

May 22, 2017

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EXECUTIVE CORRESPONDENCE

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OFFICE OF THE STATE COMPTROLLER
THOMAS P. DiNAPOLI
COMPTROLLER

The Honorable Andrew M. Cuomo
Governor of New York State
NYS State Capitol Building
Albany, NY 12224

Dear Governor Cuomo:

On behalf of Erie County Medical Center Corporation (ECMCC), enclosed is a response to the Employee Incentive and Bonus Payments Audit conducted by the Office of the New York State Comptroller, Division of State Government Accountability (Report 2016-S-29) (the "Audit Report"). ECMCC has organized the response to correspond with both the Audit Report as issued and the November 2016 ECMCC response already submitted by ECMCC to the Audit Report.

In several instances, you will note that findings described in the Audit Report were remediated before the audit activities commenced.

ECMCC appreciates the attentive and professional manner of the OSC audit team in completing the audit. Likewise, we appreciate the extension of time to provide this required report granted to ECMCC as a result of our recent IT systems issue and our inability to produce this report due to that outage.

ECMCC takes these matters very seriously and welcomes the opportunity to work together for the benefit of those we are privileged to serve.

Sincerely,



Sharon L. Hanson
Chair, Board of Directors

CC: Carl E. Heastie, Speaker of the House
John J. Flanagan, Senate Majority Leader
Thomas P. DiNapoli, Comptroller ✓
Jeffrey D. Klein, Independent Democratic Conference Leader
Herman D. Farrell, Jr., Assembly Ways and Means Committee Chair
Catharine M. Young, Senate Finance Committee Chair



RESPONSE OF ERIE COUNTY MEDICAL CENTER CORPORATION AS REQUIRED BY EXECUTIVE LAW 170

EXECUTIVE SUMMARY

The Office of the State Comptroller, Division of State Government Accountability (OSC), issued a report entitled "Employee Incentive and Bonus Payments," (Report 2016-S-29) (the "Audit Report"), on January 13, 2017. A detailed response by Erie County Medical Center Corporation (ECMCC) accompanied the Audit Report. Pursuant to Section 170 of the Executive Law, ECMCC is providing this follow up report. The following sections are organized in the same manner as the Audit Report and supplement the information contained in the initial response prepared and submitted by ECMCC (the "ECMCC Response"). A copy of the ECMCC Response is attached for the reader's ease in reference.

As noted in the ECMCC Response, "prior to the OSC audit, ECMCC already implemented changes to the practices in question or record keeping in relation to employee compensation and incentives. Most notably, no incentives and bonus payments are paid to ECMCC employees, other than employed physicians." ECMCC Response at Page 16 of the OSC report and Page 4 of ECMCC's response.

RESPONSE TO KEY FINDINGS DESCRIBED IN AUDIT REPORT

The OSC Audit Report contained four (4) "Key Findings" described in its Executive Summary section. These findings are reprinted below for the reader's benefit and are followed by a supplemental response current as of the date of this document.

Finding 1: ECMCC did not properly administer and monitor its incentive and bonus programs, resulting in \$76,476 in incentive payments that should be recovered because they were: not justified under the terms of the relevant incentive plan; distributed in error (as duplicate payments); or simply miscalculated.

ECMCC 90 Day Report: For those payments where alternative audit evidence was not identified, either the funds have been recovered or are in the process of being recovered through systematic payroll deduction. No further follow up is required on this matter.

Finding 2: ECMCC did not maintain documentation to support the validity of another \$86,261 paid to four physicians. According to ECMCC officials, the required written support was lacking because the doctors' compliance with their contractual performance requirements had been conveyed verbally many times.

ECMCC 90 Day Report: ECMCC implemented a practice of creating written support (in addition to already-existing medical records) for physician compliance with contractual performance requirements.

Finding 3: Nine other physicians were paid a total of \$510,062 in incentives based upon their performance as a group, despite the terms of their employment agreements that specified that such payments would be based on individual performance. Formal assessments and documentation of physicians' individual job performances were not prepared, and consequently, we could not confirm the propriety of these incentive payments.

ECMCC 90 Day Report: ECMCC amended the employment contracts to conform with the OSC observations.

Finding 4: ECMCC's productivity incentive payments included \$401,096 paid to three physicians in settlement of a threatened employment dispute. Included therein was \$50,011 for purported administrative services that were unrelated to productivity (upon which incentives were to be otherwise based). The remaining \$351,085 resulted from a retroactive increase in the incentive rates applied for each Doctor. However, because the amounts in question were negotiated, we could not determine whether they were fully warranted or accurate and, therefore, reasonable.

ECMCC 90 Day Report: ECMCC negotiated and resolved a genuine dispute based on three bona fide breach of contract claims. ECMCC saved a significant sum by resolving these matters and continues to consider that resolution reasonable under the circumstances.

RESPONSE TO KEY RECOMMENDATIONS DESCRIBED IN THE AUDIT REPORT

The Audit Report contained three (3) "Key Recommendations" described in its Executive Summary. These recommendations are reprinted below for the reader's benefit and are followed by a response current as of the date of this document.

Recommendation 1: Recover the \$76,254 in unwarranted performance and productivity measures.

ECMCC 90 Day Report: All amounts for which there is a basis to recover funds have been recovered or are in the process of being recovered through systematic payroll deductions. No further follow up is required on this matter.

Recommendation 2: Further assess the \$86,261 of unsupported incentive payments to determine if additional disallowances and recoveries are warranted.

ECMCC 90 Day Report: The assessment has been completed. No additional disallowances or recoveries were warranted. No further follow up is required on this matter.

Recommendation 3: For all incentive and bonus programs and payments; improve monitoring, maintain appropriate supporting records, and ensure that payments are in full compliance with contractual stipulations and commensurate with actual achievements.

ECMCC 90 Day Report: Prior to the OSC audit, ECMCC implemented improvements, including personnel and procedural changes to improve controls in this regard. As a result of the OSC audit effort, additional procedures were developed and implemented. No further follow up is required with respect to this matter.

90 DAY RESPONSE TO AUDIT FINDINGS AND RECOMENDATIONS

The following response is current as of the date of this document.

Incentive Payments

Please refer to response above related to this matter.

Employment Dispute Settlement Included as Incentive Payments

Please refer to response above related to this matter.

Incentive Reporting

ECMCC has agreed with this finding and made the necessary changes to its reporting with the 2016 PARIS submission.

Bonus Payments

ECMCC response from November 2016 remains current with no further follow up required.

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