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COMPTROLLER**



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**OFFICE OF THE
NEW YORK STATE COMPTROLLER**

**DIVISION OF STATE
GOVERNMENT ACCOUNTABILITY**

**OFFICE OF MENTAL
RETARDATION AND
DEVELOPMENTAL
DISABILITIES**

**HIGH OVERTIME
PAYMENTS BY THE
CENTRAL NEW YORK
DEVELOPMENTAL
DISABILITIES SERVICES
OFFICE**

Report 2006-S-92

AUDIT OBJECTIVE

Our objectives were to determine if the Central New York Developmental Disabilities Services Office made efforts to effectively distribute overtime hours among its employees; if overtime was appropriately documented and worked, and if other payroll procedures were adequate.

AUDIT RESULTS - SUMMARY

The Office of Mental Retardation and Developmental Disabilities provides a comprehensive system of care for more than 140,000 persons with mental retardation and developmental disabilities and their families through 13 Developmental Disabilities Services Offices, a network of not-for-profit private agencies, and State-operated programs based in the communities. The Central New York Developmental Disabilities Services Office (Central New York DDSO) is responsible for providing services in eight counties throughout the State.

We found that Central New York DDSO management has not made enough efforts to effectively monitor the distribution of overtime hours among its employees. During calendar year 2005, 1,767 employees at the Central New York DDSO worked 270,000 overtime hours totaling \$7.03 million. Of these, 21 employees worked more than 1,000 hours of overtime, an average of 19 overtime hours per week. Further, three of the 21 employees each worked more than 2,000 hours of overtime, an average of 38 overtime hours per week. In fact, the Central New York DDSO had the 12th highest overtime earner in the State. The employee, a Developmental Aide, earned \$68,995 in overtime, almost twice her salary (\$34,712), totaling \$103,707 for the year.

A Memorandum of Understanding (MOU) between the local union and Central New York DDSO requires work to be distributed to part-time employees who are available to work extra time before it is distributed to employees as overtime work. We found that Central New York DDSO management has no assurance that overtime is equitably distributed in accordance with the MOU since it did not obtain information regarding total hours worked by each employee until after the fact. Further, of the 21 high overtime earners for 2005, we found 5 (24 percent) were part-time employees. We recommend that Central New York DDSO officials verify the number of hours worked by employees before assigning extra work and overtime to comply with the MOU. We also recommend they review current overtime and extra time practices, and determine if other schedules or overtime distribution methods can be used that will allow for a more equitable allocation of overtime to individuals.

We determined that overtime was generally worked and appropriate payments were made. Additionally, we found that many parts of the payroll process are not automated making the process less efficient than it could be. We recommend that Central New York DDSO officials fully implement the Time Information Management Electronic (TIME) System and or any other system that will reduce the need for manual data entry and create a more efficient process.

We also found that a few Central New York DDSO employees were not properly authorized for dual employment. We recommend Central New York DDSO officials develop and implement procedures for complying with dual employment laws and policies and that they continue to regularly communicate and emphasize to all employees the importance of getting approval for dual employment.

Our report contains six recommendations. OMRDD officials agree with our recommendations and indicate steps they have already taken or plan to take to implement them.

This report, dated December 28, 2007, is available on our website at: <http://www.osc.state.ny.us>. Add or update your mailing list address by contacting us at: (518) 474-3271 or
Office of the State Comptroller
Division of State Government Accountability
110 State Street, 11th Floor
Albany, NY 12236

BACKGROUND

The Office of Mental Retardation and Developmental Disabilities provides a comprehensive system of care for more than 140,000 persons with mental retardation and developmental disabilities and their families through 13 Developmental Disabilities Services Offices, a network of not-for-profit private agencies, and State-operated programs based in the communities. The Central New York Developmental Disabilities Services Office (Central New York DDSO) is responsible for providing services in eight counties throughout the State. It operates 197 community-based individualized residential alternatives (group homes), 306 family care homes, and 23 program sites that collectively serve 3,850 people.

As of May 2007, the Central New York DDSO had 2,872 employees, of which 2,681 were eligible to work overtime. Of the 2,681 overtime eligible employees, 1,844 (68 percent) were full-time, 824 (31 percent) were part-time, and 13 (1 percent) were on a voluntary reduced work schedule. Part-time employees work less than 40 hours in a work week or work on a per diem and receive regular pay for all hours worked up to 40

hours. The time between their regularly scheduled hours and 40 hours is called extra time. Once employees (both full-time and part-time) work more than 40 hours, they are eligible to earn overtime.

During calendar year 2005, 1,767 employees at the Central New York DDSO worked 270,000 overtime hours totaling \$7.03 million. Of these, 21 employees worked more than 1,000 hours of overtime, an average of 19 overtime hours per week. Further, three of the 21 employees each worked more than 2,000 hours of overtime, an average of 38 overtime hours per week. In fact, the Central New York DDSO had the 12th highest overtime earner in the State. The employee, a Developmental Aide, earned \$68,995 in overtime, almost twice her salary (\$34,712), totaling \$103,707 for the year.

AUDIT FINDINGS AND RECOMMENDATIONS

Monitoring of Distribution of Overtime Hours

A Memorandum of Understanding (MOU) between the local union and Central New York DDSO requires work to be distributed to part-time employees who are available to work extra time before it is distributed to employees as overtime work. We found that Central New York DDSO management has no assurance that overtime is equitably distributed in accordance with the MOU since it did not obtain information regarding total hours worked by each employee until after the fact. Further, we determined management relied on part-time employees to self-report when additional hours were going to become overtime instead of making this determination before distributing the overtime work.

Interviews with Central New York DDSO management and employees showed that there were no controls over how overtime was

distributed nor is there a formalized process for distributing work. For example, when employees are assigned to different facilities than their immediate supervisors, the supervisors at the assigned facility can request the employees to work overtime without verifying the employee's hours with his/her immediate supervisor. We found one part-time employee worked 2,600 hours of overtime and extra time in 2005. Of this, the employee worked 1,234 hours (47 percent) at facilities other than his primary work location. These hours were not approved by the employee's immediate supervisor since Central New York DDSO's process dictates that hours worked at other facilities are approved by that facilities' supervisor. Further, of the 21 high overtime earners, we found 5 (24 percent) were part-time employees.

Since Central New York DDSO management does not track the number of hours worked by employees prior to assigning additional hours, they may continue to give part-time employees the additional work even though they have already done extra time and additional hours would be considered overtime.

We note that Central New York DDSO management can verify who is working overtime after it occurs using its bi-weekly High Overtime Earners Report (Report). An analysis of the Report for 2005 showed that two employees worked the majority of overtime available in their locations (73 percent and 95 percent respectively). One of these was a part-time employee and worked more than 2,000 hours in 2005, while the other was a full-time employee who worked 1,645 hours of overtime in 2005. In addition, we found 8 of the 42 sampled employees (19 percent) expressed concern that part-time employees received preferential treatment with regards to overtime.

We recommend that Central New York DDSO management develop procedures for verifying the number of hours worked by employees before assigning extra work and overtime. In addition, management should review current overtime and extra time practices, and determine if other schedules or overtime distribution methods can be used that will allow for a more equitable allocation of overtime to individuals.

In response to our findings, Central New York DDSO management issued a Human Resources Advisory to all employees stating there would be sanctions placed on part-time employees who do not inform supervisors they have already worked 40 hours in the work week and would be incurring overtime. They also developed an action plan to broaden and evenly distribute overtime opportunities amongst interested staff.

Recommendations

1. Verify the number of hours worked by employees before assigning extra work and overtime to comply with the MOU.
2. Review current overtime and extra time practices, and determine if other schedules or overtime distribution methods can be used that will allow for a more equitable allocation of overtime to individuals.

Verification of Overtime Hours Worked

To determine whether overtime was appropriately documented and worked, we reviewed overtime documentation and conducted unannounced floor checks. We found that overtime was generally worked and appropriate payments were made.

Payroll Procedures

The payroll process relies mostly on manual functions instead of being automated. For instance, employees manually enter time worked on Time and Attendance sheets and employees manually calculate employee's extra time and overtime. Once these tasks are completed, the overtime/extra time (OT/ET) time sheets are submitted to supervisors, who then enter the information into the OT/ET system for approval. Once the information is sent to the Office of the State Comptroller's Bureau of Payroll Services (Payroll), it is then entered manually into another computer system, PayServ.

We found there are no deadlines or procedures for the submission of information by supervisors into the OT/ET system or the approval of overtime and extra time. Further, Central New York DDSO management acknowledged that different supervisors at different levels submit this information at various times.

Since so many parts of the payroll process are not automated, the process is less efficient than it could be. In fact, in a previous audit (Report Number 2001-S-54, released November 27, 2002), we recommended Central New York DDSO management update their payroll process. At the time, they stated that they would implement the Time Information Management Electronic (TIME) System on a pilot basis in fiscal year 2003-2004. This would automate some of the manual entry and create a more efficient process. However, as of October 2007, three years later, the system was still in the pilot stages.

We note that we also reviewed controls over other payroll processes such as additions and deletions of employees to the payroll, undistributed paychecks, direct deposits and

contractors. In some of these areas, we had minor findings which we conveyed to the agency. The Central New York DDSO has taken steps to make improvements in these areas.

Recommendations

3. Establish deadlines for the submission and approval of overtime and extra time at each level in the approval process.
4. Fully implement the TIME system and or any other system that will reduce the need for manual data entry and create a more efficient process.

Dual Employment

Civil Service Rule 6.3 and the Office of Mental Retardation and Developmental Disabilities' policy defines dual employment as work performed by an employee in two or more State agencies, where the total number of hours does not exceed a regular 40-hour work week. Employees must get prior approval for dual employment by completing a form and obtaining approval from their supervisor, Human Resources, and the Central New York DDSO Director, who must sign the form before the employee can work at another agency. Willful violation is sufficient cause for disciplinary action or removal.

During the period January 1, 2005 through February 5, 2007, we determined that three Central New York DDSO employees worked in dual employment.

- One completed the form and received appropriate approvals.
- One completed the form, but it was not signed by the Director.
- One did not complete the form and did not receive appropriate approvals.

In October 2006, Central New York DDSO notified the employee who did not complete the form or obtain approvals that he must request agency approval if he plans to seek dual employment in the future (the employee was already working in a dual employment capacity). Since that time, the employee ceased his dual employment. However, Central New York DDSO did send the employee a letter informing him of the requirements should he decide to return to dual employment in the future.

Central New York DDSO management does not have a formal process in place to ensure that employees working in dual employment have obtained the necessary advance approvals or for tracking these employees. Without knowledge of employees' dual employment or a method to track employee time worked in that capacity, Central New York DDSO management cannot accurately know how many hours individuals are working. The number of hours worked may impact an employee's fitness for duty.

Recommendations

5. Develop and implement procedures for complying with dual employment laws and policies. These procedures should include a means of tracking and documenting existing approvals for dual employment and reviewing the hours worked. Procedures to determine if employees are in dual employment status should include:
 - Contacting the Office of the State Comptroller's Bureau of Payroll Services periodically to obtain an analysis of Central New York DDSO employees with dual employment, and
 - Asking employees when hired if they work for another State entity.

6. Continue to regularly communicate and emphasize to all employees the importance of getting approval for dual employment and proactively communicate with employees who routinely or seasonally request dual employment/extra service to verify they are complying with procedures.

AUDIT SCOPE AND METHODOLOGY

We conducted our audit according to generally accepted government auditing standards. The objectives of our audit were to determine if the Central New York DDSO made efforts to effectively distribute overtime hours among its employees, if hours worked were appropriately documented and worked, and if other payroll procedures were adequate. Our audit covered the period January 1, 2005 through August 30, 2007.

To accomplish our objectives we interviewed Central New York DDSO officials and employees, reviewed personnel records, overtime authorization rosters and time records, employee direct deposit authorizations, paychecks and related documents held in the Cash Office safe, viewed PayServ payroll screens with Central New York DDSO management, reviewed overtime and extra time system downloads and performed appropriate analyses.

To determine if overtime was documented and worked, we selected a sample of 50 employees to review overtime documentation. These 50 employees consisted of 21 high overtime earners (more than 1,000 hours of overtime or an average of 19 overtime hours per week) plus a random sample of 29 overtime earners of the 2,877 employees in 2005. We then selected the month of July 2005 to review since it was the month with highest overtime hours earned. We also

conducted unannounced floor checks of these 50 employees.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions and public authorities, some of whom have minority voting rights. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our opinion, these functions do not affect our ability to conduct independent audits of program performance.

AUTHORITY

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

REPORTING REQUIREMENTS

A draft copy of this report was provided to Central New York DDSO officials for their review and comment. Their comments were considered in preparing this report, and are included as Appendix A. OMRDD officials agree with our recommendations and indicate steps they have already taken or plan to take to implement them.

Within 90 days of the final release of this report, as required by Section 170 of the Executive Law, the Chancellor of the State University of New York 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 therefor.

CONTRIBUTORS TO THE REPORT

Major contributors to this report include David R. Hancox, Melissa Little, Nadine Morrell, Jessica Turner, Heather Pratt, Sharon Salembier, and Theresa Podagrosi.

APPENDIX - AUDITEE RESPONSE

Eliot Spitzer
Governor



Diana Jones Ritter
Commissioner

STATE OF NEW YORK
OFFICE OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES

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December 6, 2007

Mr. David R. Hancox
Audit Director
Office of the State Comptroller
Division of State Government Accountability
110 State Street, 11th Floor
Albany, NY 12236

Dear Mr. Hancox:

The Office of Mental Retardation and Developmental Disabilities reviewed the Office of the State Comptroller's draft audit report (Report No. 2006-S-92) entitled: OMRDD High Overtime Payments by the Central New York Developmental Disabilities Services Office.

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

Thank you for the opportunity to comment.

Sincerely,

Diana Jones Ritter
Commissioner

Attachment

cc: Ms. Kagan
Mr. Moran
Mr. Picker
Mr. Smits



Providing supports and services for people with developmental disabilities and their families.



OMR 26.04 (3/07)

The Office of Mental Retardation and Developmental Disabilities (OMRDD)
Response to the Office of the State Comptroller's (OSC) Draft Audit Report Entitled:
High Overtime Payments by the Central New York DDSO
2006 S-92

Monitoring of Distribution of OT Hours

Note: For purposes of clarity, the document variously referenced as MOU or MOA in prior drafts, will be referred to as MOA – Memorandum of Agreement.

Recommendation #1

CNY DDSO does not have the ability in a widely dispersed, twenty-four hour operation, to make 'real time' data on staff Extra Time (ET) and Overtime (OT) available to staff canvassing for extra hours. However, we will provide additional training for staff to assure that all staff canvassed for extra hours are asked about the hours they will work in that week, and that part-time staff are only scheduled for overtime within the rules of the MOA. We will monitor both by random sample and also by specific review of those staff that work high numbers of hours, and pursue any instances where inaccurate data was provided to sites, or where staff at the sites failed to follow this procedure.

Recommendation #2

In an effort to insure statewide consistency on OT matters, OMRDD's Central Office will be taking statewide action by issuing a memorandum to each of the DDSOs. The main purpose of this memorandum is to make clear OMRDD's long standing policy on OT matters for direct care staff.

The memorandum will make clear what evaluative criteria DDSO supervisors should use in making decisions about assigning OT. While seniority is one criterion, another criterion which is critically important is for the supervisor to evaluate whether approving the additional OT for an employee is in the best interest of the health, safety and quality of care of the consumers and the employee (e.g., is the employee exhibiting signs of fatigue, impaired ability to perform required tasks).

CNY DDSO has already taken steps (e.g., issued new guidelines and provided training) to enhance procedures to help ensure a more thorough and consistent implementation of the MOA on the distribution of OT and ET. In addition, CNY DDSO will follow this up by distributing the forthcoming statewide memorandum to all DDSO supervisory staff and provide corresponding training to supervisors and administrative units.

Payroll Procedures

Recommendation #3

A directive establishing entry and approval deadlines for OT and ET submissions was issued in early August of this year. While timeliness of OT and ET payments at CNY DDSO has been historically good, data for the period August 30, 2007 to September 12, 2007 (Payroll Period #12) suggests further improvements have been made in the timeliness of payment as compared to similar

samples from the prior two fiscal years; we will continue to monitor the issue of timely entry and approval of OT and ET.

Recommendation #4

The Times System, which will automate much of the current payment process once the hours are entered, is targeted for full implementation in this DDSO in the 2008-2009 fiscal year.

Dual Employment

Recommendation #5

CNY DDSO has implemented the following procedures: When an employee submits an application for approval of dual employment, it is first given to the supervisor for review. If approved by the supervisor it is then submitted to the Human Resources Office for review before it is sent to the Director. Human Resources staff will interview the employee to ensure that the schedule presented and the hours worked do not raise concerns relative to the employee's DDSO duties. The application is then submitted to the Director with a recommendation to either approve or disapprove from Human Resources.

The Human Resources Director will ensure that the OSC's Bureau of Payroll Services is contacted quarterly to obtain an analysis of CNY DDSO employees with dual employment. Any employees who are discovered to have dual employment through this process who failed to apply for approval will be subject to disciplinary action. A list of employees who have approved dual employment will be placed in an electronic folder on our HR drive for tracking purposes.

Lastly, CNY DDSO now routinely asks employees when hired if they work for another State entity.

Recommendation #6

The Human Resources Office will continue to regularly communicate to all employees via e-mail advisories the rules governing dual/extra service employment. For those employees who routinely or seasonally request dual/extra service employment, the Human Resources Office will verify they are complying with procedures. Specifically, the few CNY DDSO employees who currently have dual employment status either work as instructors for the State University of New York, or as seasonal workers at the New York State Fair. Both types of employment have schedules that are easily monitored and these employees will receive seasonally appropriate follow-up by the Human Resources Office.