

THOMAS P. DINAPOLI
COMPTROLLER



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ALBANY, NEW YORK 12236

STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

July 22, 2015

Ms. MaryEllen Elia
Commissioner
State Education Department
State Education Building
89 Washington Avenue
Albany, NY 12234

Ms. Arlene Balestra-Marko
Director
Hear 2 Learn PLLC
6575 Kirkville Road
East Syracuse, NY 13057

Re: Compliance With the Reimbursable Cost
Manual: Hear 2 Learn PLLC
Report 2014-S-74

Dear Ms. Elia and Ms. Balestra-Marko:

Pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution, Article II, Section 8 of the State Finance Law, and Section 4410-c of the State Education Law, we conducted an audit of the expenses submitted by Hear 2 Learn PLLC (Hear 2 Learn) to the State Education Department (SED) for purposes of establishing the preschool special education tuition reimbursement rates used to bill public funding sources that are supported by State aid payments.

Background

Hear 2 Learn, a privately owned institution established in 2000 and located in Syracuse, New York, is an SED-approved provider of preschool special education services. Hear 2 Learn offers a wide range of services and programs to children with disabilities from birth through age five that include the Special Education Itinerant Teacher (SEIT) Program, the Preschool Evaluation Program, the Preschool Related Service Program, and the Early Intervention Program. Hear 2 Learn also operates an audiology clinic.

The SED program included in our audit scope was the SEIT program. During the 2012-13 school year, Hear 2 Learn provided SEIT services to 105 children with learning disabilities from 15

school districts in two counties in Central New York. The SEIT program is a rate-based program. The counties that use Hear 2 Learn's SEIT services pay tuition to Hear 2 Learn using reimbursement rates set by SED. The State reimburses the counties 59.5 percent of the special education tuition that counties pay. SED sets the special education tuition rates based on financial information, including costs, reported by Hear 2 Learn on its annual Consolidated Fiscal Reports (CFRs) filed with SED. Costs reported on the CFR must fully comply with the guidelines in SED's Reimbursable Cost Manual (RCM) regarding the eligibility of costs and documentation requirements and meet the reporting requirements prescribed in the Consolidated Fiscal Reporting and Claiming Manual (CFR Manual). For the fiscal year ended June 30, 2013, Hear 2 Learn reported a total of \$2.7 million in reimbursable costs on its CFR, of which \$340,876 was for its SEIT program.

Results of Audit

According to SED guidelines, costs reported on the CFR should be reasonable, necessary, directly related to the special education program, and properly documented. For the fiscal year ended June 30, 2013, we identified \$20,851 in costs charged to the SEIT program that did not comply with SED's requirements for reimbursement. The disallowances included \$10,957 in other than personal service (OTPS) costs and \$9,894 in personal service and associated fringe benefit costs that were either non-reimbursable, incorrectly reported on the CFR, or not properly documented. In certain instances, costs were disallowed previously by SED, and we noted such instances in the report.

Other Than Personal Service Costs

We reviewed Hear 2 Learn's OTPS costs reported on their 2012-13 CFR and identified disallowances totaling \$10,957. Specifically, we found the following:

- We identified disallowances totaling \$7,264 for facility-related costs that Hear 2 Learn charged to the SEIT program. The disallowed costs included facility lease payments, equipment depreciation, repairs and maintenance, telephone, equipment lease costs, insurance, and real estate taxes. We determined Hear 2 Learn does not provide SEIT services at its facility. Hear 2 Learn officials did not provide information or documentation to support that the space or resources of the facility were used by its SEIT staff. Further, its SEIT teachers provide services at the child's day care, home, preschool, or other venue. In addition, the teachers do not have offices at Hear 2 Learn. While computers are available for teachers' use at the facility, the teachers primarily use their own.
- We reviewed a sample of supply expenses totaling \$7,585, of which Hear 2 Learn allocated \$723 to the SEIT program. We determined \$622 of these reported SEIT costs were not allowable as the supplies were not specifically related to the provision of services for the SEIT program. The disallowed costs included: office-type supplies (e.g., envelopes, folders), audiology items such as batteries for hearing aids, test kits, office cleaning services, and staff mileage.
- According to the RCM, costs associated with non-audit services provided by a public accounting firm within 365 days of audit work are not reimbursable. Hear 2 Learn reported \$24,286 in audit/legal costs on its CFR which included both audit and non-audit services

from the same public accounting firm. Of this amount, \$7,475 was for non-audit services (consulting and personal tax preparation fees), of which \$931 was allocated to the SEIT program.

- Hear 2 Learn reported vehicle expenses of \$11,689 for the Director's privately owned vehicle, of which \$1,456 was allocated to the SEIT program. These costs included vehicle depreciation, fuel, and maintenance costs, all of which are not reimbursable. The RCM does state that use of privately owned vehicles for program business by employees is reimbursable (i.e., mileage reimbursements) provided such use is documented and necessary. However, Hear 2 Learn did not maintain sufficient documentation for the Director's use of the vehicle; therefore, the reported vehicle costs are not reimbursable.
- Per the RCM, advertising costs are reimbursable provided certain requirements are met. The requirements include clearly stating in the advertisement that the program is for preschool children who have a disability pursuant to Section 4410 of Article 89 of the State Education Law, and that parents are responsible for arranging for and paying the costs of any child care. Hear 2 Learn reported \$895 in advertising costs that did not meet these requirements. Of this amount, advertising costs of \$111 were allocated to the SEIT program. (Note: Prior to our audit, SED adjusted the amount of advertising expenses reported by Hear 2 Learn.)
- According to the RCM, employee holiday parties, food, and gifts are not reimbursable. Hear 2 Learn reported non-reimbursable expenses of \$2,003 for a holiday party, \$1,501 for food, and \$751 in gifts. The non-reimbursable amounts allocated to the SEIT program were \$249, \$107, and \$99, respectively. (Note: Hear 2 Learn reported these costs as staff travel, supplies, and "Other" expenses. Prior to our audit, SED adjusted the amount of "Other" expenses reported by Hear 2 Learn.)
- Per the RCM, political and charitable contributions are not reimbursable. Hear 2 Learn reported \$500 under "Other" expenses for contributions to a cancer organization and to a hearing and vision loss entity that Hear 2 Learn is partnered with. We identified non-allowable contributions of \$62 allocated to the SEIT program. (Note: Prior to our audit, SED adjusted the amount of "Other" expenses reported by Hear 2 Learn.)
- According to the RCM, costs must be properly documented. Hear 2 Learn was unable to provide supporting documentation for several transactions totaling \$640, of which Hear 2 Learn allocated \$56 to the SEIT program.

Personal Service Costs

Personal service costs reported on the CFR must comply fully with the guidelines in the RCM. Specifically, personal service costs, which include all taxable salaries and fringe benefits paid or accrued to staff, must be reported on the CFR as either direct care costs (such as teachers' salaries) or non-direct care costs (such as administrators' salaries). According to the RCM, reported costs should be reasonable, necessary, program related, and properly documented. In addition, any bonuses paid to employees must be based on merit and not directly related to hours worked.

During the fiscal year ended June 30, 2013, Hear 2 Learn reported \$319,225 in personal service and fringe benefit costs for the SEIT program. Of this amount, we identified \$9,894 in

disallowances, including \$7,795 in salary and bonus costs and \$2,099 in fringe benefit costs, as follows:

- Hear 2 Learn reported salary expenses of \$48,660 for an employee who did not complete time records, which is a requirement for reimbursement. We disallowed the \$5,459 of this employee's salary that was allocated to the SEIT program. We also determined Hear 2 Learn incorrectly allocated the salaries of program administration employees to the SEIT program, resulting in overstated salary expenses of \$896.
- Hear 2 Learn paid bonuses of \$10,986 to nine employees that were not based on merit as required by the RCM. Consequently, the \$1,440 in bonus payments allocated to the SEIT program are not reimbursable.
- Hear 2 Learn allocated \$1,206 to the SEIT program, as direct care costs, for an employer contribution to the Executive Director's Individual Retirement Account. However, the RCM states the Executive Director's personal service costs (including fringe benefits) should be entirely reported as an agency administration expense, not as a direct cost to a program. Using the required ratio-value method, we determined only \$150 of the \$1,206 should have been allocated as an administrative expense to the SEIT program. Consequently, we recommend the disallowance of fringe benefit costs of \$1,056 allocated directly to the SEIT program.
- Hear 2 Learn charged \$36,248 in fringe benefit costs to the SEIT program. Fringe benefits are calculated as a percentage of reimbursable salary costs. Consequently, the personal service salary disallowances we identified resulted in a corresponding reduction of \$1,043 in Hear 2 Learn's reimbursable fringe benefit costs.

Recommendations

To SED:

1. Review the disallowances identified by our audit and, if warranted, make the necessary adjustments to Hear 2 Learn's reimbursement rates.
2. Remind Hear 2 Learn officials of the pertinent SED guidelines that relate to the deficiencies we identified.

To Hear 2 Learn:

3. Ensure that costs reported on annual CFRs fully comply with SED's guidelines and requirements. Communicate with SED to get clarification as needed.

Audit Scope, Objective, and Methodology

We audited the expenses submitted by Hear 2 Learn on its CFR for the fiscal year ended June 30, 2013. The objective of our audit was to determine whether the costs submitted by Hear 2 Learn on its CFR were properly calculated, adequately documented, and allowable under SED's guidelines, including the RCM.

To accomplish our objective and assess internal controls related to our objective, we reviewed Hear 2 Learn's 2012-13 CFR and financial statements. We interviewed Hear 2 Learn officials and staff to obtain an understanding of their financial practices relating to the expenses reported on Hear 2 Learn's CFR. We also interviewed SED officials and obtained an understanding of the CFR, as well as the policies and procedures contained in the RCM and the CFR Manual. We reviewed a judgmental sample of SEIT program costs. The sample included selected high-cost items and selected items only reimbursable under limited circumstances, such as food and employee bonuses. To complete our audit work, we reviewed supporting documentation for the costs submitted by Hear 2 Learn on its CFR and made a determination of whether the costs complied with and were allowable by the RCM and CFR manual.

We conducted our audit in accordance with generally accepted government auditing standards. These 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. In addition, the Comptroller appoints members (some of whom have minority voting rights) to certain boards, commissions, and public authorities. 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.

Reporting Requirements

We provided a draft copy of this report to SED and Hear 2 Learn officials for their review and formal comment. We considered their comments in preparing this report and have included them in their entirety at the end of it. In their responses, SED and Hear 2 Learn officials agreed with our recommendations and indicated the actions they would take to address them. Our rejoinders to certain Hear 2 Learn comments are included in the report's State Comptroller's Comments.

Within 90 days of the final release of this report, as required by Section 170 of the Executive Law, the Commissioner of Education 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.

Major contributors to this report were David Fleming, Ed Durocher, Claudia Christodoulou, and Daniel Rossi.

We would like to thank SED and Hear 2 Learn management and staff for the courtesies and cooperation extended to our auditors during this review.

Sincerely,

Andrea Inman
Audit Director

cc: Andrew Fischler, Audit Manager – Office of Audit Services, SED
Suzanne Bolling, Director of Special Education Fiscal Services, SED

Agency Comments - State Education Department



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY
12234

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July 7, 2015

Ms. Andrea Inman
Audit Director
Office of the State Comptroller
Division of State Government Accountability
110 State Street – 11th Floor
Albany, NY 12236

Dear Ms. Inman:

The following is the New York State Education Department's (Department) response to the draft audit report, 2014-S-74, Compliance with the Reimbursable Cost Manual: Hear 2 Learn PLLC.

Recommendation 1: Review the disallowances identified by our audit and, if warranted, make the necessary adjustments to Hear 2 Learn's reimbursement rates.

We agree with this recommendation. The Department will review the recommended disallowances as noted in the report and make adjustments to the reported costs to recover any overpayments, as appropriate, by recalculating tuition rates.

Recommendation 2: Remind Hear 2 Learn officials of the pertinent SED guidelines that relate to the deficiencies we identified.

We agree with this recommendation. The Department will continue to provide technical assistance whenever requested and will strongly recommend that Summit officials take advantage of our availability to help them better understand the standards for reimbursement as presented in Regulation and the Reimbursable Cost Manual. In addition, Consolidated Fiscal Report (CFR) training is available at six locations across the State and online on Department's webpage. The training is recommended for all individuals signing CFR certification statements, namely Executive Directors and Certified Public Accountants, and is required for preschool special education providers upon approval and reapproval. Furthermore, the Department intends to require that the training be mandatory for all providers.

If you have any questions regarding this response, please contact Suzanne Bolling,
Director of Special Education Fiscal Services at 518/474-3227.

Sincerely,

A handwritten signature in cursive script that reads "S. Cates-Williams".

Sharon Cates-Williams

c: James P. DeLorenzo
Suzanne Bolling

Agency Comments - Hear 2 Learn



Pediatric Therapies for Independent Lives

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315.701.5710
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www.hear-2-learn.com

Date: July 1, 2015

Ms. Andrea Inman
Audit Director
Office of the State Comptroller
Division of State Government Accountability
110 State Street - 11th Floor
Albany, NY 12236-0001

Re: Compliance with the Reimbursable Cost Manual
Hear 2 Learn PLLC
Report 2014-S-74

Dear Ms. Inman:

Hear 2 Learn appreciates the opportunity we have been given to provide a written response to the draft audit report referenced above.

Executive Comments:

On April 19, 2007, Hear 2 Learn was officially approved for the provision of Special Education Itinerant Services (SEIS) by the NYS Department of Education. Subsequent to that approval and coupled with steady and yearly growth in our SEIS program since 2007, Hear 2 Learn has actively sought *numerous* and *varied* sources of education, information, and guidance on the **accurate** compliance and completion of the Consolidated Fiscal Report (CFR), utilizing the Reimbursable Cost Manual. Specifically and most importantly, we sought guidance on how to translate the varied expenses, including payroll, that are unique to Hear 2 Learn's fee-for-service financial and corporate structure, into a seemingly ambiguous cost report that outlined terms and procedures specific to a public school model rather than Hear 2 Learn's itinerant fee-for-service model.

Our tenacity with seeking guidance and understanding through the years, led Hear 2 Learn from outsourcing the CFR in year's prior to full compilation within the agency, with the above referenced audit period as our *initial* submission. As a result of the intensity in preparedness for this audit, Hear 2 Learn has identified areas of improvement in proper allocation, policies, and general operations by which the next CFR will be founded.

Response to Background and Specific Findings:

Background: Please note that Hear 2 Learn was established in 2005 as a Professional Limited Liability Company and not in the year 2000 as the draft report in this section indicated.

Results of the Audit

Other than Personal Service Costs (OTPS):

1. Disallowances totaling \$7264.00 for facility related costs related costs charged to the SEIT program.

* Comment 1

* See State Comptroller's Comments, Page 12

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Comment
2

Response: Hear 2 Learn has developed procedures to address the reporting in this area. It is accurate that Hear 2 Learn operates several programs including SEIT. It too, is accurate that we do not provide classrooms or SEIT services at our facility. However, our SEIT staff do use our facility and its internal offices, namely, our 24-hour access employee office for program related work. The 24/7 access employee office houses a copying machine, laminator, detailed and specific assessment protocols, basic office supplies and two computer work stations. This room is available to all our itinerant employees and it is used daily. Hear 2 Learn carried out this allocation in accordance with our best understanding that our itinerant SEIT teachers use this room as their personal work stations, in addition, to their homes and personal equipment and therefore, costs were associated. Hear 2 Learn does, however, fully recognize and concur that the provision of "evidence" of SEIT use of our facility, including this employee room, was absent. Further, to track, maintain, and monitor this level of detail in light of our many employees and the nature of the facility, would require detailing capabilities beyond a reasonable reach.

2. Disallowances of \$622.00 for supply expenses charged to the SEIT program.

Response: Hear 2 Learn concurs with this finding and carried out this allocation in accordance with our best understanding of these expenses. Hear 2 Learn has taken recent action to ensure appropriate allocation in future CFR submissions.

3. Disallowances of \$931.00 for non-audit/tax preparation services charged to the SEIT program.

Response: Hear 2 Learn concurs with this finding and carried out this allocation in accordance with our best understanding of this expense. Hear 2 Learn has taken recent action to ensure appropriate allocation in future CFR submissions.

4. Disallowances of \$1456.00 for Director's privately owned vehicle charged to the SEIT program.

Response: Hear 2 Learn concurs with this finding and carried out this allocation in accordance with our best understanding of this expense. Hear 2 Learn has taken recent action to ensure appropriate documentation is maintained per RCM guidelines.

5. Disallowances for \$111.00 for advertising costs charged to the SEIT program.

Response: Hear 2 Learn concurs with this finding and carried out this allocation in accordance with our best understanding of advertising guidelines charged to a SEIT program. We have received further instruction from SED on this allocation and have taken action to ensure appropriate allocation in future CFR submissions.

6. Disallowances of \$249.00, \$107.00, and \$99 for non-reimbursable holiday parties, food, and gifts charged to the SEIT program.

Response: Hear 2 Learn concurs with this finding and carried out this allocation in accordance with our best understanding of these expenses. Hear 2 Learn has taken recent action to ensure appropriate allocation in future CFR submissions.

7. Disallowances of \$62.00 for political and charitable contributions charged to the SEIT program.

Response: Hear 2 Learn concurs with this finding and carried out this allocation in accordance with our best understanding of advertising guidelines charged to a SEIT program. We have received further instruction from SED on this allocation and have taken action to ensure appropriate allocation in future CFR submissions.

8. Disallowances of \$56.00 for costs lacking proper documentation and charged to the SEIT program.

Response: Hear 2 Learn concurs with this finding and carried out this allocation in accordance with our best understanding of these expenses. Hear 2 Learn has taken recent action to ensure appropriate documentation of all appropriate costs per RCM guidelines.

Personal Service Costs:

1. Disallowances totaling \$5459.00 in an employee salary who did not complete time and was charged to the SEIT program.

Response: A review of our human resources procedures which involved careful consideration of the requirements from the Department of Labor on salaried employees led to this finding that requiring a time sheet for a salaried employee. Hear 2 Learn has taken action in requiring time records for all salaried employees.

2. Disallowance of \$1440.00 in bonuses to employees that was not based on merit.

Response: Hear 2 Learn has taken action in reviewing and editing performance review policies for bonuses based upon merit. We have received further instruction on this allocation and have taken action to ensure appropriate allocation in future CFR submissions.

3. Disallowance of \$1056.00 of fringe benefit costs related to employer contribution IRA accounts charged to the SEIT program.

Response: Hear 2 Learn concurs with this finding and carried out this allocation in accordance with our best understanding of this expense. Hear 2 Learn has taken recent action to ensure appropriate allocation in future CFR submissions

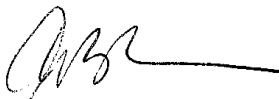
4. Disallowance of \$1043.00 of fringe benefit costs related to reimbursable salary costs based upon prior disallowances in personal service salary.

Response: Hear 2 Learn concurs with this finding and carried out this allocation in accordance with our best understanding of this expense. Hear 2 Learn has taken recent action to ensure appropriate allocation in future CFR submissions

In summary, Hear 2 Learn will continue to seek training, information, and guidance as warranted to comply with CFR annual submissions.

Thank you once again for the opportunity to respond to these findings.

Sincerely,



Arlene Balestra-Marko, Au.D., CCC-A, PASC
Managing Member / Founding Director
Hear 2 Learn Audiology and Speech Language Pathology, PLLC

State Comptroller's Comments

1. Although Hear 2 Learn was established as a Professional Limited Liability Company in 2005, it began program operations in 2000, as indicated by the report.
2. During our audit, we determined Hear 2 Learn did not have any administrative space dedicated exclusively for SEIT teacher's use at their facility that justified the direct charge of facility costs to the SEIT program. Further, Hear 2 Learn officials acknowledged that documentation supporting such charges did not exist. As such, we maintain that the costs in question were not eligible for reimbursement.