



Office of Mental Health

ANDREW M. CUOMO
Governor

ANN MARIE T. SULLIVAN, M.D.
Commissioner

MARTHA SCHAEFER
Executive Deputy Commissioner

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John Buyce, CPA, CIA, CGFM
Audit Director
Office of the State Comptroller
Division of State Government Accountability
110 State Street – 11th Floor
Albany, NY 12236-0001

Dear Mr. Buyce:

The Office of Mental Health has reviewed the Office of the State Comptroller's (OSC's) final audit report entitled, "Oversight of the Supported Housing Program: DePaul Group, Inc. and Affiliates" (2015-S-42). Our responses to the recommendations contained in OSC's report are enclosed.

Sincerely yours,

Ann Marie T. Sullivan, M.D.
Commissioner

**OFFICE OF MENTAL HEALTH
RESPONSE TO OFFICE OF THE STATE COMPTROLLER
FINAL REPORT 2015-S-42
OVERSIGHT OF THE SUPPORTED HOUSING PROGRAM
DePAUL GROUP, INC. AND AFFILIATES**

OMH has reviewed the findings and recommendations in the Office of the State Comptroller's (OSC) final report (2015-S-42) entitled "Oversight of the Supported Housing Program: DePaul Group, Inc. and Affiliates." The purpose of the audit was to determine whether or not OMH is ensuring that DePaul (and its affiliates) expend funds appropriately and provide the required services under their supported housing program contracts.

OMH's supported housing program enters into contract (either directly or indirectly through county governments) with not-for-profit agencies to provide rental assistance and supportive services for individuals with serious mental illness to retain housing in the community. The not-for-profit entities locate privately-owned apartments for supported housing and provide rental stipends, advocacy with landlords, and coordination and linkage to community supports to assist in maintaining independent housing. OMH's oversight role is to provide guidance to providers, ensure that providers are implementing program guidelines, and review and reconcile claimed expenses.

In Section I, OMH refutes OSC's assertion that OMH fails to provide sufficient fiscal oversight and programmatic guidance to its supportive housing program providers. In Section II, OMH comments on specific OSC audit statements regarding OMH's oversight of its supportive housing program, and where necessary, identifies where OSC makes statements and findings that are without factual or legal merit. Lastly, in section III, OMH responds to OSC's specific recommendations about DePaul Group, Inc. and Affiliates.

I. OMH's General Responses to OSC's Findings

As stated in OMH's response to the draft report, OMH strongly disagrees with OSC's finding that OMH provides insufficient program support and guidance for its supported housing program.

First, OSC has no basis for its finding that OMH "has not provided sufficient fiscal oversight and programmatic guidance to ensure that claimed expenses are program appropriate or that certain program goals are achieved." Indeed, OSC found that DePaul's clients received appropriate housing services. To support its finding of insufficient oversight, OSC makes the self-contradictory assertion that OMH did not sufficiently focus on the "fiscal aspects," something for which visits to the program are not required, and its claim that OMH did not visit the program frequently enough. In fact, OMH's Western NY Field Office visited DePaul on February 24, 2015, and again on January 27, 2017.

Second, as noted in OMH's response to OSC's draft audit, OSC's use of State Education Department (SED) guidance and the Provider Reimbursement Manual to analyze OMH's supported housing program is inappropriate. OSC claims that it did not do so, but this is contradicted by OSC's express citation of SED's guidance on Page 12.

Lastly, the majority of OSC's findings consists of its disagreement with allocation methods used by the provider. OMH agreed in its response to OSC's draft audit report to review the allocation methods used by DePaul, and OMH reported to OSC that any revisions to the allocations will likely be minimal and could potentially result in an increase in allowed costs. However, OSC fails to acknowledge that fact.

II. OMH's Specific Comments to OSC Audit Statements

1. **OSC Statement:** On page 6, third paragraph, OSC states, "without proper guidance, it appears service providers may determine for themselves what services clients should receive and the nature of the expenses that maybe claimed on the CFR."

OMH Comments: OSC provides no evidence suggesting that OMH does not give proper guidance to its service providers, and its statement reflects a fundamental misunderstanding about how the Supported Housing (SH) Guidelines work. The SH Guidelines empower service providers to tailor services to clients and are designed to focus on coordination of services with community providers. This type of individualized treatment and assessment is exactly what service providers should be doing in order to best serve persons in need of supported housing.

Specifically, the SH Guidelines establish that providers should "deliver those services necessary to establish the recipient in his/her housing, and maintain that housing . . ." To that end, the SH Guidelines list a range of services to which the recipient should be given access to (e.g., employment support, mental health and substance abuse treatment, assistance with obtaining entitlements). Flexibility is necessarily extended to providers given the variability in recipient need, which changes over time, as well as the local availability and choice in services. Such individualized treatment is fully compliant with the Americans with Disabilities Act and is well-established to be clinically effective.

In addition to the SH Guidelines, OMH relies on the CFR Manual to offer guidance to providers on the completion of the CFR, including how to categorize allowable expenses. Appendix X of the CFR Manual (Adjustments to Reported Costs) details those expenses that are ineligible for reimbursement. Providers rely on these guideposts in order to properly categorize expenses.

Notably, OSC concedes the effectiveness of the SH Guidelines and the CFR Manual. However, OSC still maintains that OMH needs to ensure that every service provider "know[s] which services may be provided under the Supported Housing Program and which services should be provided by another program." But as set forth above, the SH Guidelines do enumerate the services appropriate for Supported Housing clients, and OSC provides no basis for asserting that service providers do not know which services are appropriate for its own programs.

2. **OSC Statement:** OSC states on page 7, last paragraph, that "OMH appears to have intentionally kept its guidance vague to allow providers flexibility in meeting the needs of individual clients, and has not developed specific guidance and/or established criteria regarding the eligibility of certain Program expenses." OSC further states that, "OMH should review the Manual (including its appendices) to identify and create the necessary supplemental guidance on allowable Program costs to help ensure that service providers' reported expenses are allowable."

OMH Comments: OMH strongly objects to this statement. OMH's guidelines are not vague, but instead provide flexibility regarding program guidelines that is necessary to meet the needs of individual clients while still providing the particular guidance necessary. For example, the CFR Manual provides specific guidance and criteria regarding the eligibility of program expenses. Section 13 of the CFR Manual defines the expenses which should be included on each line of the CFR, and the appendices not only clarify those expenses which are deemed allowable, but define those expenses which have been determined to be non-allowable as well. But to go further and provide the "detailed guidance on which types of expenses are acceptable" that OSC advocates would completely defeat the flexibility that the program needs to operate successfully.

3. **OSC Statement:** On page 10 in the narrative section of the draft audit report, OSC references \$27,020 in expenses that OSC classified as “not allowable” because of allegedly insufficient supporting documentation. OSC states that “OMH should review the supporting documentation, maintained by DCS and LOD, for these transactions to ensure that they are reasonable and necessary for Program services.” However, on page 16 in recommendation #4, OSC directs OMH recover those expenses identified as “not reasonable, necessary, or allowable for the program or not supported” (which includes the \$27,020 in unsupported transactions).

OMH Comments: OSC admits that they identified \$27,020 in expenses that they determined to be non-allowable without reviewing the supporting documentation. Having failed to review the documentation, OSC should have simply recommended that OMH do so and that OMH review and recover the expenses as appropriate.

4. **OSC Statement:** On page 10, OSC states that “[f]urthermore, the Manual references certain provisions of the Provider Reimbursement Manual (PRM) published by the Centers for Medicare and Medicaid Services, which stated that gifts are not common or accepted occurrences in the provider’s field of activity and so are not necessary costs.”

OMH Comments: OSC’s reliance on the PRM as a benchmark for evaluating the supported housing is inappropriate. The PRM is a federal guidance document covering multiple program types that are funded by Medicaid or Medicare. OSC’s reference to the PRM does not apply to OMH because supported housing is not funded by Medicaid or Medicare.

Even if the PRM did apply, it would actually categorize gift cards as an acceptable program cost. As discussed in the response to the draft report, the PRM defines costs related to patient care as “all necessary and proper costs which are appropriate and helpful in developing and maintaining the operation of patient care facilities and activities. Necessary and proper costs related to patient care are usually costs which are common and accepted occurrences in the field of the provider’s activity.”

The way that OMH utilizes gift cards as a tool for community integration means that these costs clearly fit the definition of a cost related to patient care. This is because the gift cards are issued to enable individuals to learn such independent living skills as being able to purchase groceries, shop for clothes, etc. These skills are critical for persons transitioning to community living, as a person in OMH’s care cannot safely transition to independent community living without first understanding how to use money and make basic purchases independently. Thus, the use of gift cards to teach individuals how to live integrated and independent lives is critical for participants in the SH program to thrive in their supported housing.

5. **OSC Statement:** On page 12, OSC compares OMH to SED and references SED’s Reimbursable Cost Manual. OSC states, “Further, the State Education Department, which also requires service providers to submit CFRs, has issued guidance that strictly prohibits claiming the cost of gift cards as an allowable expense.”

OMH Comments: OSC draws an inappropriate comparison between OMH and SED. As OMH has clearly stated to OSC on multiple occasions, OMH and SED programs are completely different in both programmatic structure and goals. Additionally, the populations served and the programs that serve them have nothing in common.

Specifically, SED programs are strictly educational and do not provide community integration, life-skill building, or any programmatic focus that would entail the use of gift cards, hence the prohibition by SED. In contrast, OMH programs are designed to

integrate a person into a larger community and providing gift cards to these individuals is an important tool for OMH to use in achieving community integration. Notably, such integration is not only regarded as clinical best practice, but is also required by the Americans with Disabilities Act. Accordingly, OMH requests that OSC remove the erroneous analogy between the SED and OMH gift card policies.

6. **OSC Statement:** OSC states on page 15 that “OMH’s SH Guidelines require Program service providers to maintain contingency funds to help resolve situations that place clients at risk of losing their apartment.”

OMH Comments: This statement is false. As OHM has repeatedly advised, OMH only advises that providers “should” maintain contingency funds – this is not a requirement. Budget constraints due to increasing program expenses often limit the ability of providers to set aside contingency funds and therefore, the SH Guidelines state that “contingency funds **should** be set aside annually from the per unit annual OMH operating subsidy.” To the extent there is any inconsistency between the SH Guidelines and the corresponding SH Guidelines Questions and Answers document, OMH has drafted revisions specifically addressing and clarifying contingency funds, and they are currently under review.

7. **OSC Statement:** OSC states on page 18 that “OMH has developed a new rental stipend worksheet that, among other changes, requires prior approval by OMH if clients will have to pay more than 30 percent of their income for rent and utilities. This new procedure went into effect in 2015, and should help ensure clients obtain affordable housing they can actually afford, thereby creating a more stable living situation.”

OMH Response: On page 18, OSC has identified an example of OMH program oversight in its handling of resident payments for rent and utilities. However, on page 6 of the report, this same program oversight was used by OSC to demonstrate that OMH is not providing sufficient programmatic guidance. The reference on page 6 remains inconsistent and should be corrected.

III. OMH’s Responses to OSC’s Specific Recommendations

- o **OSC Recommendation No. 1 – OMH Guidance Over Program Expenditures**
Establish effective fiscal and programmatic controls to ensure that: providers’ use of Program funds are appropriate, allowable, and documented; Program requirements are followed; and Program goals are achieved. Controls should include, but not be limited to:
- Expanded desk reviews of provider CFR’s to include review, on a sample basis, of supporting documentation to ensure that claimed Program expenses are reasonable, necessary, and allowable.
 - Ensuring that guidance issued to counties and to service providers is consistent;
 - Clarifying expectations of the counties, the OMH regional offices, and the OMH main office, especially when a service provider receives Program funding both directly from OMH and through a county;
 - Improved communication among oversight entities; and
 - Ensuring the regional offices are performing the required monitoring of Program service providers.

OMH Response

OMH has already established fiscal and programmatic monitoring programs that require providers to report accurately and appropriately and maintain documentation of OMH program expenditures. OMH annually reviews contracts that are up for renewal to ensure that service providers are meeting programmatic goals and fulfilling reporting

requirements. OMH also already ensures that regional offices are performing the required monitoring of program service providers through our contract renewal process. Additionally, OMH will:

- consider expanded desk reviews within the context of limited agency resources;
- continue to review existing guidance to ensure it is consistent across counties and service providers;
- consider developing enhanced training that is agency specific in addition to the general training that currently exists;
- continue to ensure that programmatic and fiscal expectations are clear for all sources of funding; and,
- continue ongoing efforts to improve communication among oversight agencies.

○ **OSC Recommendation No. 2 – Supplemental Guidance**

Develop supplemental guidance for service providers on allowable Program costs.

OMH Response

The CFR Manual provides guidance on allowable and non-allowable program costs. OMH is reviewing the Manual in conjunction with its NYS agency partners as to whether additional clarifying guidance is needed for certain items. If appropriate, recommendations may be submitted for approval and published in future CFR Manuals.

○ **OSC Recommendation No. 3 – Allocation Methodologies**

Determine whether a per-bed allocation methodology is reasonable for shared costs, and notify all service providers of the decision made.

OMH Response

Beginning with the 15/16 CFR Manual, clarifying instructions were added to Appendix J which state, “if the recommended allocation method is not reasonable, the Agency Provider may determine a more reasonable method of allocation.” OMH continues to evaluate allocation methodologies and will, as appropriate, update the CFR manual regarding allocation methodologies.

○ **OSC Recommendation No. 4 – Non-Allowable Expenses**

Recover the \$41,743 in expenses we identified as not reasonable, necessary, or allowable for the Program or not supported.

OMH Response

OMH will review expenses identified by OSC as inappropriate or unsupported and recover overpayments where appropriate.

○ **OSC Recommendation No. 5 – Additional Non-Allowable Expenses**

Recover the additional \$9,707 related to the November 2014 ACL Conference charged to other OMH-funded programs which we identified as not allowable,

OMH Response

OMH will review expenses identified by OSC as inappropriate or unsupported and recover overpayments where appropriate.

- **OSC Recommendation No. 6 – Questionable Expenses**
Review the \$109,987 in questionable expenses we identified to determine whether they are reasonable and necessary for the Program, and recover any amounts determined to be not allowable.

OMH Response

OMH will review expenses identified by OSC as inappropriate or unsupported and recover overpayments where appropriate.

- **OSC Recommendation No. 7 – Agency Vehicle Use**
Require service providers to use mileage or other vehicle use logs to document their use of Program vehicles.

OMH Response

This is a best practice that OMH has already adopted, as demonstrated by its inclusion on OMH's website in the document "Top Ten Internal Controls to prevent and Detect Fraud" in addition to Appendix J of the CFR Manual, which recommends the use of mileage or trip logs as the referred allocation method in determining the transportation related program expenses. OMH will continue to work with providers to reiterate this expectation.

- **OSC Recommendation No. 8 – Direct Charge of Program Expenses**
To the extent practical, require service providers to charge expenses directly to programs rather than allocate them among various programs.

OMH Response

OMH will continue to work with providers to ensure that appropriate accounting procedures are followed for CFR reporting purposes. OMH already required providers to direct charge expenses as much as possible. Page 42.2 of the CFR Manual (Appendix I) states that all attempts should be made to directly charge an expenses to the appropriate cost center. Page 43.0 (Appendix J) of the CFR Manual states that allocation guidelines should be used only after all attempts should be made to directly charge an expense. OMH will continue to work with DePaul to ensure that appropriate accounting procedures are followed for CFR reporting purposes.

- **OSC Recommendation No. 9 – Supporting Documentation for CFR Submissions**
Ensure that service providers submit all required documentation in support of their CFR's including that required to support parent agency administrative charges.

OMH Response

OMH requests supporting documentation from providers as part of the desk review process.

- **OSC Recommendation No. 10 – Administrative Expenses**
Review the supporting documentation for the \$216,262 that the DePaul Group charged to DCS and LOD for administrative expenses. Determine whether and to what extent these parent agency administrative expenses are allowable.

OMH Response 10

OMH will review expenses identified by OSC as inappropriate or unsupported and recover overpayments where appropriate. OMH is reviewing in conjunction with its NYS Agency partners whether additional clarification and guidance is needed on some of the items of disallowance. Based on this review, recommendations may be submitted for

approval and published in future CFR Manuals.

○ **OSC Recommendation No. 11 – Contingency Funds**

Ensure service providers handle contingency funds properly, including but not limited to:

- Requiring separate tracking of, and reporting on, contingency fund spending,
- Clarifying how to report contingency spending on the CFR, and
- Ensuring contingency fund spending complies with Program requirements.

OMH Response

Increasing program expenses often limit the ability of providers to set aside contingency funds. As a result, the Supportive Housing Guidelines state only that these funds *should* be set aside if available; it is not a requirement. This recommendation is one of several that are being addressed through the revision of the Supportive Housing Guidelines. The revisions, which specifically address and clarify contingency funds, have been drafted and are under review. As part of the revision process, changes to the Supportive Housing Guidelines will be compared to the Spending Plan Guidelines to ensure consistency.

○ **OSC Recommendation No. 12 – Documentation of Client Visits**

Clarify the level of detail about client visits that should be documented in the case files, and communicate this standard to all service providers.

OMH Response

Revisions to the Supportive Housing Guidelines are in the process of being drafted and reviewed by OMH. These revisions address and clarify expectations regarding progress notes and client visits.

○ **OSC Recommendation No. 13 – Completion of Client Satisfaction Surveys**

Ensure that client satisfaction surveys are completed, as required by the contract, and require they be returned directly to OMH or the county rather than to the service provider.

OMH Response

This recommendation is being addressed with the revision of the Supportive Housing Guidelines. The updated guidance addresses the establishment of a formal system of resident input; however, as indicated in OMH's response to the draft report, OMH will continue to require that that resident surveys be submitted directly to the provider and not to OMH.

○ **OSC Recommendation No. 14 – Completion of Client Visits**

Ensure service providers visit each client in their home at least once every three months, as required by Program guidelines.

OMH Response

OMH Central Office will continue to work with the regional field offices during programmatic reviews to ensure that the requirements for client visitation are fulfilled by service providers. Additionally, the updated Supportive Housing Guidelines address home visits and the documentation of contacts during such visits.

○ **OSC Recommendation No. 15 – Needed Repairs and Payments to Landlords**

Work with service providers to develop procedures for ensuring that landlords do not receive rental stipends unless all needed repairs are completed promptly.

OMH Response

Revisions to the Supportive Housing Guidelines will address Provider advocacy with landlords regarding prompt repairs.

o **OSC Recommendation No. 16 – Rent in Excess of 30 Percent of Client Income**

Before approving any housing requests, formally assess each client's ability to afford permanent housing if the rent will exceed 30 percent of income.

OMH Response

The OMH SH Guidelines require providers to assess each client's income and ability to afford permanent housing. While case managers may encourage clients to seek housing with rents that will not exceed 30% of tenant income, clients may independently identify or choose apartments that exceed that threshold. In those cases, the SH Guidelines indicate OMH's approval is required.

On January 27, 2017, OMH's Western New York Field Office conducted a follow-up visit and confirmed that the tenants whose files were reviewed during OSC's audit are in fact paying 30% of their income towards rent.