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**New York State Office of the State Comptroller**  
Thomas P. DiNapoli

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Division of State Government Accountability

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# **Compliance With the Reimbursable Cost Manual**

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## **State Education Department HeartShare Human Services, Inc.**

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Report 2016-S-45

October 2017

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# Executive Summary

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## Purpose

To determine whether the costs reported by HeartShare Human Services, Inc. (HeartShare) on its Consolidated Fiscal Reports (CFRs) were reasonable, necessary, directly related to the special education programs, and sufficiently documented pursuant to the State Education Department's (SED) Reimbursable Cost Manual (Manual) and the Consolidated Fiscal Reporting and Claiming Manual. The audit focused primarily on expenses claimed on HeartShare's CFR for the fiscal year ended June 30, 2014 and included certain expenses claimed on its CFRs for the two fiscal years ended June 30, 2013.

## Background

HeartShare is a New York City-based not-for-profit organization authorized by SED to provide preschool special education services to children with disabilities who are between the ages of three and five years. During the 2013-14 school year, HeartShare served about 318 students. The New York City Department of Education (DoE) refers students to HeartShare and pays for its services using rates established by SED. The DoE is reimbursed by SED for a portion of its payments to HeartShare. For the three fiscal years ended June 30, 2014, HeartShare reported approximately \$38 million in reimbursable costs for the SED preschool cost-based programs. In addition to the SED programs, HeartShare operates several New York State Office for People with Developmental Disabilities (OPWDD) programs, a Universal Pre-Kindergarten program, and two subsidiaries - St. Vincent's Services and Wellness Inc.

## Key Findings

For the three fiscal years ended June 30, 2014, we identified \$1,529,789 in reported costs that did not comply with the Manual's requirements, as follows:

- \$891,018 in non-program expenses for compensation paid to 71 individuals who did not work for HeartShare's SED preschool cost-based programs. These individuals provided services to HeartShare's fixed-fee, OPWDD, and St. Vincent's Services programs;
- \$204,855 in ineligible employee bonuses that did not comply with SED's reimbursement requirements;
- \$201,237 in over-allocated expenses, including \$60,338 in personal service costs and \$140,899 in other than personal service costs. These expenses should have been allocated to HeartShare's fixed-fee and Wellness Inc. programs;
- \$118,199 in ineligible compensation to HeartShare's Executive Director, Assistant Executive Director, and Chief Financial Officer. The compensation for the three executives exceeded SED's reimbursement limits for the preschool cost-based programs;
- \$63,675 in expenses for non-auditing services. According to SED's guidelines, these expenses were not reimbursable; and
- \$50,805 in other ineligible and insufficiently documented expenses, including costs for consulting, advisory, and pre-merger services; as well as the cost of food for staff.

## Key Recommendations

### To SED:

- Review the recommended disallowances resulting from our audit and make the appropriate adjustments to HeartShare's CFRs and tuition reimbursement rates, as warranted.
- Work with HeartShare's officials to ensure their compliance with SED's reimbursement requirements.

### To HeartShare:

- Ensure that all costs reported on future CFRs comply with the Manual's requirements.

## Other Related Audits/Reports of Interest

[New York League for Early Learning, Inc.: Compliance With the Reimbursable Cost Manual \(2015-S-43\)](#)

[Books and Rattles, Inc.: Compliance With the Reimbursable Cost Manual \(2016-S-25\)](#)

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**State of New York  
Office of the State Comptroller**

**Division of State Government Accountability**

October 24, 2017

Ms. MaryEllen Elia  
Commissioner  
State Education Department  
State Education Building – Room 125  
89 Washington Avenue  
Albany, NY 12234

Mr. William R. Guarinello  
President and Chief Executive Officer  
HeartShare Human Services, Inc.  
12 MetroTech Center  
Brooklyn, NY 11201

Dear Ms. Elia and Mr. Guarinello:

The Office of the State Comptroller is committed to helping State agencies, public authorities, and local government agencies manage their resources efficiently and effectively and by so doing, providing accountability for the tax dollars spent to support government-funded services and operations. The Comptroller oversees the fiscal affairs of State agencies, public authorities, and local government agencies, as well as their compliance with relevant statutes and their observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations. Audits can also identify strategies for reducing costs and strengthening controls that are intended to safeguard assets.

Following is a report, entitled *Compliance With the Reimbursable Cost Manual*, of our audit of the costs submitted by HeartShare Human Services, Inc. to the State Education Department for the purposes of establishing preschool special education tuition reimbursement rates. This audit was performed 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.

This audit's results and recommendations are resources for you to use in effectively managing your operations and in meeting the expectations of taxpayers. If you have any questions about this draft report, please feel free to contact us.

Respectfully submitted,

*Office of the State Comptroller  
Division of State Government Accountability*

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This report is also available on our website at: [www.osc.state.ny.us](http://www.osc.state.ny.us)

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## Background

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HeartShare Human Services, Inc. (HeartShare) is a New York City-based not-for-profit organization authorized by the State Education Department (SED) to provide preschool special education services to children with disabilities who are between the ages of three and five years. During our audit period, HeartShare operated two rate-based preschool special education programs: full-day Special Class (SC) and full-day Special Class in an Integrated Setting (SCIS). For purposes of this report, these programs are collectively referred to as SED's preschool cost-based programs.

During the 2013-14 school year, HeartShare served about 318 students. In addition to the preschool SC and SCIS cost-based special education programs, HeartShare operated three other SED preschool programs: Evaluations, 1:1 Aides, and Related Services. However, payments for services under these other programs were based on fixed fees, as opposed to the cost-based rates established through financial information reported on the annual Consolidated Fiscal Reports (CFRs) HeartShare files with SED. HeartShare also operates several New York State Office for People with Developmental Disabilities (OPWDD) programs, a Universal Pre-Kindergarten program (UPK), and two subsidiaries - St. Vincent's Services and Wellness Inc.

The New York City Department of Education (DoE) refers students to HeartShare based on clinical evaluations and pays for HeartShare's services using rates established by SED. The rates are based on the financial information HeartShare reports to SED on its annual CFRs. To qualify for reimbursement, HeartShare's expenses must comply with the criteria set forth in SED's Reimbursable Cost Manual (Manual) and its Consolidated Fiscal Reporting and Claiming Manual (CFR Manual), which provide guidance to special education providers on the eligibility of reimbursable costs, the documentation necessary to support these costs, and cost allocation requirements for expenses relating to multiple programs. Reimbursable costs must be reasonable, necessary, directly related to the special education program, and sufficiently documented. The State reimburses the DoE 59.5 percent of the statutory rate it pays to HeartShare.

Section 4410-c of the Education Law authorizes the State Comptroller to audit the expenses reported to SED by special education service providers for preschool children with disabilities. For the three fiscal years ended June 30, 2014, HeartShare reported approximately \$38 million in reimbursable costs for SED's preschool cost-based programs. This audit included expenses claimed on HeartShare's CFR for the fiscal year ended June 30, 2014 and certain expenses claimed on its CFRs for the two fiscal years ended June 30, 2013.

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## Audit Findings and Recommendations

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For the three fiscal years ended June 30, 2014, we identified \$1,529,789 in reported costs that did not comply with SED's requirements for reimbursement. The ineligible costs included \$1,274,410 in personal service costs and \$255,379 in other than personal service (OTPS) costs (see Exhibit at the end of this report). SED, pursuant to a desk review, previously disallowed some of these costs.

### Personal Service Costs

According to the Manual, costs will be considered for reimbursement provided such costs are reasonable, necessary, directly related to the special education program, and sufficiently documented pursuant to the guidelines in the Manual. In addition, personal service costs, which include all salaries and fringe benefits paid or accrued to employees on the agency's payroll, must be reported on the CFR as either direct care costs (e.g., teachers' salaries) or non-direct care costs (e.g., administrators' salaries). For the three fiscal years ended June 30, 2014, HeartShare reported approximately \$30.9 million in personal service costs for SED's preschool cost-based programs. We identified \$1,274,410 in such costs that did not comply with the Manual's guidelines for reimbursement. SED, pursuant to a desk review, previously disallowed some of the personal service costs.

#### *Non-Program Costs*

The Manual also states that costs will not be reimbursable on field audit without appropriate written documentation of such costs. Moreover, compensation costs (salaries and fringe benefits) must be based on approved and documented payrolls, which must be supported by employee time records prepared during, not after, the time period for which the employee was paid. Further, entities operating approved programs shall develop employee-employer agreements with written salary scales and issue them to employees. In addition, the Regulations of the Commissioner of Education (Regulations) state that evaluation costs and related statistical data must be reported in a separate cost center. We found that HeartShare officials could not provide documentation, including evidence of work product, to show that 71 employees were assigned to or had provided services to SED's preschool cost-based programs, as follows:

- \$498,139 for 39 employees whose job titles and corroborating personnel records indicated that they worked for other HeartShare programs, including the OPWDD Residential and Family Support Services programs;
- \$344,135 for three employees whose job titles and personnel records indicated they worked for HeartShare's Evaluations program - an SED fixed-fee program. In fact, one employee even told us that her primary responsibility was conducting evaluations; and
- \$48,744 for 29 other employees. Documentation provided by HeartShare indicated that 19 of the 29 employees worked for St. Vincent's Services - a HeartShare subsidiary. HeartShare could not provide documentation to show that the remaining ten employees provided services to the preschool cost-based programs.



We recommend that SED disallow the \$891,018 (\$498,139 + \$344,135 + \$48,744) in non-program-related compensation charged to the preschool cost-based programs.

### *Ineligible Bonuses*

According to the Manual, a bonus is a non-recurring and non-accumulating (i.e., not included in base salary of subsequent years) lump sum payment in excess of regularly scheduled salary which is not directly related to hours worked. A bonus may be reimbursed if it is based on merit as measured and supported by employee performance evaluations. Moreover, reimbursable bonuses are restricted to direct-care employees. In addition, for the fiscal year ended June 30, 2012, the Manual limited bonus compensation to 5 percent of an employee's base salary.

For the three fiscal years ended June 30, 2014, bonus compensation reported by HeartShare included \$200,974 paid to non-direct care employees, including the Executive Director, Assistant Executive Director, and Chief Financial Officer (CFO). In addition, for the fiscal year ended June 30, 2012, the bonus paid to a special education teacher exceeded the 5 percent limit by \$3,881.

We recommend that SED disallow \$204,855 (\$200,974 + \$3,881) in ineligible bonuses that were charged to SED's preschool cost-based programs.

### *Excessive Executive Compensation*

According to the Manual, compensation (i.e., salaries plus fringe benefits) for an entity's staff whose function is that of Executive Director, Assistant Executive Director, or CFO will be directly compared with the regional median compensation for comparable administration job titles of public school districts. Reimbursement shall not exceed the median compensation paid to comparable personnel in public schools for similar work and hours of employment in the region in which the entity is located. However, for the three fiscal years ended June 30, 2014, the compensation for the Executive Director, CFO, and Assistant Executive Director exceeded SED's limits by \$780,935 (for all HeartShare programs). Of this amount, \$118,199 was allocable to the preschool cost-based programs subject to our audit. Details of the compensation in question are presented as follows:

- For the three years ended June 30, 2014, HeartShare reported \$1,317,722 (\$400,234, \$465,120, and \$452,368, respectively) in compensation for the Executive Director. The total regional median reimbursement limit for the three years was \$821,949. As a result, the Executive Director's compensation exceeded the regional median limit by \$495,773 (\$1,317,722 - \$821,949);
- For the same three fiscal years, HeartShare reported \$879,521 (\$305,193, \$301,505, and \$272,823, respectively) in compensation for a CFO. The total regional median reimbursement limit for the three years was \$608,625. Thus, the CFO's compensation exceeded the regional median limit by \$270,896 (\$879,521 - \$608,625); and
- For the two years ended June 30, 2014, HeartShare reported \$333,033 (\$176,702 and \$156,331, respectively) in compensation for its Assistant Executive Director. The total regional median reimbursement limit for the two years was \$318,767. As a result, the



Assistant Executive Director's compensation exceeded the regional median limit by \$14,266 (\$333,033 - \$318,767).

In total, compensation for HeartShare's Executive Director, CFO, and Assistant Executive Director exceeded the regional median limit by the aforementioned \$780,935 (\$495,773 + \$270,896 + \$14,266). Consequently, we recommend that SED disallow \$118,199, the portion of the excessive compensation allocated to SED's preschool cost-based programs.

### *Over-Allocated Personal Service Expenses*

The Manual states that agency administrative costs shall be allocated to all programs operated by the entity based on the Ratio Value Method (RVM). Further, salaries of employees who perform tasks for more than one program must be allocated among all programs for which they work and that entities operating programs must use allocation methods that are fair and reasonable, as determined by the Commissioner's fiscal representatives. We found that:

- \$41,300 in costs were incorrectly allocated to SED's preschool cost-based programs because HeartShare did not use the RVM to allocate expenses. These costs should have been allocated to Wellness Inc.;
- \$15,996 (\$7,282 mandated and \$8,714 non-mandated) in fringe benefit costs were allocated to the SED preschool cost-based programs. These costs should have been allocated to the fixed-fee 1:1 Aides program; and
- \$3,042 in compensation expenses for 18 program administrative employees were incorrectly allocated to SED's preschool cost-based programs. They should have been allocated to the UPK program.

We recommend that SED disallow the \$60,338 (\$41,300 + \$15,996 + \$3,042) in over-allocated expenses because they did not comply with the guidelines in the Manual.

## **Other Than Personal Service Costs**

According to the Manual, costs will be considered for reimbursement provided such costs are reasonable, necessary, directly related to the special education program, and sufficiently documented. For the three fiscal years ended June 30, 2014, HeartShare reported approximately \$7 million in OTPS expenses for SED's preschool cost-based programs. We identified \$255,379 of these expenses that did not comply with the requirements in the Manual.

### *Over-Allocated OTPS Expenses*

The Manual states that the cost of supplies purchased for distribution among multiple programs must be allocated among these programs if direct charges are not possible. In addition, agency administration costs shall be allocated to all programs operated by the entity based on the RVM. Moreover, adequate documentation of the allocation methodology should be maintained. We identified \$140,899 in OTPS costs (e.g., supplies, telephone) that HeartShare over-allocated to

SED's preschool cost-based programs, as follows:

- \$120,247 associated with 39 employees who worked for other HeartShare programs, including its OPWDD programs;
- \$15,161 in management fees that were not allocated with the RVM or any other reasonable allocation method. These fees should have been allocated to Wellness Inc., a HeartShare subsidiary; and
- \$5,491 in expenses for 18 program administrative employees that were incorrectly allocated to SED's preschool cost-based programs. They should have been allocated to HeartShare's UPK program.

We recommend that SED disallow \$140,899 (\$120,247 + \$15,161 + \$5,491) in expenses that were over-allocated to the preschool cost-based programs.

### *Non-Audit Accounting Services*

According to the Manual, costs associated with non-audit services provided by a registered public accounting firm or any person associated with that firm, during or within 365 days of required audit work (prior to the beginning of the fiscal period being audited or after the date of the audit report issued for the audit period), are not reimbursable. SED officials advised us that the intent of this provision is to maintain independence of the firm/individuals certifying the CFR or financial statements. The Manual provides examples of non-audit services, which include bookkeeping, management functions, human resources, and legal services.

For the three fiscal years ended June 30, 2014, HeartShare engaged a certified public accounting (CPA) firm to audit its financial statements and CFRs. Further, in a separate engagement letter, HeartShare contracted with the same firm to provide additional services during the same three-year period. Since the CPA firm provided additional non-audit services within 365 days of the required audit work, the cost of these services was not reimbursable. We recommend that SED disallow \$63,675 in expenses because they were not in compliance with the Manual's provisions. HeartShare officials disagreed with our findings and asserted that the additional work was a necessary part of the required audit services. However, the fact that a separate engagement letter was necessary indicates that these additional services were not a part of the required audit work.

We recommend that SED disallow \$63,675 in non-audit accounting service expenses. According to the Manual, these expenses were ineligible for reimbursement.

### *Ineligible and Insufficiently Documented Expenses*

According to the Manual, the costs of legal, accounting, or consulting services and related costs incurred in connection with reorganization of the agency, including mergers and acquisitions, unless mandated by the SED, are not reimbursable. The Manual also states that all purchases must be supported with invoices listing the items purchased, dates of purchase and payment, as well as with canceled checks. For consultants, all payments must be supported by itemized

invoices which indicate the specific services actually provided; and for each service, the date of service, number of hours provided, and the fee per hour; and the total amount charged. The Manual also states that food purchased for staff is not reimbursable. We identified \$50,805 in expenses that were ineligible and/or insufficiently documented, as follows:

- \$25,356 in consulting and advisory services related to pre-acquisitions, a DoE audit, 1:1 aides, and missed related service sessions;
- \$11,175 in food purchases for staff. These purchases included coffee and coffee-related supplies;
- \$7,773 in CPA services not related to SED's cost-based programs. Instead, these services were related to HeartShare's pre-merger with St. Vincent's Services; and
- \$6,501 in consulting costs that were insufficiently documented. The invoices supporting these costs did not indicate the specific services provided and the dates of service.

We recommend that SED disallow \$50,805 (\$25,356 + \$11,175 + \$7,773 + \$6,501) in ineligible and/or insufficiently documented expenses because these costs did not comply with the Manual's requirements.

## Recommendations

### To SED:

1. Review the recommended disallowances resulting from our audit and make the appropriate adjustments to HeartShare's CFRs and tuition reimbursement rates, as warranted.
2. Work with HeartShare officials to ensure their compliance with SED's reimbursement requirements.

### To HeartShare:

3. Ensure that all costs reported on future CFRs comply with the Manual's requirements.

## Audit Scope, Objective, and Methodology

We audited the costs reported on HeartShare's CFRs to determine whether they were reasonable, necessary, directly related to the special education programs, and sufficiently documented pursuant to the guidelines in SED's manuals. The audit included certain claimed expenses for the three fiscal years ended June 30, 2014.

To accomplish our objective, we reviewed the Regulations, the Manual, the CFR Manual, HeartShare's CFRs, and relevant financial and program records for the audit period. We also interviewed HeartShare officials, staff, and independent auditors to obtain an understanding of HeartShare's financial and business practices. In addition, we selected a judgmental sample of reported costs to determine whether they were supported, program-related, and reimbursable.

Specifically, we reviewed costs that we considered high risk and reimbursable in limited circumstances based on prior audit report findings, such as salary and consultant costs. Our sample was based on the relative materiality of the various categories of costs reported and their associated level of risk. Our samples were not designed to be projected to the entire population of reported costs. Also, our review of HeartShare's internal controls focused on the controls over HeartShare's CFR preparation process.

We conducted our performance 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 during our audit provides a reasonable basis for our findings and conclusions.

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 management functions do not affect our ability to conduct independent audits of program performance.

## Authority

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The audit was performed 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 Education Law.

## Reporting Requirements

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We provided draft copies of this report to SED and HeartShare officials for their review and formal comment. Their comments were considered in preparing this final report and are included at the end of it. In their response, SED officials agreed with our recommendations and indicated they will take steps to address them. However, in their response, HeartShare officials disagreed with most of our proposed disallowances. Our rejoinders to certain HeartShare 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 if the recommendations were not implemented, the reasons why.

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## Contributors to This Report

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**Gene Brenenson**, CPA, Audit Manager  
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### Vision

A team of accountability experts respected for providing information that decision makers value.

### Mission

To improve government operations by conducting independent audits, reviews and evaluations of New York State and New York City taxpayer financed programs.

## Exhibit

**HeartShare Human Services, Inc.**  
**Summary of Submitted and Disallowed Program Costs**  
**for the 2011-12, 2012-13, and 2013-14 Fiscal Years**

<b>Program Costs</b>	<b>Amount Per CFR</b>	<b>Amount Disallowed</b>	<b>Amount Remaining</b>	<b>Notes to Exhibit</b>
<b>Personal Services</b>				
<b>Direct Care</b>	\$27,941,915	\$865,193	\$27,076,722	A-F,J,K,N,
<b>Agency Administration</b>	3,000,639	*409,217	2,591,422	P-R
<b>Total Personal Services</b>	<b>\$30,942,554</b>	<b>\$1,274,410</b>	<b>\$29,668,144</b>	
<b>Other Than Personal Services</b>				
<b>Direct Care</b>	\$5,598,947	\$162,270	\$5,436,677	A,B,G-I,
<b>Agency Administration</b>	1,444,728	93,109	1,351,619	L,M,O
<b>Total Other Than Personal Services</b>	<b>\$7,043,675</b>	<b>\$255,379</b>	<b>\$6,788,296</b>	
<b>Total Program Costs</b>	<b>\$37,986,229</b>	<b>*\$1,529,789</b>	<b>\$36,456,440</b>	

\*SED, pursuant to a desk review, previously disallowed some of these costs.

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## Notes to Exhibit

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The following Notes refer to specific sections of the Manual and CFR Manual used to develop our recommended disallowances. We summarized the applicable sections to explain the basis for each disallowance. We provided the details supporting our recommended disallowances to SED and HeartShare officials during the course of our audit.

- A. Section I(9) - Agency administration is defined as those expenses which are not directly related to a specific program but are attributable to the overall operation of the agency.
- B. Section II - Costs will be considered for reimbursement provided such costs are reasonable, necessary, directly related to the special education program and are sufficiently documented.
- C. Section II(2)(A) - Administrative costs include salary and fringe benefit costs of persons whose primary function is management and administration of the program and/or agency, in accordance with Federal and State laws, Regulations of the Commissioner of Education and/or the Board of Directors.
- D. Section II(13)(A)(1) - Reimbursement of salary expense shall be subject to the following principle: Entities operating approved programs shall develop employer-employee agreements with written salary scales and issue them to employees.
- E. Section II(13)(A)(4)(a) - Compensation (i.e., salaries plus fringe benefits) for an entity's staff whose function is that of Executive Director, Assistant Executive Director, or Chief Financial Officer will be directly compared to the regional median compensation for comparable administration job titles of public school districts. Reimbursement of employee compensation for Executive Director, Assistant Executive Director, or Chief Financial Officer shall not exceed the median compensation paid to comparable personnel in public schools for similar work and hours of employment in the region in which the entity is located.
- F. Section II(14)(A)(10) (July 2011 Edition) - Bonus compensation shall mean a non-recurring and non-accumulating (i.e., not included in base salary of subsequent years) lump sum payment(s) in excess of regularly scheduled salary which is not directly related to hours worked. Bonus compensation is restricted to direct care titles/employees. Bonus compensation may be reimbursed if based on merit as measured and supported by employee performance evaluations and does not exceed five percent of salary for any direct care employee.
- G. Section II(14)(B) - Costs of legal, accounting or consulting services and related costs incurred in connection with reorganization of the agency, including mergers and acquisitions, unless mandated by the State Education Department, are not reimbursable.
- H. Section II(14)(F) - Costs associated with non-audit services provided by a registered public accounting firm or any person associated with that firm, during or within 365 days of required audit work (prior to the beginning of the fiscal period being audited or after the date of the audit report issued for the audit period), are not reimbursable.
- I. Section II(22)(C) - Costs of food provided to any staff including lunchroom monitors are not reimbursable.
- J. Section III(1) - Costs will not be reimbursable without appropriate written documentation.



- K. Section III(1)(A) - Compensation costs must be based on approved, documented payrolls. Payrolls must be supported by employee time records prepared during, not after, the time period for which the employee was paid.
- L. Section III(1)(C)(2) - All payments must be supported by itemized invoices which indicate the specific services actually provided; and for each service, the date(s), number of hours provided, the fee per hour, and the total amount charged.
- M. Section III(1)(D) - All purchases must be supported with invoices listing items purchased and indicating dates of purchase and payment, as well as canceled checks.
- N. Section III(1)(M)(1)(i) - Salaries of employees who perform tasks for more than one program must be allocated among all programs for which they work.
- O. Section III(1)(M)(1)(ii) - The cost of supplies that are purchased for distribution among multiple programs must be allocated among those programs if direct charges are not possible. Adequate documentation of the allocation methodology should be maintained.
- P. Section III(1)(M)(2) - Entities operating programs must use allocation methods that are fair and reasonable, as determined by the Commissioner's fiscal representatives.
- Q. Section III(1)(M)(3) - For CFR filers (except Office of Children and Family Services Residential Facilities), agency administration costs shall be allocated to all programs operated by the entity based on the Ratio Value Method of allocation.
- R. Section 200.9(e)(i)(d) of the Regulations of the Commissioner of Education states that evaluation costs and related statistical data for preschool students, as prescribed in Section 4410 of the Education Law and Sections 200.4 and 200.6 of this Part, must be reported in a separate cost center.

# Agency Comments - State Education Department



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

DEPUTY COMMISSIONER  
Office of Performance Improvement and Management Services  
518.473-4706  
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August 31, 2017

Mr. Kenrick Sifontes  
Audit Director  
Division of State Government Accountability  
59 Maiden Lane, 21st Floor  
New York, NY 10038

Dear Mr. Sifontes:

The following is the New York State Education Department's (SED) response to the draft audit report, 2016-S-45, Compliance with the Reimbursable Cost Manual: HeartShare Human Services, Inc. (HeartShare).

In addition to the actions that will be taken in response to the specific recommendations described below, SED will closely examine the circumstances that led to the findings described in the audit report. This examination will include an assessment of the programmatic oversight and fiscal management employed at HeartShare and will be a factor in the consideration of the continued approval of this provider and the corrective action or enforcement actions that may be warranted.

Recommendation 1: Review the recommended disallowances resulting from our audit and make the appropriate adjustments to HeartShare's CFRs and tuition reimbursement rates, as warranted.

We agree with this recommendation. SED 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: Work with HeartShare officials to ensure their compliance with SED's reimbursement requirements.

We agree with this recommendation. SED will continue to provide technical assistance whenever requested and will strongly recommend the HeartShare officials take advantage of our availability to help them better understand the standards for reimbursement as presented in Regulation and the Reimbursable Cost Manual (RCM). Furthermore, Consolidated Fiscal Report (CFR) training is available online on SED's webpage. SED recommends that all individuals signing the CFR certification statements, namely Executive Directors and Certified Public Accountants, complete this training. This training is a requirement for preschool special education providers upon approval and re-approval.

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

Sincerely,

Sharon Cates-Williams

c: Christopher Suriano  
Belinda Johnson  
Suzanne Bolling

# Agency Comments - HeartShare Human Services, Inc.



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August 29, 2017

Mr. Kenrick Sifontes  
Audit Director  
Office of the State Comptroller  
59 Maiden Lane – 21<sup>st</sup> Floor  
New York, NY 10038

**Re: HeartShare Human Services / 2016-S-45  
Compliance with the Reimbursable Cost Manual**

Dear Mr. Sifontes:

HeartShare Human Services (HeartShare) is a multifaceted not-for-profit organization providing an array of services to approximately 5,000 children and adults diagnosed with intellectual and developmental disabilities as well as thousands of other individuals in need. The HeartShare family of services is comprised of four corporations with an annual operating budget of more than \$150M.

As part of our mission to help children with developmental disabilities, we provide educational and evaluation services to almost 1,000 children with disabilities ranging in age from 3 to 21. Our preschool services represent \$12.5M a year or \$38M for the three years audited. We have been providing special education services for 35 years and are known in the industry and by our government partners for the outstanding level of care we provide. In fact, during the 2016-17 school year we had our first NYSED SEQA compliance audit in over 15 years. The results of that audit, issued on April 26, 2017, were that we fulfilled the requirements of the compliance assurance plan by being 100% in programmatic compliance and were authorized to continue providing services to preschoolers with disabilities. We are justly proud of these services, the staff who provide them and the positive effect it has had on the children's lives. We perform these services for the benefit of the NYC Department of Education (DOE) as well as the State Education Department (SED) who under the federal IDEA Act are responsible to have these services provided. We have accepted this mission despite inadequate funding from the State and City of New York on whose behalf we are providing these services. The lack of adequate funding is exacerbated by nominal Cost of Living adjustments that have been approved by NYS for these programs. Over the last 10 years we have experienced a cumulative increase in our reimbursement of only 14% while the public schools educating typical children, with which we compete for staff and resources, received over 34%<sup>1</sup> increase in State funding. Accordingly, we regularly incur costs significantly in excess of the reimbursement provided. In just the last 10 years alone, we have spent \$3.5M more than the reimbursement for these needed services including \$1.1M of unreimbursed costs for the three years



<sup>1</sup> per a March 2016 Research Brief issued by the Office of the New York State Comptroller, over the ten years ending 2015/16, state aid to school district had increased \$6B to \$23.3B, a 34.2% increase

covered by this audit. As a result of our necessary spending exceeding the total cost screen imposed under the NYSED rate setting methodology, NYSED has already removed from our reimbursement rate a substantial portion of the costs identified in the Draft Report as non-reimbursable. While the Report does acknowledge this important point in its narrative, we respectfully request that each such NYSED disallowance identified as non-reimbursable through the rate-setting process be specifically acknowledged in the Report.

We also are very cognizant of the importance of maintaining compliance with rules and regulations having been the subject of regular audits by a host of third party governmental auditors including the NYS OMIG, NYC ACS, OPWDD NYSED and NYC DOE. We are justly proud of the results of each of each of these reviews as a direct result of our strict compliance with rules and regulations and the outstanding job our staff does in maintaining required documentation. Importantly, taken as a whole, the Draft Report is testament to the vitality of our compliance efforts with the two most significant findings reflecting a difference of opinion and interpretation of the Reimbursable Cost Manual, rather than our failure to maintain sufficient documentation in support of the costs reported. This, we believe, is an important distinction worthy of acknowledgement in the narrative of the Report -- a distinction which, we believe, distinguishes HeartShare from other OSC audited programs.

### Audit Findings Overview

We are very disappointed that even after OSC's review of our preliminary responses and our discussions during the audit exit conference, these findings continue to be presented in your Report. As a result, we are forced to renew our challenges to most of the audit findings.

We must also share our profound disappointment in the presentation of some of the findings -- a presentation, we believe, is designed to sensationalize findings and mislead readers rather than simply state audit findings. Perhaps the best illustration of this misrepresentation is the description of facts relating to executive compensation. We vehemently challenge the auditors' finding that the reporting of executive compensation was not in compliance with the Reimbursable Cost Manual which clearly directs the reporting of such costs in the exact manner as reported by HeartShare. Point in fact, NYSED has provided technical assistance to the field on this exact issue at innumerable provider conferences, directing providers to report the costs as incurred. When pressed, NYSED rate setting unit representatives have instructed that providers NOT "self-disallow" any excesses, since the rate setting methodology is specifically designed to identify any potential excesses above median salary and to disallow such excesses in the rate calculation process. Accordingly, we believe that SED's guidance clearly requires reporting of the full compensation paid to these staff and that HeartShare is in full compliance with the provisions of the Reimbursable Cost Manual -- the sole criteria of this audit as reflected in the published audit protocol. We respectfully request that the auditors reconsider this finding in both principle and presentation. To allow the distortion as presented to persist is both inconsistent with the auditors' own audit protocol, and seemingly sensationalizing by design.

We also believe that the presentation of the findings relating to the allocation of program administration services and the three staff performing intake functions is misleading. These findings are

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Comment 1

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Comment 2

not the result of a “lack of documentation” as indicated in the Report, but rather reflects a difference of opinion on the methodology used to allocate costs. As discussed below, the allocation of 39 employees was part of a pool of program administration costs which were allocated using Ratio Value in accordance with the CFR Manual requirements. In addition, the three employees who the OSC audit incorrectly asserts were providing initial evaluations were, in fact, performing intake functions. As we attempted to clarify for the auditors, intake services are part of preschool services and not part of initial evaluation services.

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Comment 3

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Comment 4

The balance of this response will address in detail each of the audit findings with which we disagree and the basis for our disagreement.

### Personal Service Costs

#### Non-Program Costs

While we appreciate the auditors’ acknowledgment that “SED, pursuant to a desk review, previously disallowed some of the personal service costs”, we again respectfully request that the Report reflect each of these several instances by identifying the specific amount already disallowed by SED through the rate calculation process by category to assure an appropriate context and presentation of the finding.

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Comment 3

As previously stated, we believe that the presentation of the findings relating to the allocation of program administration services and the three staff performing intake functions is misleading. These findings do not relate to a “lack of documentation” as indicated in the Report, but rather reflect a difference of opinion on the methodology used to allocate costs.

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Comment 4

#### Developmentally Disabled Administrative Expenses

As we asserted in our preliminary response, we challenge the auditor’s finding relating to the allocation of personal service and related OTPS for the 39 employees included in Developmental Disabled Administrative Expenses. We believe that our application of ratio value in the 2011/12 year is in accordance with CFR Manual reporting requirements and the provisions of the Reimbursable Cost Manual. In addition, we believe that the auditor’s allocations in 2012/13 and 2013/14 were incorrectly applied as indicated in the materials we had shared with the auditors in our response to the preliminary draft revising those allocations for all three years.

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Comment 3

HeartShare consists of two major lines of business or divisions: the Developmental Disabilities (DD) division which includes our SED and OPWDD programs; and, the Children & Family Services division, which consists of our foster boarding home programs. These two divisions are overseen by separate Program Administration departments. Each Program Administrative department oversee a diverse collection of programs. These divisions were established based on commonality of services and are designed to create efficiencies and cost savings through the sharing of administrative supports. As expected in a pooled services function, some individuals will spend little or none of their time working in an individual program, while others will spend a disproportionately large amount of time working in that program. This concept is the very core of ratio value as the most appropriate methodology for the allocation of both program and agency administration costs.

For the 2011/12 fiscal year, we applied a ratio value allocation to distribute all the cost of DD Program Administration department among the programs in the division. This approach clearly conforms to the requirements of the CFR Manual Page 60.1 which states:

**The CFR instructions require the use of the "ratio-value" method for allocating agency administrative expenses and for allocating program administrative expenses in those situations where time records or other documentation are not available to support another basis.**

Therefore, the allocation used by HeartShare in 2011/12 was in full compliance with CFR reporting requirements. However, in the interest of more closely aligning allocations with the utilization of services, we had revised our cost allocations starting in 2012/13. This approach required review of each individual person's responsibilities, the programs for which they performed tasks and the prorating of their salary based on the size of each of those respective programs. This refinement in approach must not be viewed as an acknowledgment of prior error but rather a function of the agency's self-evaluation processes and procedures designed to identify areas of potential improvements, consistent with our rigorous Operations Compliance Manual. These revisions, then, do not invalidate the allocation used in 2011/12 which was in full compliance with the CFR Manual reporting requirements.

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Comment 3

We also believe that the auditor's allocation worksheets reflect certain flawed assumptions which we had corrected and provided to the auditors in our response to the preliminary draft report. The revisions reflect certain individuals that, based on their job responsibilities, should have been allocated to the preschool program.

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Comment 5

However, we firmly believe that our original allocation for 2011/12 was in full compliance with CFR Manual reporting requirements and is correct as originally reported. Based on that argument and the revised worksheets, we believe there should be no adjustments to the DD Administration expenses for any of the three years.

#### Evaluation Services

We take exception to the draft findings that the salaries for three employees were exclusively initial evaluation costs and therefore ineligible for reimbursement under the preschool program. We believe that the auditors misunderstand the role and services provided by these staff which are reasonable, necessary and directly related to the special education program. The auditors' finding suggests that three employees, including one Clinical Coordinator and two IEP Coordinators, should have been charged exclusively to the evaluation program and not allocated, even in part, to any other program. However, in fact, one of the three individuals did not provide any initial evaluation services at all. Instead, this individual provided necessary services to the preschool programs (9100 & 9160) involved with the *placement process* for the children. Although the other two staff identified in this finding did conduct some evaluations, those services represented only a small amount of their time which was appropriately reflected by the portion charged to the evaluation program. Their primary responsibility was handling the *placement process* for all children including those who were evaluated by HeartShare as well as those that were not evaluated by HeartShare. The *placement process* includes serving as the liaison with the CPSE Administrators to set up IEP meetings, coordinating the evaluator's reports with the preschool providers, and placing the children in appropriate preschool programs. The *placement process* also includes ensuring that specific accommodations, program modifications, supports and

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Comment 6



services for the student are in place prior to the implementation of their services in the preschool programs. The replacement process is in furtherance of the evaluation process - NOT a part of that process. The distinction between the two functions is underscored by the fact that placement activities are performed on behalf of students who are not evaluated by HeartShare.

In fact, the amount of time spent on evaluation tasks was so disproportionately less than the time spent on program tasks, that the time could well have been fully reported as program. However, in order to account for the small amount of time two of them spent on performing initial evaluation services and for the services provided to children who did not end up in our preschool program, we believed that that portion of the time of all three staff should not be charged to the preschool program.

That portion of time then, was charged to the evaluation program. However, the balance of their time that was charged to the preschool program was for services that were reasonable, necessary and directly related to the preschool program. We believe strongly that this finding should be eliminated for these staff.

We also request that the auditors remove from the draft narrative the statement that "two of the three employees told (the auditors) their primary responsibilities were conducting evaluations". We have consulted with these individuals and one of the individuals (Clinical Coordinator) has confirmed to us that the statement does not accurately reflect their understanding of the question posed nor their response. And as stated above, although the other individual does do evaluation services, as did the third employee no longer working at HeartShare, we had accounted for this by allocating a portion of all three staff (including the Clinical Coordinator who did no evaluations) to the evaluation program.

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Comment 7

#### Ineligible Bonuses

Although we do not challenge the auditors' finding that bonus payments were made to certain non-direct care staff, it is important to note that these bonus payments were not reimbursed to HeartShare as a result of the imposition of the SED rate setting screens (Non-Direct Cost, Total Cost and Median Salary) during the rate setting process. Again, the OSC audit protocols require evaluation of reported costs as against the reimbursable cost manual. Highlighting and identifying costs which have already been disallowed by NYSED during the rate setting process serves no public interest, nor protects the public trust or public dollars.

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Comment 8

We likewise do not challenge the auditors' finding that a bonus was paid to one single special education teacher that exceeded the 5% cap in place in FY 2012. It is important to note that the 5% rule was eliminated by SED in subsequent Reimbursable Cost Manuals reflecting SED's decision to allow such bonuses as reasonable.

#### Excess Executive Compensation

As we have stated above, we believe that the Report as currently presented is factually incorrect in its finding relating to excess executive compensation and are concerned that the presentation distorts the facts and sensationalizes the actual finding. The Report states that the executive staff compensation exceeds limits (median salary) by \$780,935. However, the median salary only relates to the SED portion

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Comment 1



of compensation (Preschool programs audited represent approximately 15% of HeartShare's total expenses), not compensation related to other programs and services. As a result, the median salary restriction does not apply to the other 85% of salary. Therefore, stating the amount of compensation that is over the Median limit relating to the 85% that is not SED is factually incorrect. In addition, the presentation in the Report showing the 3-year cumulative total of each executive's compensation (salary and fringe) has no purpose in the Report other than to try to sensationalize the finding. Therefore, this information should be eliminated and the finding should be limited to executive compensation for the top three positions in the organization exceeding the median by \$118,199 for the three years audited. The finding should also reflect that the compensation was correctly reported on the CFR and that SED, as part of its normal rate setting process, adjusted these amounts to reduce reimbursable costs before ever establishing the school's reimbursement rate.

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Comment 9

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Comment 1

We feel strongly, as we discussed in our response to the preliminary draft and at the exit conference, that since the School reported the compensation correctly on the CFR and was NOT reimbursed for these costs, the Comptroller should exclude this finding from the Report entirely. As previously argued, the RCM does not address reducing the amount of executive compensation reported on the CFR-- it addresses the limit on the reimbursement of executive compensation. Since our cost reporting and reimbursement was in full compliance with CFR and RCM Manuals, this finding should be eliminated from this report.

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Comment 1

#### Over-Allocated Personal Service Expenses

We challenge the auditors' findings that the administrative charge to our subsidiary HS Wellness, Ltd. was understated. The difference between the ratio value amount calculated by the auditors versus the amount HS Wellness was charged reflects a reduction in the charge to compensate for the fact that HS Wellness incurred certain administrative functions directly, and charging them for those services by HeartShare would have been duplicative to HS Wellness. The services provided by HS Wellness themselves included providing all of the billing and Accounts Receivable function, program and billing compliance functions, as well as having their own Executive Director. It is important to note that HS Wellness is a licensed Article 16 and 28 clinic which is required to report its costs to both the New York State Department of Health (on the AHCF cost report) and the Office for People with Developmental Disabilities (on the CFR). Therefore, those charges cannot be duplicative the same way that costs charged to the SED program cannot be duplicative. To account for these direct services, it was necessary to reduce the calculated ratio value charge by an amount equal to HS Wellness's direct cost for the services that were directly provided by HS Wellness. This approach is wholly consistent with the requirements of the Reimbursable Cost Manual emphasizing reasonableness and cost-effectiveness, as well as the CFR Manual.

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Comment 10

#### Over-Reported Fringe Benefit for FY 2014

We do not challenge the auditors' finding that certain personal service expenses were inadvertently misreported and acknowledge the error in the allocation of fringe benefits which was not changed to reflect a corresponding correction we had made to the reporting of 1:1 aides before we submitted the CFR.

## Other Than Personal Service Costs

### Over-Allocated OTPS Expenses

#### Developmental Disabled Administrative Expenses

This finding represents the related OTPS expenses for the 39 employees included in our Developmental Disabled Administrative Expenses previously discussed in our response to the related Personal Services Non-Program Cost - Developmentally Disabled Administrative Expenses finding. We again challenge the auditor's finding relating to the allocation of OTPS costs associated with the 39 employees included in our Developmentally Disabled Administrative Expenses. We believe that our application of ratio value in the 2011/12 year is in accordance with CFR Manual reporting requirements for all the reasons provided in the previous analysis.

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Comment 3

As stated in our previous comments, HeartShare is comprised of two major lines of business or divisions: the Developmental Disabilities division which includes our SED and OPWDD programs; and, the Children & Families division, which consists of our foster boarding home, preventive services and other programs. These two divisions are overseen by separate Program Administration departments. Each Program Administrative department oversee a diverse collection of programs. These divisions were established based on commonality of services and are designed to create efficiencies and cost savings through the sharing of administrative supports. As expected in a pooled services function, some individuals will spend little or none of their time working in an individual program, while others will spend a disproportionately large amount of their time working in that program. This concept is at the very core of ratio value as the most appropriate methodology for the allocation of both program and agency administration using costs.

For the 2011/12 fiscal year, we applied a ratio value allocation to distribute all the cost of DD Program Administration department among the programs in the division. This approach clearly conforms to the requirements of the CFR Manual Page 60.1 which states:

**The CFR instructions require the use of the "ratio-value" method for allocating agency administrative expenses and for allocating program administrative expenses in those situations where time records or other documentation are not available to support another basis.**

Therefore, the allocation by HeartShare used in 2011/12 was in full compliance with CFR reporting requirements. However, in the interest of more closely aligning allocations with the utilization of services, we had revised our cost allocations starting in 2012/13. This approach required review of each individual person's responsibilities, the programs for which they performed tasks and then prorating of their salary based on the size of each of those respective programs. This refinement in approach must not be viewed as an acknowledgment of prior error but rather a function of the agency's self-evaluation processes and procedures designed to identify areas of potential improvements, consistent with our rigorous Operations Compliance Manual. These revisions, then, do not invalidate the allocation used in 2011/12 which was in full compliance with the CFR Manual reporting requirements.

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Comment 3

We also believe that in the auditors' allocation worksheets reflect certain flawed assumptions which we had corrected and provided to the auditors in our response to the preliminary draft report. The revision reflects certain individuals that, based on their job responsibilities, should have been allocated to the preschool program.

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Comment 5

However, we firmly believe that our original allocation for 2011/12 was in full compliance with CFR Manual reporting requirements and is correct as originally reported. Based on that argument and the revised worksheets, we believe there should be no adjustments to the DD Administration expenses for any of the three years.

### Non-Audit Accounting Services

We challenge the auditors' finding that the Agreed-Upon-Procedures (AUP) services provided by our auditing firm are "additional non-audit services" that are identified in the RCM as non-allowable and which, as the auditors' suggest, our CPA firm is prohibited from providing. We believe that this finding reflects a misunderstanding of the actual services being provided as well as current auditing standards.

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Comment 11

The Agreed-Upon-Procedures (AUP) services provided by our auditing firm were attest services performed in accordance with the American Institute of Certified Accountants (AICPA) AT Section 201. These are defined as Attestation services under the AICPA's Statements on Standards for Attestation Engagements (SSAE). As attest services, they represent additional audit procedures being performed. Performing this additional attestation service can be compared to our audit firm performing the audit of the Consolidated Fiscal Report (CFR) or performing our A-133 audit, both of which are additional audit services which are considered allowable costs.

AUP procedures are engagements in which an auditor is engaged to carry out procedures of an audit nature to which the auditor and the entity have agreed to. Under SSAE standards the auditor performing AUP services **must be independent** of the organization. As the Comptroller states in this Report, SED officials informed them that the intent of this provision of the RCM is to maintain independence of the firm/individuals certifying the CFR and financial statements. Therefore, since these AUP services require the CPA firm to be independent, it is not a service which would conflict with the RCM rule being cited.

In addition, the auditor's assessment that since the services required a separate engagement letter, the services were not, therefore, a part of the required audit work reflects a lack of understanding of current auditing standards. Our audit firm, like all CPA firms, requires a separate engagement letter for each service. This includes our financial statement audit, our A-133 audit, our CFR audit, our 990 preparation, our pension plan audit as well as the attest services discussed here. Clearly, that the services in question are detailed in a separate engagement letter is not determinative of the finding presented.

Therefore, since the AUP services identified in this finding are Attestation services which fall squarely within the category of services our independent audit firm is allowed to perform under professional standards, as well as not being included as non-allowable service under the RCM's Section II. 14. F., we believe strongly that this finding should be eliminated.

### Ineligible and Insufficiently Documented Expenses

We challenge select portions of the auditors' findings that certain consulting /advisory services were not related to the preschool programs. The services identified on the following invoices included in those findings do relate to the operation of our SED preschool programs and therefore, should be allowed.

8/31/2013 Invoice for \$7,480. This invoice related to several items dealing with our preschool program, including discussing certification requirements for the 1:1 aides employed by the preschool program and assistance with our response to the NYC Department of Education audit of our preschool program's provision of mandated related services. These services are directly related to the preschool program being audited and, therefore, should be deemed allowable.

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Comment 12

9/30/2013 Invoice for \$3,520. This invoice related to an in-service presented to our program and fiscal staff around SED reporting compliance. This staff training related specifically to the requirements of the Reimbursable Cost Manual and is directly related to the preschool program being audited and, therefore, should be deemed allowable.

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Comment 13

12/31/2013 Invoice for \$220. This invoiced service related to discussions between SED and HeartShare on missed related service sessions "make-ups" in our preschool program. This service directly relates to the preschool program being audited and therefore, should be reinstated.

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Comment 14

### **Summary**

We request that the audit should be revised to more appropriately reflect findings and not to sensationalize them. In addition, we continue to disagree with many of the findings as discussed above and request that they be eliminated from the findings.

Sincerely,



William Guarinello  
President and CEO

Cc: Commissioner Elia, NYSED  
Suzanne Bolling, NYSED  
Thalia Melendez, NYSED  
James Kampf, NYSED  
Anthony Bianca, HSHS  
Gene Brenneron, OSC

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## State Comptroller's Comments

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1. Our report does not “sensationalize findings” or “mislead readers” regarding the issue of executive compensation. The Manual specifically states that reimbursement of executive compensation shall not exceed the median compensation paid to comparable personnel in public schools for similar work and hours of employment in the region in which the entity is located. HeartShare officials’ compensation exceeded these limits. In addition, the report (page 6, paragraph 1, and the Exhibit on page 13) indicates that prior to our audit, SED’s rate-setting staff had disallowed a portion of the ineligible personal service costs we identified.
2. We disagree. HeartShare officials were not able to provide sufficient documentation to show that these individuals provided services to the SED preschool cost-based programs.
3. The 39 employees were not reported in accordance with the instructions in the CFR Manual. Our review of HeartShare’s personnel records showed that the 39 employees did not provide services to the SED preschool cost-based programs. Instead, these employees provided services to other HeartShare programs such as Family Support and Respite, and to the programs funded by the OPWDD. The Manual states that costs will be considered for reimbursement provided such costs are reasonable, necessary, directly related to the special education program, and are sufficiently documented. The CFR Manual’s instructions relating to Schedule CFR-3, agency administration, states that the schedule is used to report and allocate “all the administrative costs that are not directly related to specific programs/sites but are attributable to the overall operation of the agency.” The 39 employees provided services that directly related to specific programs/sites and should have been reported in those programs rather than under agency administration, Schedule CFR-3. HeartShare’s reference to the staff services as program administration further underlies that these services are program-related and not agency administration.
4. HeartShare officials did not provide evidence to show that the three employees performed services for the SED preschool cost-based programs. We reviewed documentation in the employees’ personnel folders and determined that the employees worked for the Evaluations program. In fact, one of the employees was the Supervisor of Evaluations and Placement, another employee was the Bilingual Evaluation Coordinator, and the other employee was an Education Evaluator. Therefore, their costs should have been reported in the fixed-fee Evaluations’ cost center on HeartShare’s CFR.
5. We disagree that our allocation worksheets reflected flawed assumptions. We considered all information provided to us when preparing these worksheets.
6. We disagree. Our report does not state that the salaries for the three employees were “exclusively” initial evaluation costs. Further, we agree that the services provided by the three employees were related to the special education program. However, they did not provide services to the SED preschool cost-based programs under audit. Refer to Comment No. 4.
7. We revised our report to acknowledge that only one employee indicated that their primary responsibility was conducting evaluations. However, based upon other evidence, we maintain that none of the three employees provided services to the rate-based preschool program.

8. Our audit is independent of SED's desk review audits. Consequently, we report on all findings irrespective of whether they were previously disallowed by SED during a desk review audit. In addition, the report (page 6, paragraph 1, and the Exhibit on page 13) acknowledges that SED had disallowed a portion of the ineligible personal service costs we identified.
9. We agree with HeartShare's position that only \$118,199 of the excessive executive compensation disallowance should be disallowed. Our report reflects this. Refer to Comment No 1.
10. We disagree. We calculated Wellness Inc.'s portion of the administration costs, subtracted applicable costs from that amount, and thereby gave Wellness credit for the costs it incurred.
11. We disagree that there is a misunderstanding of the actual services provided. We maintain that the two engagements by the CPA firm were unrelated. The required audit was for the provision of financial statements for the fiscal year ended June 30, 2012. That work involved testing transactions and confirming assets and liabilities in accordance with Generally Accepted Auditing Standards (GAAP). The non-audit work covered an evaluation of HeartShare's internal control reports using attestation standards. The internal control work was engaged in March 2012 while the audit work was engaged in July 2012. Since the non-audit work was engaged within 365 days of the required audit work, the expenses are not reimbursable as per the Manual.
12. We disagree. HeartShare operates several SED programs: two rate-based preschool programs, an Evaluations program, 1:1 Aides, and Related Services. The CFR has a specific cost center set up for the 1:1 Aides program (and another for Evaluations as well as Related Services). Costs related to 1:1 aide services should be reported in the 1:1 aides CFR cost center, not the cost centers for the rate-based preschool programs. The 2012-13 CFR Manual specifically states: "Expenses and revenues and FTE enrollment for approved 1:1 teacher aides (preschool and school age) must be reported as a separate column (Program Code 9230)." Program Code 9230 is not for rate-based preschool programs.
13. We disagree. HeartShare officials did not provide sufficient documentation to show that these costs were for services related to the SED preschool cost-based programs.
14. We disagree. As stated in HeartShare's response, the costs documented in the December 31, 2013 invoice were for the Related Services program. Consequently, those costs are not reimbursable as they did not pertain to services provided to the SED preschool cost-based programs.