

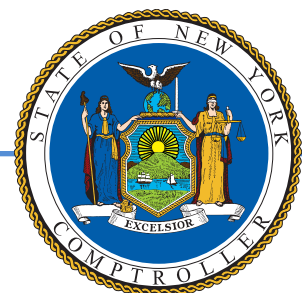
Office of Addiction Services and Supports

Oversight of Chemical Dependence Residential Services

Report 2020-S-49 | December 2021

OFFICE OF THE NEW YORK STATE COMPTROLLER
Thomas P. DiNapoli, State Comptroller

Division of State Government Accountability



Audit Highlights

Objective

To determine whether the Office of Addiction Services and Supports (OASAS) properly monitored residential services to ensure conditions are safe and secure for patients. The audit covered the period from April 2017 through February 2021, and also included the most recent recertification review performed at each program, some of which were prior to April 2017. In addition, we included publicly available COVID-19–related information through June 2021.

About the Program

OASAS provides services for over 680,000 individuals annually through its approximately 1,700 prevention, treatment, and recovery programs. OASAS' mission is to improve the lives of New Yorkers by leading a comprehensive system of addiction services for prevention, treatment, and recovery. OASAS oversees Chemical Dependence Residential Services delivered by certified providers, including Community Residential (CR) and Supportive Living (SL) services. A CR program provides supervised services to people who are transitioning into abstinent living. An SL program is designed to promote independent living in a supervised setting. As of December 22, 2020, there were 64 CR and 32 SL programs (Programs) in New York State.

OASAS is responsible for certifying residential services and issuing operating certificates, pursuant to requirements established in State law and New York Codes, Rules and Regulations (Regulations). A Program's eligibility for certification is contingent on the results of an OASAS inspection of the Program's compliance with all applicable laws, rules, and regulations. Depending on their compliance rating, Programs may be certified to operate for a 6-month or 1-, 2-, or 3-year period before their next recertification review is due. OASAS suspended all on-site recertification reviews due to the COVID-19 disaster emergency.

For Programs whose certification is due for renewal, OASAS is required to conduct recertification reviews before the expiration date of the current certification. Recertification reviews are unannounced and include an on-site inspection of facility conditions and safety, review of patient records, examination of staffing patterns and staff qualifications, and assessment of compliance with reporting requirements. OASAS has developed procedures for completing recertification reviews, including a tool used by regional office staff that encompasses all the requirements of the review and the steps that must be performed during the review. Where OASAS identifies any regulatory deficiencies, the Program is required to take all actions necessary to correct them and submit a corrective action plan of the specific actions planned or taken to bring the Program into compliance.

In addition to recertification reviews, OASAS performs interim or focused reviews to determine whether Program residences are operating in a manner that is safe and suitable for residents and whether several key policies, procedures, and methods are up to date, fully implemented, and being adhered to.

Key Findings

OASAS is not adequately monitoring the Programs, as prescribed in the Regulations. OASAS is not meeting the recertification review requirements, and many Programs' operating certificates are past their end date. In addition, OASAS is not always conducting appropriate follow-up of Programs to verify that all deficiencies have been addressed – including obtaining documentation from Programs supporting that corrective action has been taken. This lack of oversight and action poses an increased

risk to the safety and security of the conditions of Programs and the vulnerable populations served. Specifically, we found that:

- Of the 76 Programs due for recertification during our audit period, all 76 had a recertification review that was past due. Of these 76 Programs, 49 (64%) were more than a year past due for a recertification review prior to the COVID-19 disaster emergency. Therefore, in addition to already being overdue for recertification, these 76 residential Programs operated without a recertification review for at least an additional 15 months during the disaster emergency period.
- For a judgmental sample of 25 Programs, we determined 10 (40%) did not receive any type of documented on-site visit during the recertification period. For this same judgmental sample of 25 Programs, OASAS had identified a total of 243 regulatory deficiencies at the last recertification review. We determined that, for 98 (40%) of the deficiencies, the Programs did not provide adequate documentation of specific actions planned or taken to achieve compliance, nor did OASAS follow up with the Programs to obtain documentation or verify that actions had been taken.

Key Recommendations

- Perform recertification reviews for all Programs that are overdue.
- Implement an effective monitoring system to ensure that all recertification reviews are performed timely.
- Implement procedures to ensure that OASAS staff conduct appropriate follow-up of Programs with deficiencies identified during recertification reviews.



Office of the New York State Comptroller Division of State Government Accountability

December 3, 2021

Chinazo Cunningham, M.D.
Acting Commissioner
Office of Addiction Services and Supports
1450 Western Avenue
Albany, NY 12203-3526

Dear Dr. Cunningham:

The Office of the State Comptroller is committed to helping State agencies, public authorities, and local government agencies manage their resources efficiently and effectively. By so doing, it provides accountability for the tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of State agencies, public authorities, and local government agencies, as well as their compliance with relevant statutes and their observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations. Audits can also identify strategies for reducing costs and strengthening controls that are intended to safeguard assets.

Following is a report of our audit entitled *Oversight of Chemical Dependence Residential Services*. This audit was performed pursuant to the State Comptroller's authority under Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law.

This audit's results and recommendations are resources for you to use in effectively managing your operations and in meeting the expectations of taxpayers. If you have any questions about this report, please feel free to contact us.

Respectfully submitted,

Division of State Government Accountability

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Glossary of Terms

Term	Description	Identifier
CAP	Corrective action plan	<i>Key Term</i>
CR services	Community Residential services	<i>Key Term</i>
OASAS	Office of Addiction Services and Supports	<i>Auditee</i>
Part 819 program	Refers to New York Codes, Rules and Regulations Title 14, Part 819 – Chemical Dependence Residential Services	<i>Key Term</i>
Part 820 program	Refers to New York Codes, Rules and Regulations Title 14, Part 820 – Residential Services	<i>Key Term</i>
Programs	Community Residential and Supportive Living programs	<i>Key Term</i>
Regulations	New York Codes, Rules and Regulations	<i>Regulation</i>
SL services	Supportive Living services	<i>Key Term</i>

Background

The Office of Addiction Services and Supports (OASAS) oversees one of the largest substance use disorder systems of care in the nation. Its approximately 1,700 prevention, treatment, and recovery programs provide services for over 680,000 New Yorkers each year, including inpatient and residential services for about 8,000. OASAS' mission is to improve the lives of New Yorkers by leading a comprehensive system of addiction services for prevention, treatment, and recovery.

OASAS' regulations – Title 14 of the New York Codes, Rules and Regulations (Regulations) – govern Chemical Dependence Residential Services (Part 819) delivered by certified providers. Part 819 programs can include three levels of residential services: intensive residential rehabilitation, community residential (CR), and supportive living (SL) services—the latter two are the focus of this audit. CR programs provide supervised services to individuals who are transitioning into abstinent living, specifically those who have completed or are completing a course of treatment but are not yet ready to return to an independent living environment and who may require ongoing clinical support. SL programs are designed to promote independent living in a supervised setting, intended for those who have completed treatment and are transitioning to independent living but do not require on-site staff on a 24-hour basis. As of December 22, 2020, there were 64 CR and 32 SL programs (Programs) in New York State.

In 2015, OASAS adopted regulations implementing a residential redesign that added residential programs, now known as Residential Services (Regulations Title 14, Part 820). The redesign was intended to increase flexibility for Programs to provide needed services within residential settings based on the needs of the individual. Part 820 includes three elements that the programs would be approved to provide either separately or in combination: stabilization, rehabilitation, and/or reintegration. The redesign was implemented with the expectation that Part 819 providers would convert their Programs to Part 820.

OASAS certifies residential services and issues operating certificates to providers that run Part 819 and Part 820 programs. Pursuant to the Regulations, before issuing an operating certificate, OASAS is required to inspect the Program for compliance with all applicable laws, rules, and regulations. In the case of recertification, OASAS must perform an inspection (or recertification review) and a fiscal viability review before the Program's current operating certificate expires. According to the Regulations, operating certificates may be issued for a 3-month, 6-month, 1-year, 2-year, or 3-year term, depending on the compliance rating achieved on the recertification review or fiscal viability review.

OASAS' Program recertification reviews are conducted on an unannounced basis and include on-site inspection of facility conditions and safety, review of patient records, examination of staffing patterns and staff qualifications, and assessment of compliance with reporting requirements. OASAS suspended the on-site recertification reviews for the COVID-19 disaster emergency. The fiscal viability reviews include an assessment of the financial information of the Program and the fiscal capability to effectively support services.

Each Program receives a rating based on the lowest overall or quality indicator compliance score (as described in the chart below) in Case Record, Service Management, Facility Requirements, and General Safety categories, as determined by the Program review or the fiscal viability ratio determined by OASAS' Audit Services and Internal Audit Unit. The compliance rating correlates with a certificate renewal period, as shown in the following table, and is the basis for determining when a Program is due for its next recertification review.

Substantial compliance	3-year renewal
Partial compliance	2-year renewal
Minimal compliance	1-year renewal (conditional)
Non-compliant	6-month renewal (conditional)

Note: Although the Regulations allow a 3-month renewal term, OASAS does not use this option.

The on-site portion of the recertification review includes an assessment of the Program's reporting of any corrective action taken after the review, potentially including an unannounced interim regulatory compliance review to ensure attention to and correction of previously cited deficiencies. Upon completion of a recertification/interim regulatory compliance review, OASAS submits a written report to the Program describing the results of the review and identifying any regulatory deficiencies. The Program is required to take all actions necessary to correct all deficiencies reported and submit a corrective action plan (CAP) of the specific actions planned or taken to bring the Program into compliance.

OASAS has developed procedures for completing recertification reviews, including a tool used by regional office staff that encompasses all the requirements of the review and the steps that must be performed. In addition to recertification reviews, OASAS performs interim or focused reviews to determine whether Programs are operating in a manner that is safe and suitable for residents and whether key policies, procedures, and methods are up to date, fully implemented, and being followed. OASAS also conducts regional office reviews to assess resident care. Unlike recertification reviews, OASAS does not have a prescribed time frame for conducting interim, focused, or regional office reviews; rather, they are performed as needed.

Audit Findings and Recommendations

Given the vulnerability of the client population that relies on Programs for needed services, firm oversight of Programs by OASAS is imperative to ensure that they are operating in compliance with all applicable laws, rules, and regulations and that conditions are safe and secure for patients. However, we determined OASAS is not adequately monitoring Programs as prescribed in the Regulations. Specifically, OASAS is not meeting the recertification review requirements, and many Programs' operating certificates are past their end date. In addition, OASAS is not always conducting appropriate follow-up of Programs to verify that all deficiencies have been addressed – including obtaining documentation from Programs supporting that corrective action has been taken.

- Among the 76 Programs that were due for recertification during our audit period, recertification reviews were past due for all 76, including 49 (64%) that were more than a year overdue for a recertification review prior to the COVID-19 disaster emergency. Therefore, in addition to already being overdue for recertification, these 76 residential Programs operated without a recertification review for at least an additional 15 months during the disaster emergency period.
- Furthermore, of a judgmental sample of 25 Programs, 10 (40%) did not receive any type of documented on-site visit during the recertification period.
- From the same sample of 25 Programs, OASAS had identified a total of 243 deficiencies at recertification review. We determined that, for 98 (40%) of the deficiencies, the Programs did not provide adequate documentation of specific actions planned or taken to achieve compliance, nor did OASAS follow up with the Programs to obtain documentation or verify that actions had been taken.

The COVID-19 disaster emergency had significant impacts on New Yorkers, the addictions workforce, and individuals who are receiving addiction services or are vulnerable to addiction as well as their family members. OASAS' inadequate oversight and monitoring increased the risk that Programs were not operating in compliance with regulatory requirements prior to and during the disaster emergency—and potentially jeopardizing the safety and security of Program services and their clients. Moreover, as incidents of substance use disorder have increased due to the pandemic, the need for Program services will also likely increase. Therefore, it is vital that OASAS ensure the Programs are operating in compliance with regulatory requirements.

Impacts of COVID-19

In a letter to the federal Department of Health and Human Services regarding its plans to use grant funding, OASAS highlighted the significant impact that the pandemic had on New Yorkers, the addictions workforce, and individuals who are receiving addiction services or are vulnerable to addiction as well as their family members.

OASAS noted elevated levels of harmful substance use as a result of the pandemic and the related health consequences. For example, OASAS cited studies that found overall increases in alcohol consumption among adults, increased substance use because of COVID-19, and an increase of 30 to 50% for alcohol-related liver disease hospital admissions. OASAS noted that, after 2 years of decline, there were 4,415 drug overdose deaths in the State from September 2019 to August 2020, which was 24% higher than for the period September 2018 to August 2019 and the highest for any 12-month September–August period. Additionally, OASAS emphasized that housing and residential options are essential to support long-term recovery.

In March 2020, OASAS issued guidance for admissions and continued stays in community-based residential settings. This was meant to enhance the ability of OASAS-licensed residential programs to optimize individual and staff safety during the ongoing COVID-19 crisis, while maintaining access for individuals to critical addiction services and supports. The guidance provided criteria that prioritized admissions to individuals with specific needs, in order to reduce the capacity in community-based residential settings. OASAS rescinded these criteria in June 2021.

Timeliness of Recertification Reviews

Based on our analysis of recertification review dates, recertification ratings, operating certificate end dates, and other documented visits for 96 Programs, we determined that OASAS is not meeting the recertification review timing requirements, as prescribed in the Regulations, and many Programs' operating certificates are past their end date. Due to the COVID-19 pandemic and its impact on OASAS' ability to perform on-site visits at the Programs, all of our analyses were performed using the end date of March 1, 2020. (Note: Programs would not have received an on-site inspection during the COVID-19 disaster emergency period, resulting in at least an additional 15 months that a recertification review was overdue.)

For each Program, we used the date of the last recertification review and the related recertification rating to calculate the due date for the next recertification. Of the 96 Programs, 76 Programs were due for recertification. (For the other 20 Programs, 17 recertification reviews were due during the COVID-19 pandemic; the other three were not due until 2022.) For 76 Programs, the recertification review was overdue. Of these:

- 25 recertification reviews were between 2 months and 1 year past due.
- 28 recertification reviews were between 1 and 2 years past due.
- 16 recertification reviews were between 2 and 3 years past due.
- 5 recertification reviews were more than 3 years past due.
- 2 Programs never received a recertification review, according to OASAS data.

We also found that many of the certification end dates from OASAS were pushed beyond the date that would have been required based on OASAS' scoring system. By our calculation, 77 of the 96 Programs' operating certificates (80%) should have expired prior to the date OASAS provided, including 39 (51%) whose operating certificate should have expired at least 6 months before the date provided by OASAS.

OASAS officials stated that, due to the residential redesign and to motivate providers to convert to a Part 820 program, they allowed an interim certification period, which extended the operating certificate end date to December 31, 2018 for many Programs. However, by extending the operating certificate end date, OASAS created a longer gap between recertification reviews and possibly any on-site inspection. For example, after its recertification review on July 16, 2014, which resulted in a 2-year recertification, one Program was due for its next recertification review by July 16, 2016. OASAS' interim certification then extended the Program's end date to December 31, 2018. However, as of March 1, 2020, this Program still had not received a recertification review more than 3½ years after its original end date and at least another 15 months as a result of the pandemic.

Based on the operating certificate end dates that OASAS provided, 86 Programs were due for recertification; the other 10 Programs' operating certificates expired after the COVID-19 pandemic began. We determined that 80 of the 86 Programs' operating certificates were past due by at least 2 months, including 51 that were between 1 and 2 years past due.

OASAS officials attributed the delay in recertification reviews largely to the residential redesign. By the end of 2017, operating certificate renewals and recertification reviews for all Part 819 programs were put on hold in the hope that they would convert to a Part 820 program. OASAS officials further stated that the residential provider conversion to Part 820 programs has been much slower than expected, in large part due to increased medical staffing, processes, and requirements that providers were reluctant to comply with. These issues notwithstanding, we reiterate that the recertification review requirements established by the Regulations ensure that any regulatory deficiencies would be identified and addressed in a timely manner. OASAS' decision to not do recertification reviews – and disregarding the requirements in the Regulations – increased the risk that deficiencies would go unidentified and not be addressed in a timely manner.

OASAS officials also stated that, although they are behind in many recertification reviews, they are in constant contact with the Programs. Officials provided dates of other types of documented reviews they conducted, such as regional office and focused reviews. However, these reviews, which are done on an as-needed basis and may relate to a specific health or safety issue, do not have all of the elements of a full recertification review. Furthermore, we selected a judgmental sample of 25 Programs and determined 10 (40%) did not receive any type of documented on-site visit during the recertification period. For example, at its last recertification review on December 14, 2017, one Program received a non-compliance rating, which required its next recertification review to be performed within 6 months, by June 12, 2018.

However, OASAS has not performed a recertification review or any other on-site review since. As of March 1, 2020, we determined OASAS has not conducted an on-site visit at this non-compliant Program for 628 days. This Program would not have had an on-site review during the pandemic, thus extending the lag at least another 15 months.

Additionally, OASAS performs annual performance reviews for Programs that receive State funding. The 50 Programs (of the 76 Programs due for recertification during our audit period) that are State funded received an annual performance review. However, these are desk reviews, which do not include an on-site observation and, therefore, do not monitor the conditions of the Programs. OASAS officials stated that there are ongoing contacts, numerous program visits, walk-throughs, and meet-and-greet sessions with new agency management by OASAS regional office Program managers or coordinators. However, OASAS could not provide documentation of these additional visits or contacts; therefore, we were unable to assess whether they occurred.

OASAS Follow-Up on Program Deficiencies

To determine if OASAS adequately followed up on the deficiencies identified in its recertification reviews, we used the same judgmental sample of 25 Programs discussed previously. Our sample was selected using the most recent recertification review dates, compliance ratings, and regional locations. For these Programs, OASAS identified a total of 243 deficiencies at their most recent recertification reviews. However, we found that the Programs did not provide adequate documentation addressing, and OASAS did not sufficiently follow up on, 98 of the 243 deficiencies (40%). For example:

- OASAS found active case records where the consent to release confidential information was not completed properly. In its CAP, one Program responded that “all staff has been retrained in proper use of electronic health record consent form.” OASAS was not provided any additional information and did not follow up to verify that this training took place.
- One Program did not have written policies and procedures approved by the Board of Directors that address staff plans and cooperative agreements with other service providers. In its CAP, the Program responded that “these written policies and procedures will be reviewed at the next Board of Directors’ meeting.” No additional information was provided, and OASAS did not follow up to verify that the policies and procedures were reviewed by the Board of Directors.

Without documentation from Programs to support their corrective actions, or any follow-up by staff to verify such action, OASAS does not have adequate assurance that the Programs have corrected their deficiencies and are operating in compliance with Regulations, potentially jeopardizing the safety and security of Program services and their clients. Moreover, as incidents of substance use disorder have increased as a result of the pandemic, the need for Program services will likely increase.

Therefore, it is vital that OASAS ensure the Programs are operating in compliance with regulatory requirements.

Recommendations

1. Perform recertification reviews for all Programs that are overdue.
2. Implement an effective monitoring system to ensure that all recertification reviews are performed timely.
3. Implement procedures to ensure that OASAS staff conduct appropriate follow-up of Programs with deficiencies identified during recertification reviews.

Audit Scope, Objective, and Methodology

The objective of our audit was to determine whether OASAS properly monitored its residential services to ensure the conditions are safe and secure for patients. The audit covered the period from April 2017 through February 2021, and also included the most recent recertification review performed at each Program, some of which were prior to April 2017. In addition, we included publicly available COVID-19–related information through June 2021. This information included memos from OASAS to Programs and a letter from OASAS to the federal government regarding its plans to use grant funding.

To accomplish our audit objective and assess internal controls related to our objective, we reviewed relevant laws, regulations, policies, and procedures, as well as OASAS guidance relating to Program recertification reviews. We interviewed OASAS officials and regional office staff to gain an understanding of their practices related to recertification reviews and to obtain the relevant data that is used to monitor the Programs.

Our audit reviewed OASAS' oversight over CR and SL services. We obtained recertification review data from OASAS for these Programs. The original file contained 137 Programs; of these, 15 were excluded because they had already converted to Part 820 programs, and 26 were excluded because they were terminated during our audit scope. We performed three analyses of the remaining 96 Programs. To determine when the recertification review was due, we analyzed the data using the date the last recertification review was performed and the related recertification rating. To determine the correct operating certificate end date, we analyzed operating certificate end dates provided by OASAS and compared them to our calculations, which were based on the last recertification review and last rating on the recertification. We also performed an analysis using only the operating certificate end date provided by OASAS. Due to the COVID-19 pandemic and its impact on OASAS' ability to perform on-site visits of the Programs, all of our analyses were performed using an end date of March 1, 2020.

From the recertification review data, we selected a judgmental sample of 25 of the 86 Programs with an operating certificate that had expired as of March 1, 2020. Our sample was based on the Programs' most recent recertification date, their rating, and regional location. In choosing Programs judgmentally, we selected all the Programs in our population that received a non-compliant or minimal rating on their last recertification review. The remainder were judgmentally sampled from Programs that received a partial rating on their last recertification review. We used this sample to determine if OASAS adequately followed up on Programs' CAPs and obtained appropriate documentation. We reviewed recertification program review reports, CAPs, and any additional post-review follow-up documentation provided by OASAS. We also reviewed emails and correspondence between OASAS and the Programs, as well as documentation pertaining to other reviews conducted by OASAS, such as regional office reviews, focused reviews, and interim reviews. We also used this sample to determine if OASAS had performed any type of documented on-site visit during the recertification period. This sample selected was not projected or intended to be projected across the population as a whole. We were able to test

the accuracy of the listing of treatment programs provided by OASAS, but not its completeness. As a result, we were not able to determine whether the listing was reliable. Nevertheless, we were able to use the data based on our determination as to whether OASAS was monitoring the Programs listed in the file we were provided. Due to the COVID-19 pandemic, we were unable to conduct our own visits and observations at these Programs and, therefore, could not perform our own assessment of the conditions of the Programs.

Statutory Requirements

Authority

The audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law.

We conducted our performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our professional judgment, these duties do not affect our ability to conduct this independent performance audit of OASAS' oversight and administration of Chemical Dependence Residential Services.

Reporting Requirements

A draft copy of the report was provided to OASAS officials for their review and comment. Their comments were considered in preparing this final report and are attached in their entirety to the end of it, along with our own State Comptroller's Comment addressing certain OASAS statements. OASAS officials agreed with all three recommendations and indicated actions they would take to implement them.

Within 180 days after final release of this report, as required by Section 170 of the Executive Law, the Commissioner of the Office of Addiction Services and Supports shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons why.

Agency Response



**Office of Addiction
Services and Supports**

KATHY HOCHUL
Governor

October 28, 2021

Mr. Brian Reilly
Office of the New York State Comptroller
Division of State Government Accountability
110 State Street 11th floor
Albany, NY 12236

Re: Response to draft audit report 2020-S-49

Dear Mr. Reilly:

Thank you for the opportunity to respond to draft audit report #2020-S-49 "Oversight of Chemical Dependence Residential Services." The NYS Office of Addiction Services and Supports (OASAS) acknowledges in several instances we did not meet the recertification review requirement set forth in the regulations governing residential providers certified pursuant to 14 NYCRR Part 819. As explained to the OSC auditors, in December of 2016, the provider community was advised that recertification reviews of Part 819 Chemical Dependence Residential Services would no longer be conducted, as providers of residential services were encouraged to focus on the submission of an application to be certified as Part 820 Residential Services programs. Providers were also advised that under the New York State Administrative Procedure Act (SAPA), current Part 819 Operating Certificates would remain in effect after the expiration date stated on the Certificate, pending definitive action by the OASAS.

OASAS offered the conversion to the new Part 820 model to approximately 200 eligible programs and required the submission of an application to move forward. In the early stages, very few programs applied and given the complexity of the changeover that required additional staffing and enhanced programming at various levels, the slower implementation was expected. OASAS reasoned that a pause in recertification of the Part 819 programs would allow providers time to focus their efforts on the steps necessary to make the desired transition, and free OASAS staff to assist providers in that transition. Ultimately, difficulty in finding qualified health practitioners to meet the new staffing requirements and limitations in available funding proved to be significant obstacles which then created a prolonged period without recertification reviews. Despite efforts by OASAS, the providers continued to struggle with the conversion to the Part 820 model throughout 2018 and 2019; and, since the onset of the Covid-19 pandemic 19 months ago, OASAS has not been able to conduct any on-site recertification visits.

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Although recertification reviews did not occur, OASAS respectfully disagrees with the inference that no oversight or monitoring of Part 819 programs occurred during the audit period. Recertification reviews are only one of several means of provider/program oversight employed by OASAS. OASAS also conducts regular interim regulatory compliance reviews, fiscal reviews, and examinations of the providers' financial records. In addition, every year funded programs undergo Program Performance Reviews that evaluate performance and spending in the previous year, as well as assist in formulation of a budget for the upcoming year. Further, complaints and incidents reported to the Vulnerable Persons Central Registry (VPCR) are promptly addressed with all providers. Additionally, throughout the COVID-19 pandemic, OASAS increased its performance of desk reviews of all relevant, available information and if any of our monitoring revealed the health and safety of clients was potentially at risk, immediate on-site visits were conducted to assure the safety of individuals. Finally, we continued to use data to evaluate our providers and identify outliers that may need enhanced OASAS oversight.

Recommendations:

Perform recertification reviews for all Programs that are overdue.

On September 28, 2021, OASAS announced that Part 819 residential providers' recertification reviews would begin effective immediately. These unannounced visits have begun, and approximately 10 recertification reviews have been completed. There are an additional 40 Part 819 recertification reviews that have been scheduled during the 4th quarter of 2021. These reviews will be prioritized and will continue into 2022.

Implement an effective monitoring system to ensure that all recertification reviews are performed timely.

At the beginning of each month, a report is auto-generated detailing the expiring operating certificates that are due for renewal. From that listing, based on the certification expiration dates, the OASAS Program Review unit, in consultation with Regional Office District Directors and Program Coordinators, develops a schedule of provider visits. The Regional Office also reviews the renewal list on a quarterly basis with the OASAS Certification bureau. The process in place is sufficient and appropriate to ensure that operating certificates are evaluated and renewed on a timely basis; and, as explained, the delay in doing so was attributed to attempts to motivate the migration of providers to a more effective level of care. In the event any reviews are suspended or delayed in the future, OASAS will ensure the monitoring system flags such reviews as outstanding and staff will follow up. Absent extenuating circumstances, OASAS will ensure going forward that all recertification reviews are conducted on a timely basis and that programs convert to the 820 model.

Implement procedures to ensure that OASAS staff conduct appropriate follow-up of Programs with deficiencies identified during recertification reviews

On July 12, 2021, the OASAS Regional Office conducted a staff training to ensure that any Corrective Action Plan (CAP) submissions are reviewed in a timelier manner, and also enlisted the resources of other OASAS bureaus to assist with any appropriate follow up. OASAS requires a CAP to be submitted 10 calendar days after the recertification review exit conference occurs. The CAP should establish the steps and time frames under which the cited compliance deficiencies will be corrected and indicate the person responsible for ensuring that corrective action is implemented. The CAP should identify which actions will be undertaken to correct deficiencies, as well as how they will be monitored in the future, to ensure that deficiencies do not recur. Operating Certificates are not renewed until the CAP is received and deemed acceptable. Furthermore, OASAS is currently reviewing its processes to explore opportunities for follow-up visits which focus on the impacts made by approved CAPs.

Very truly yours,



Trisha R. Schell-Guy
General Counsel

cc: Sean Byrne
Manny Mosquera
Steven Shrager
Trishia Allen
Keith McCarthy
Zoraida Diaz
Kim Benshoff

State Comptroller's Comment

1. Our audit concluded that OASAS is not adequately monitoring Programs as prescribed in the Regulations. The Regulations require recertifications reviews and such reviews were not conducted.

Contributors to Report

Executive Team

Andrea C. Miller - *Executive Deputy Comptroller*

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