



**Office for People With  
Developmental Disabilities**

ANDREW M. CUOMO  
Governor

KERRY A. DELANEY  
Acting Commissioner

March 29, 2018

***Transmitted Via Email***

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

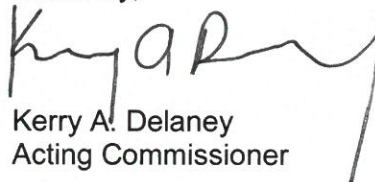
Re: OSC Audit Report No. 2016-S-2

Dear Governor Cuomo:

Attached is the Office for People With Developmental Disabilities' comments on the Office of the State Comptroller's Final Audit Report (2016-S-2) entitled: "*Compliance with the Consolidated Fiscal Reporting and Claiming Manual* Office for People With Developmental Disabilities/Lifespire, Inc."

This response is being submitted to you in accordance with Section 170 of the Executive Law.

Sincerely,



Kerry A. Delaney  
Acting Commissioner

Attachment

**Office for People With Developmental Disabilities  
Response to the Office of the State Comptroller's  
Final Audit Report (No: 2016-S-2): "Compliance with the  
Consolidated Fiscal Reporting and Claiming Manual  
Office for People With Developmental Disabilities/Lifespire, Inc."**

The New York State Office for People With Developmental Disabilities ("OPWDD") strongly disagrees with certain findings and recommendations in the Office of the State Comptroller's ("OSC") final audit report (2016-S-2) entitled, "*Compliance with the Consolidated Fiscal Reporting and Claiming Manual, Office for People With Developmental Disabilities/Lifespire, Inc.*"

In this audit, OSC reviewed costs claimed for a variety of state-funded services by the voluntary agency Lifespire, Inc. ("Lifespire") on its Consolidated Fiscal Report ("CFR") during the period of July 1, 2013 through June 30, 2015. As a result of this review, OSC recommended certain costs claimed by Lifespire be disallowed, and that OPWDD make any appropriate adjustments to Lifespire's reimbursements based upon those disallowances. OSC also erroneously concluded that certain of these disallowances were the result of a lack of oversight and monitoring by OPWDD.

As described in more detail below, OPWDD strongly disagrees with those conclusions, as OSC disregarded that OPWDD has proper monitoring and appropriate safeguards in place.

**I. OSC's Statements**

**A. OSC's Statement to OPWDD:**

On page seven of the final report, OSC describes recommended disallowances of costs claimed by Lifespire pursuant to a Family Support Services ("FSS") Contract, totaling \$64,051. Under that program, Lifespire uses monies supplied by OPWDD to reimburse certain expenditures of persons caring for family members with developmental disabilities. Reimbursable expenditures include certain goods, equipment, or services (e.g., respite care). OSC based this finding on its belief that Lifespire did not timely generate the purchase orders for the FSS services. OSC claimed that OPWDD disagreed with the disallowances, but did not respond to additional information supplied by OSC about the disallowances.

**OPWDD Response:**

OPWDD disagrees with these conclusions, as OSC has failed to articulate a basis under which these payments were untimely. OSC's preliminary report argued that Lifespire's purchases that were made after the end of the contract period should be disallowed under the accrual method of accounting. After OPWDD cited CFR manual language refuting OSC's interpretation of the accounting method in its preliminary response, OSC shifted the basis of its conclusion to a claim in the draft report that Lifespire did not timely generate the purchase orders for the FSS services.

In the response to the draft report, OPWDD highlighted Lifespire's argument that through its Family Care Committee's approval of expense requests during the contract period, it timely incurred its payment obligations as that action created a binding obligation to the requesting families to obtain those items and services as of that date.

In the final report, OSC disputes that it ever changed the basis of this finding, but OSC also repeats its conclusion that the purchase orders govern the timeliness of the obligation. However, OSC's final report has failed to address the fact that Lifespire appears to have timely created a

binding obligation under the contract to pay for expenses requested by families. Therefore, OPWDD cannot agree with OSC's finding on the stated basis.

While OPWDD still disputes that OSC provided additional material information that necessitated a response to this issue, it will work with OSC and Lifespire to fully evaluate the timeliness of these payment obligations.

#### **B. OSC's Statement to OPWDD:**

On page eight of the report, OSC claims that Lifespire did not have adequate supporting documentation of services under the Manhattan Behavior Management program and its Group Day Habilitation program in order to substantiate CFR cost reports. OSC claimed that these findings, out of 87 individuals sampled, led to unsupported units of service totaling \$6,557. OSC also found that "the reason for the overpayments was that OPWDD was not reviewing the supporting documentation for its State-funded programs" and that "the lack of oversight and monitoring on the part of both OPWDD and Lifespire was the prime contributor to these issues." While OSC acknowledged several different OPWDD monitoring and oversight activities, it nonetheless claimed that OPWDD oversight was ineffective because site visits only focused on programmatic aspects and that audits were untimely or unrepresentative of the breadth of Lifespire's programming.

#### **OPWDD Response:**

OPWDD strongly disagrees with these findings. Despite OPWDD's enumeration of the features of its robust oversight of the FSS program in its response to the draft report, OSC disagreed that oversight was sufficient and recommended that OPWDD should increase its review of fiscal operations during site visits and that OPWDD's audit oversight is untimely and limited. OPWDD also highlighted in its response to the draft report that its 2014 audit of Lifespire did in fact involve fiscal oversight, which OSC disregards in its final report despite conceding that site visit forms used by OPWDD employees do contain items related to fiscal operations—although OSC claimed that these were "very few" without further detail. See p. 21, comment no. 3.

Additionally, OSC's final report fails to cite to any standard under which OPWDD's audits of FSS are untimely or too narrow in scope. OSC's final report also discounts the robustness of OPWDD's fiscal oversight, which includes audits, annual site visits, required quarterly program reporting, required audited fiscal reports, and a rigorous pre-approval process for the FSS and group day habilitation programs. Contrary to OSC's assertions, OPWDD's oversight serves to protect the fiscal integrity of these programs.

## **II. OSC's Recommendations:**

### **A. OSC's Recommendation to OPWDD:**

"Review the recommended disallowances resulting from our audit and make the appropriate adjustments to the costs reported on Lifespire's CFRs and its reimbursements."

#### **OPWDD Response:**

OPWDD takes oversight of the expenditure of public funds very seriously, as the robust oversight and audit programs described above demonstrate. As stated in its prior responses, OPWDD will review OSC's final recommended disallowances. While OSC has identified certain Lifespire

expenditures that appear to be inappropriate, OPWDD will take into consideration Lifespire's responses, as well as obtaining additional information from OSC, which will be necessary to determine whether Lifespire was in compliance with applicable program standards, and whether the CFRs for the particular years at issue had any effect on Lifespire's payments and reimbursements. OSC did not comment on OPWDD's preliminary response to this recommendation, and there are no changes to OSC's recommendation or OPWDD's response.

**B. OSC's Recommendation to OPWDD:**

"Review Lifespire's supporting documentation to ensure that it is following all contract/program guidelines and regulations."

**OPWDD Response:**

OPWDD has disagreed with this recommendation since it was first issued in the preliminary report because, as previously described, it already appropriately monitors and oversees its contracting entities. OSC's recommendation that all supporting documentation be reviewed for reimbursement purposes (see p. 21, comment no. 2), in addition to OPWDD's existing oversight, is outside the scope of both programmatic and contractual requirements and would impose an unnecessary administrative burden on service providers and OPWDD.

OSC now responds in its final report (see p. 21, comment no. 4) that this recommendation is limited to OPWDD's site visits, and not to every contract payment. However, OSC conceded in the final report that OPWDD's site visits do cover fiscal operations, as demonstrated by review forms used during these visits (See p. 21, comment no. 3). Furthermore, OSC's comment that OPWDD "does not seem to fully comprehend what constitutes an appropriate risk and control structure" is inappropriate and, ultimately, misplaced. As demonstrated above, the FSS program has multiple controls beyond OPWDD's audit function. Furthermore, OSC's recommended disallowance of under \$7,000 across 87 sampled individuals in 13 programs over a two-year period does not demonstrate an inadequate risk and control structure.