assesses case files to ensure that necessary documentation is accurate, complete, and available. If evidence is insufficient and/or unavailable, the CPRU contacts the client either by telephone or an outreach letter, informing the client that HRA would like to resolve the issue(s) before the Fair Hearing, providing contact information, and documenting the outreach results. If the client cannot be reached, or the information is unobtainable and the case cannot be resolved, the CPRU reviews and assesses the documentation to ensure that the evidence packet is correct and sufficient for the hearing. During the packet preparation, if it is determined that HRA cannot defend the issue, resolution is initiated. In contrast, an issue is defended if there is sufficient evidence and relevant documentation is accurate, complete, and available. All notes and resolution decisions are documented in the evidence packet.

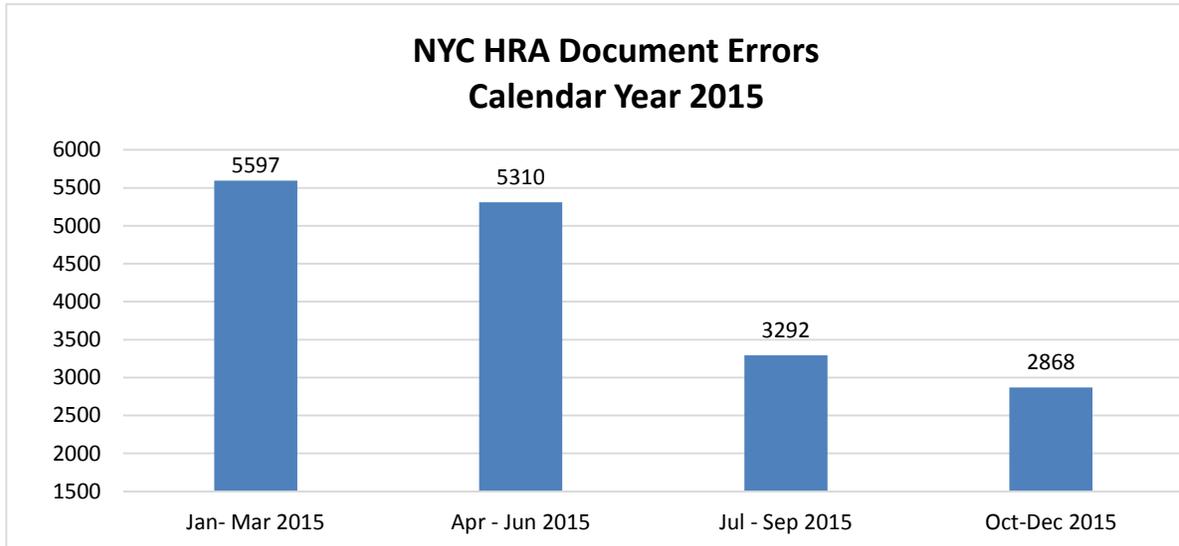
The evidence packet is electronically created in FHEMS. FHEMS was designed as a web-based system to create and store automated uniform evidence packets by uploading documents from various HRA repositories and applications. Since October 2014, the packet process begins when a request for a hearing is made, but before the hearing is scheduled. Further, the process identifies cases that should be resolved and not proceed to a hearing. FHEMS is updated daily with all Fair Hearing requests. According to HRA, the goal of the new system is to automatically pull more documents into FHEMS instead

of having HRA staff continue to do this manually, thereby producing more complete evidence packets. Currently, staff members print the evidence packets and deliver them to the Fair Hearings site in Brooklyn or ship them to Albany when necessary. HRA's goal is the eventual electronic transfer of all evidence packets, eliminating their printing and shipment, and related costs.

As previously noted, OTDA uses a variety of codes to describe Fair Hearing outcomes, several of which are related to document errors. For example, code 03 indicates "Reverse: Agency hearing presentation [was] deficient (insufficient documents, testimony etc., but all or part of the case record was present)," and code 05 is used for cases where the outcome was "Reverse: Agency failed to produce appellant's case record."

The following graph summarizes the number of OTDA's reported HRA-related Fair Hearing case resolutions for 2015 (by quarter) related to documentation errors.

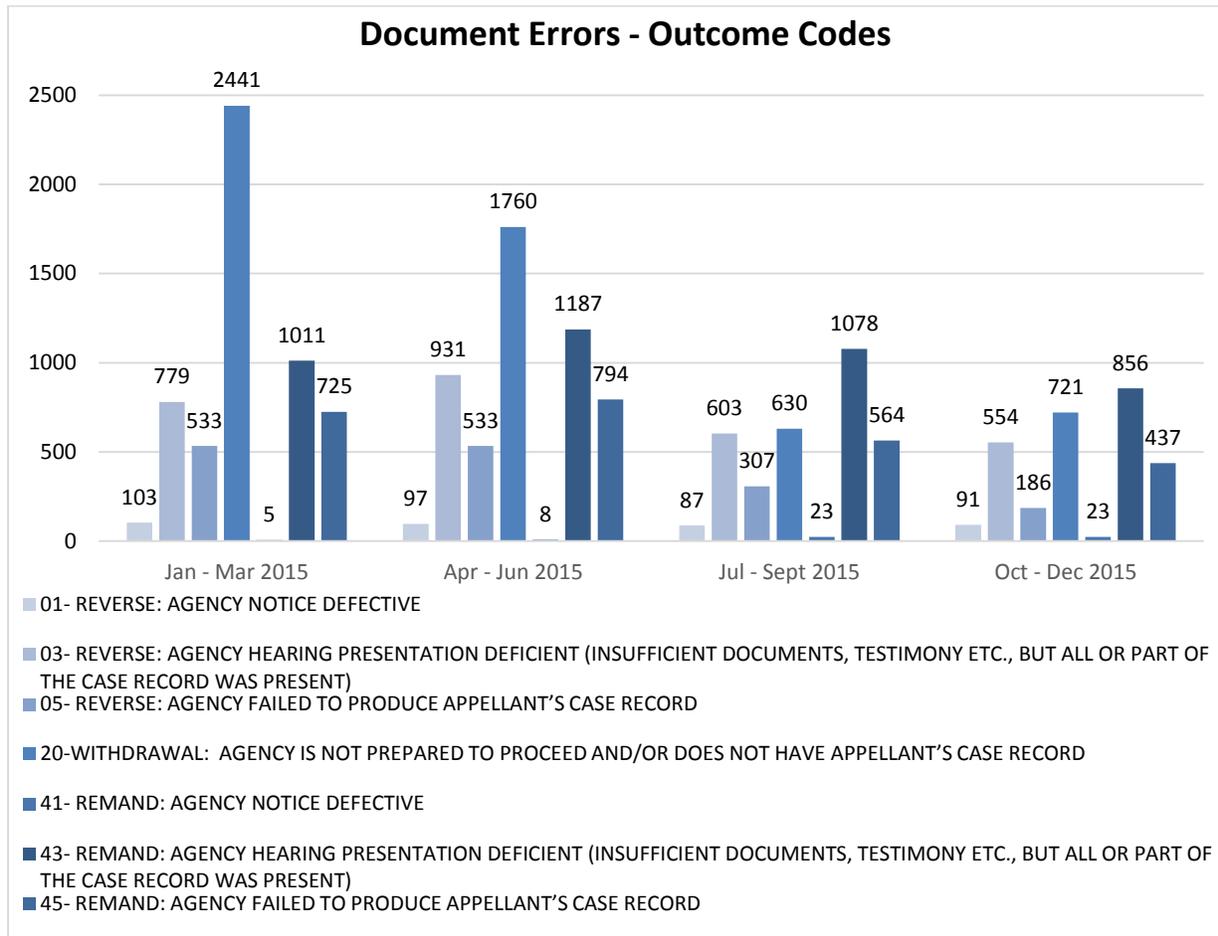
**Graph 2**



As the table illustrates, the number of reported errors decreased by nearly 49 percent, from 5,597 in the first quarter of 2015 to 2,868 in the final quarter of the year.

Further, the following graph provides additional detail of the decreases, by specific error type, of the numbers of errors made by HRA during the Fair Hearing process. Each bar represents a specific outcome code as detailed and defined in the graph.

**Graph 3**



As Graph 3 illustrates, there were material reductions in the number of errors for most error classifications.

**Recommendation 3**

**To OTDA:**

*Take steps to more accurately assign case resolution codes to closed cases.*

Status – Partially Implemented

Agency Action – Effective August 11, 2014, OTDA instituted changes in the Fair Hearing outcome withdrawal codes to simplify and clarify the codes previously used. A transmittal with the new codes was sent to all local departments of social services, including HRA, as well as to OAH staff, and all Administrative Law Judges. Several codes were eliminated, resulting in the total number of withdrawal codes decreasing from seven to three. The three withdrawal codes to be used now are: code 20 [Agency is not prepared to proceed and/

or does not have Appellant's case record]; code 22 [Appellant submitted information/ verification/documentation following Agency determination but before or at fair hearing, accepted by Agency]; and code 26 [Agency reevaluated position prior to hearing]. Withdrawal codes 21, 23, 24, 25, and 29 were eliminated. According to OTDA, the current withdrawal resolution codes encompass all the scenarios for which a Fair Hearing could be withdrawn, and thus, more accurately describe the actions taken at the hearings.

The elimination of several withdrawal codes can help improve the accuracy of the assigned resolution codes. Nonetheless, further refinement is needed to better assure consistent application of the codes. For example, new resolution code 22 does not distinguish between events that may have happened before or at a Fair Hearing. In addition, non-withdrawal codes with ambiguous descriptions still remain, such as code 50 [Correct When Taken] and code 35 [Issue is Moot], which could lead to inconsistent code applications and reduce the accuracy and management value of resolution code statistics.

Major contributors to this report were Marc S. Geller, Marsha Paretzky, Kenneth Coleman, and Sophia Lin.

We thank the management and staff of the Office of Temporary and Disability Assistance and the Human Resources Administration for the courtesies and cooperation extended to our auditors during this review.

Very truly yours,

Michael Solomon  
Audit Manager

cc: Valerie Boyd, OTDA  
Kathleen Murphy, OTDA  
Hope Henderson, HRA  
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