New York State Comptroller
THOMAS P. DiNAPOLI

United Cerebral Palsy Association of Nassau County, Inc. – Compliance With the Reimbursable Cost Manual

State Education Department

Report 2021-S-14 | June 2022

Spotlight on Education

Audit Highlights

Objective

To determine whether the costs reported by United Cerebral Palsy Association of Nassau County, Inc. (CPN) on its Consolidated Fiscal Reports (CFRs) were properly calculated, adequately documented, and allowable under the State Education Department's (SED) guidelines, including the Reimbursable Cost Manual (RCM) and the Consolidated Fiscal Reporting and Claiming Manual. The audit covered the expenses reported on CPN's 2017 and 2018 CFRs for the fiscal year ended June 30, 2018.

About the Program

CPN is an SED-approved, non-profit special education provider located in Roosevelt, serving students from 28 school districts throughout Nassau County on Long Island. Among other programs, CPN provides preschool education services to children with disabilities who are 3 to 5 years of age. CPN is reimbursed for these services through rates set by SED. The reimbursement rates are based on financial information, including costs, that CPN reports to SED on its annual CFRs. To be eligible for reimbursement, reported costs must comply with RCM requirements. For the fiscal year ended June 30, 2018, CPN reported approximately $3.8 million in reimbursable costs on its CFRs for two rate-based special education programs that it operated: Preschool Special Class – over 2.5 hours per day and Preschool Special Class – 2.5 hours per day (collectively referred to as the Programs).

Key Findings

For the fiscal year ended June 30, 2018, among other issues, we identified $159,069 in ineligible costs reported by CPN on its CFRs for the Programs. The ineligible costs included:

- $145,501 in personal service costs, consisting of $101,794 in payments with unsupported time and payroll records, $42,442 in excess staffing, $1,223 in payments made to a non-SED position, and $42 in salaries that were in excess of the median rate.
- $13,568 in other than personal service costs, consisting of $8,343 in insufficiently documented vehicle logs, $1,025 in ineligible credit card transactions, and $4,200 in other ineligible costs.

Key Recommendations

To SED:

- Review the disallowances identified by our audit and, if warranted, make the necessary adjustments to the costs reported on CPN's CFR and to CPN's tuition reimbursement rates.
- Remind CPN officials of the pertinent SED requirements that relate to the deficiencies we identified.

To CPN:

- Ensure that costs reported on annual CFRs fully comply with SED's requirements and communicate with SED to obtain clarification as needed.

Office of the New York State Comptroller
Division of State Government Accountability

June 8, 2022

Betty A. Rosa, Ed.D.
Commissioner
State Education Department
State Education Building
89 Washington Avenue
Albany, NY 12234

Robert McGuire
Executive Director
United Cerebral Palsy Association of Nassau County, Inc.
380 Washington Avenue
Roosevelt, NY 11575

Dear Dr. Rosa and Mr. McGuire:

The Office of the State Comptroller is committed to helping State agencies, public authorities, and local government agencies manage their resources efficiently and effectively. By so doing, it provides accountability for the tax dollars spent to support government 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 United Cerebral Palsy Association of Nassau County, Inc. to the State Education Department for the purpose of establishing the preschool special education tuition reimbursement rates used to bill public funding sources that are supported by State aid payments. 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 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 report, please feel free to contact us.

Respectfully submitted,

Division of State Government Accountability

Contents

Glossary of Terms

Term	Description	Identifier
CFR	Consolidated Fiscal Report	*Key Term*
CFR Manual	Consolidated Fiscal Reporting and Claiming Manual	*Policy*
CPN	United Cerebral Palsy Association of Nassau County, Inc.	*Service Provider*
FTE	Full-time equivalent	*Key Term*
OPWDD	Office for People With Developmental Disabilities	*Agency*
OTPS	Other than personal service	*Key Term*
Programs	Preschool Special Class – over 2.5 hours per day and Preschool Special Class – 2.5 hours per day	*Key Term*
RCM	Reimbursable Cost Manual	*Policy*
Regulations	Regulations of the Commissioner of Education	*Regulations*
SED	State Education Department	*Auditee*

Background

United Cerebral Palsy Association of Nassau County, Inc. (CPN) is a not-for-profit organization located in Nassau County, serving students with disabilities from 28 school districts on Long Island. CPN provides education, evaluation, and treatment services for individuals with disabilities from early childhood to adulthood. CPN is authorized by the State Education Department (SED) to provide, among other programs, preschool special education services to children who are 3 to 5 years of age. During our audit period, CPN operated two rate-based preschool special education programs: Preschool Special Class – over 2.5 hours per day and Preschool Special Class – 2.5 hours per day (collectively referred to as the Programs) to about 150 children.

Nassau County pays tuition to CPN for preschool education services using reimbursement rates set by SED. The State, in turn, reimburses the county for a portion of the tuition paid. SED sets the special education tuition rates based on financial information, including costs, that CPN reports to SED on its annual Consolidated Fiscal Reports (CFRs). Costs reported on the CFR must comply fully with the guidelines in SED's Reimbursable Cost Manual (RCM) regarding eligibility and documentation requirements and must meet the reporting requirements prescribed in the Consolidated Fiscal Reporting and Claiming Manual (CFR Manual). For the fiscal year ended June 30, 2018, CPN reported approximately $3.8 million in reimbursable costs for the Programs.

Audit Findings and Recommendations

According to the RCM, costs reported on the CFR are considered for reimbursement provided they are reasonable, necessary, directly related to the special education program, and sufficiently documented. For the fiscal year ended June 30, 2018, among other issues, we identified $159,069 in costs that CPN reported on its CFRs that did not comply with SED's requirements for reimbursement. The ineligible costs included $145,501 in personal service costs and $13,568 in other than personal service (OTPS) costs. A summary of ineligible costs is presented in the Exhibit at the end of this report.

Personal Service Costs

For the fiscal year ended June 30, 2018, CPN reported $3.29 million in personal service costs charged to the Programs. We selected a judgmental sample of various categories of personal service costs and identified $145,501 in expenses that were not allowable under SED's requirements.

Unsupported Time and Payroll Records

According to the RCM, compensation costs must be based on approved, documented payrolls. Payroll must be supported by employee time records prepared during, not after, the time period for which the employee was paid. Allocation of non-direct care compensation among various direct care job titles is not allowable, and providers with personnel who work in more than one program should allocate their salary to the proper cost center during the normal accounting cycle based on actual time and attendance records.

We found that, on its CFRs, CPN charged $101,794 to the Programs for compensation ($83,636 in salaries and $18,158 in fringe benefits) unsupported by time and payroll records. The documentation provided for these personal service costs was insufficient and did not support the costs reported on the CFR as required by the RCM, as follows:

- $51,602 in compensation ($42,399 in salaries and $9,203 in fringe benefits) for two employees who were reported as direct care employees on the CFR. According to documentation provided by CPN, these employees were non-direct care employees.
- $38,782 in compensation ($31,863 in salaries and $6,919 in fringe benefits) for two employees for whom CPN reported cost centers with a larger allocation amount to the Programs than the cost center in which the employees actually worked as supported by time and payroll records.
- $11,410 in compensation ($9,374 in salaries and $2,036 in fringe benefits) for 18 employees whose payroll records indicated they earned less than the amount CPN reported on its CFR.

Excess Staffing

SED program approval letters establish direct care student-to-staff ratios for preschool education classrooms. According to the RCM, direct care personnel costs in excess of the approved ratios are not reimbursable, unless otherwise supported. We compared teacher and teacher aide/assistant staffing levels reported on CPN's CFRs with the relevant SED approval letter, and found that CPN exceeded approved staffing, as follows:

- The SED-approved staffing limit for CPN's special education teachers for the Preschool Special Class – over 2.5 hours per day, using a 0.885 full-time equivalent (FTE), allowed a maximum utilization of 5.340 FTEs. However, on its CFR, CPN reported utilizing a total of 5.680 FTEs to deliver programmatic services—an excess of 0.340 FTEs. The compensation cost for this excess staffing was $33,538 ($27,554 in salaries and $5,984 in fringe benefits).
- The SED-approved staffing limit for CPN's teacher aides/assistants for the Preschool Special Class – 2.5 hours per day, using a 0.885 FTE, allowed a maximum utilization of 3.320 FTEs. However, on its CFR, CPN reported utilizing a total of 3.646 FTEs to deliver programmatic services—an excess of 0.326 FTEs. The compensation cost for this excess staffing was $8,904 ($7,322 in salaries and $1,582 in fringe benefits).

Consequently, we recommend that SED disallow $42,442 ($34,876 in salaries and $7,566 in fringe benefits) in excess compensation because it did not comply with the RCM's requirements.

Non-Reimbursable Expenses

According to the CFR Manual, the position/job title Utilization Review/Quality Assurance (Program/Site) is solely for employees of the Office for People With Developmental Disabilities (OPWDD) and, as such, is not allowable under SED programs. We found that CPN charged $1,223 ($1,005 in salaries and $218 in fringe benefits) to the Programs on its CFR for non-allowable personal service costs for an employee working under this position/job title. CPN officials stated that these costs were inadvertently allocated to the Programs.

Salary in Excess of the Median

According to the RCM, compensation (i.e., salaries plus fringe benefits) for the Assistant Executive Director will be directly compared to the regional median compensation for a comparable administration job title of public school districts, as determined and published annually by SED's Basic Educational Data System. Reimbursement of employee compensation for this job title 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. As such, the compensation for an Assistant Executive Director will be compared to the median Assistant Superintendent compensation for the region in which the entity is located.

CPN reported $194,522 in salary and fringe benefits for the Assistant Executive Director for the year ended June 30, 2018. The average regional salary for this period based on the Assistant Executive Director's 0.707 FTE for the period was $194,095. The total compensation costs (salaries plus fringe benefits) charged by CPN on its CFR for the Assistant Executive Director exceeded the average regional levels by $427, of which $42 was allocated to the Programs under audit and thus is recommended for disallowance.

Other Than Personal Service Costs

For the fiscal year ended June 30, 2018, CPN reported $483,925 in OTPS costs charged to the Programs. We selected a judgmental sample of various categories and identified $13,568 in OTPS expenses that were not allowable under SED's requirements.

Insufficiently Documented Vehicle Expenses

According to the RCM, entities operating programs must use allocation methods that are fair and reasonable. The CFR Manual provides that the recommended allocation method for transportation-related expenses is number of trips or mileage. In addition, the RCM states that vehicle usage must be documented with individual vehicle logs that include, at a minimum, the date, time of travel, to and from destinations, mileage between each, purpose of travel, and name of traveler. The annual mileage for program purposes as well as repairs and maintenance costs for each vehicle should be documented.

We found that CPN reported $8,343 in vehicle expenses for the Programs that are ineligible for reimbursement because CPN did not maintain appropriate vehicle log documentation to support use of the vehicles. While the vehicle logs did include the date and respective total mileage traveled for each vehicle, they did not include the name of the traveler or the destination, purpose, and time of travel as required. Moreover, CPN used varying allocation methodologies (such as ratio value and number of days) rather than the recommended allocation methodology of number of trips or mileage. CPN officials contended that ratio value is a reasonable alternative. Nevertheless, as a result of the deficient vehicle logs, we recommend all vehicle-related expenses be disallowed.

Ineligible Credit Card Transactions

According to the RCM, the following costs are not reimbursable: costs incurred for the entertainment of officers or employers; personal expenses, such as laundry charges; costs of promotional items of any type; and any costs not related to the Programs. Furthermore, pursuant to the Regulations of the Commissioner of Education (Regulations), Section 200.9 (d), entities are required to retain all pertinent accounting records supporting reported data directly or indirectly related to the establishment of tuition rates for 7 years following the end of each reporting year.

We found that CPN reported $1,025 to the Programs in credit card transactions that were ineligible for reimbursement, as follows:

- $686 in non-Program-related costs, which CPN officials identified as inappropriately charged to the Programs;
- $110 in costs for entertainment;
- $108 in costs for promotional items;
- $97 in costs for which CPN did not have supporting documentation; and
- $24 in laundry charges.

Other Ineligible Costs

According to the RCM, the following expenses are not reimbursable: costs incurred for food provided to staff; costs of gifts of any kind; costs related to entertainment for officers or employees or any related items such as meals, lodging rentals, transportation, and gratuities; and fines and penalties resulting from violations of or failure by the entity to comply with federal, state, and/or local laws and regulations. In addition, costs will be considered for reimbursement provided that such costs are directly related to the Programs and have adequate substantiating documentation. We found that CPN charged $4,042 in ineligible costs to the Programs on its CFR. These included:

- $2,436 in penalty fees incurred by CPN for a litigation settlement;
- $1,007 in gifts;
- $225 in conference costs for employees who did not work for the Programs;
- $222 in costs for which CPN did not have supporting documentation;
- $116 in costs for entertainment and/or activities not related to the Programs; and
- $36 in food for staff.

According to the RCM, evaluation costs and bilingual evaluation costs reported in the preschool provider’s evaluation cost center are reimbursable. CPN charged $158 in bilingual interpretation service costs to the Programs; however, it could not provide required documentation to support that the costs incurred were for a child in the Programs. During the scope period of our audit, CPN provided services to several other programs, including those for school-age children, but did not have distinct phone lines to distinguish what age group the bilingual interpretation services were for – preschool or school age. CPN officials stated they now have separate phone lines for each population they serve.

Other Matters

Discrepancies in CPN's Reporting

During our audit, we found discrepancies in CPN's reporting – specifically involving position title codes and salary allocations – that could impact the accuracy of information it reports on its CFR.

According to the RCM, entities should report staff in the position title code supported by salary agreements and job descriptions. For two employees, we found discrepant title codes within CPN's documents – specifically, the employee's time sheet and personnel form – that alternately supported and contradicted the position title code CPN used on its CFR. For these two employees, the different title codes were direct care positions and ultimately did not impact our findings.

According to the CFR Manual, the salary for employees who work in more than one program should be allocated to the proper cost center during the normal accounting cycle based on actual time and attendance records. We found that, for two employees, CPN's payroll registers indicated a different cost center department than what CPN reported on its CFR. Although both cost centers allocated employee salary to the Programs, the allocation amounts differed, resulting in a misallocation—and a smaller amount—of the employees' salary costs charged to the Programs by CPN on its CFR.

CPN should be more mindful of its reporting practices to ensure the information it reports to SED on its CFRs is accurate.

Undisclosed Related Party

According to the RCM, related-party disclosures are required. Trustees/board members need to ensure their board of education avoids any conflict of interest or even the appearance of a conflict. Furthermore, the board must maintain a conflict of interest policy for board members and employees. Accordingly, the CFR Manual requires that all related parties be reported on the CFR-5 schedule.

According to board meeting minutes provided by CPN, the Treasurer of CPN's Investment Committee is a family member of the financial advisor who consults for the Investment Committee. CPN did not disclose this conflict of interest on its CFR-5, IRS Form 990, or completed Internal Control Questionnaire, nor did CPN disclose it to SED.

In response to our request for board meeting minutes related to our scope period, the audit team received three sets of minutes: one for the Cerebral Palsy Association of Nassau County, one for the Nassau Cerebral Palsy Association, and one for Cerebral Palsy Bayville. Within these minutes, it stated the above-referenced relationship. The minutes also stated that the Treasurer would recuse himself when his family member was presenting and advising CPN's Investment Committee. Upon our further inquiry, CPN declared that the Treasurer is a member of the board of the

CP Foundation of Nassau and is not involved with the CPN board. However, the minutes the audit team received made no mention of the CP Foundation of Nassau board.

Although the Treasurer initially pledged to recuse himself, he resigned in December 2017. Nevertheless, CPN should have discussed with SED whether disclosure of the less-than-arm's-length relationship involving the Treasurer was necessary given the relationship between CPN and the CP Foundation of Nassau. Lacking such disclosure, SED and other CFR users are not aware of the related parties that CPN conducts business with.

Lack of Bidding Documentation

According to the RCM, entities have an obligation to adopt insurance practices that will provide the best coverage for the lowest cost (i.e., solicit competitive bids on insurance). Furthermore, entities must retain all pertinent accounting records supporting reported data directly or indirectly related to the establishment of tuition rates for 7 years following the end of each reporting year.

In response to our request for documentation to support that CPN's insurance coverage complied with RCM guidelines, CPN provided a statement from its insurance agency in which the agency stated it annually markets CPN's accounts to other insurance carriers for bidding. The agency also maintained that CPN's insurance carrier has remained the most competitive since 2013 but did not provide documentation to support this assertion. We recommend that CPN maintain documentation as required to support that its insurance agency solicited competitive bids for CPN's insurance policy.

Miscategorized Expenses

According to the RCM, costs will be considered for reimbursement provided they are reasonable, necessary, and directly related to the education programs. Costs must also have adequate substantiating documentation.

We found five instances where expenses were posted to the incorrect CFR line, and as such, were not reasonable based on the CFR line description and the actual type of expense incurred. These included:

- Toshiba computer equipment charges posted to CFR-1, Line 44 – Depreciation-Vehicle, which would be more appropriately posted to Line 43 – Lease/Rental Equipment.
- Toshiba computer equipment charges posted to CFR-3, Line 21 – Depreciation-Vehicle, which would be more appropriately posted to Line 20 – Lease/Rental-Equipment.
- Healthcare Industry Trust of New York (HITNY) interest expense charges posted to CFR-1, Line 57 – Interest on Capital Indebtedness, which would be more appropriately posted to Line 18 – Mandated Fringe Benefits.

- HITNY interest expense charges posted to CFR-3, Line 35 – Interest on Capital Indebtedness, which would be more appropriately posted to Line 4 – Non-Mandated Fringe Benefits.
- Building depreciation charges posted to CFR-1, Line 50 – Leasehold/Leasehold Improvements for Program 9100 (Preschool Special Class – over 2.5 hours per day) would be more appropriately posted to Line 52 – Building-Depreciation.

Although we were able to verify these expenses and their reasonableness for the Programs, they were not reported on the appropriate CFR line. CPN should ensure that such expenses are categorized on the appropriate CFR line based on the expenses that were actually incurred.

Recommendations

To SED:

1. Review the disallowances identified by our audit and, if warranted, make the necessary adjustments to the costs reported on CPN's CFR and to CPN's tuition reimbursement rates.
2. Remind CPN officials of the pertinent SED requirements that relate to the deficiencies we identified.

To CPN:

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

Audit Scope, Objective, and Methodology

The objective of the audit was to determine whether the costs reported by CPN on its CFR were properly calculated, adequately documented, and allowable under SED guidelines, including the RCM and CFR Manual. The audit covered expenses reported on CPN's 2017 and 2018 CFRs for the fiscal year ended June 30, 2018.

To accomplish our objective, we reviewed the RCM that applied to the fiscal year we examined as well as the CFR Manual and related appendices that applied to the years we examined. We also evaluated the internal controls over the costs claimed on and the schedules prepared in support of the CFRs submitted to SED. We reviewed CPN's CFRs for the 2 calendar years ended December 31, 2018, with a focus on costs for the fiscal year ended June 30, 2018, as well as relevant financial records for the audit period. We interviewed CPN personnel and reviewed policies, procedures, processes, and handbooks (internal to CPN) to obtain an understanding of their financial practices for reporting costs on the CFR. In some cases, we assessed a judgmental sample of personal service and OTPS costs claimed by CPN for reimbursement based on high risk (e.g., high dollar amounts, CFR categories that historically have had disallowances, related-party transactions, cost centers charged directly to the Programs/that have a high allocation rate, cost categories that had disallowances in previous samples, and job titles that appear to not be relevant to the Programs). These samples were generated to determine whether the chosen costs were properly calculated, adequately documented, and allowable based on SED guidelines. For those expenses that did not meet these requirements, full or partial disallowances were recommended. Based on our sample design, we cannot project our results to the population as a whole.

Statutory Requirements

Authority

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 State Education Law.

We conducted our performance audit in accordance with generally accepted government auditing standards. Those 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. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our professional judgment, these duties do not affect our ability to conduct this independent performance audit of SED's oversight and administration of CPN's compliance with the RCM.

Reporting Requirements

We provided a draft copy of this report to SED and CPN 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 the report. In SED's response, officials agreed with the recommendations and indicated the actions they will take to address them. CPN officials generally agreed with our disallowances regarding personal service and OTPS costs. However, they disagreed with our findings regarding undisclosed related parties and lack of bidding documentation. Our responses to certain CPN comments are included in the report's State Comptroller's Comments.

Within 180 days after 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.

Exhibit

United Cerebral Palsy Association of Nassau County, Inc.
Schedule of Submitted and Disallowed Program Costs
for Fiscal Year Ended June 30, 2018

Program Costs	Amount Reported on CFR	Amount Disallowed	Amount Remaining	Notes to Exhibit
Personal Services	$3,285,592	$145,501	$3,140,091	A–H
Other Than Personal Services	483,925	13,568	470,357	A, I–X
Total Program Costs	**$3,769,517**	**$159,069**	**$3,610,448**	

Notes to Exhibit

The following Notes refer to specific sections of the RCM and the CFR Manual that we used as a basis for 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 CPN officials during the course of the audit.

A. RCM Section II – Costs will be considered for reimbursement provided they are reasonable, necessary, directly related to the special education program, and sufficiently documented. Such reimbursable costs will be included in the calculation of tuition rates up to any limits or cost parameters approved annually in the rate-setting methodology.

B. RCM Section III.1.A – Compensation costs must be based on approved, documented payrolls. Payroll must be supported by employee time records prepared during, not after, the time period for which the employee was paid.

C. RCM Section II.13.A.4.b.ii – Allocation of non-direct care compensation among various direct care job titles is not allowable. Staff should be reported in the job code title supported by salary agreements and job descriptions.

D. RCM Section I.6 – Staff-to-student ratios are defined in Part 200 of the Regulations. A specific approved program's student-to-staff ratio is also defined in that program's programmatic approval letter from the Office of Special Education. Direct care personnel in excess of or not prescribed by such ratios are not reimbursable, unless supported by the student's IEP requirements and the program-generated summary data relating to those IEPs. An SED programmatic review and approval of variations from these ratios is required for costs of additional staff to be reimbursable.

E. RCM Section II.13.A.4.e – Direct care student-to-staff ratios shall not exceed the approved staffing levels supported by the Department's program approval letter. Any net excess of staff will not be included as part of reimbursable costs in the program's reconciliation tuition rate.

F. RCM 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, as determined and published annually by SED's Basic Educational Data Systems. Reimbursement of employee compensation for these job titles 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. Compensation for an Executive Director providing services to an Article 81 and/or Article 89 funded program will be compared to the median Superintendent-Independent compensation for the region in which the entity is located and compensation for an Assistant Executive Director and Chief Financial Officer will be compared to the median compensation for Assistant Superintendent.

G. CFR Manual, Appendix L, Section 45 – Providers with personnel who work in more than one program should allocate their salary to the proper cost center during the normal accounting cycle based on actual time and attendance records.

H. CFR Manual, Appendix R, Section 51 – Position Title Code 349, Utilization Review/Quality Assurance (Program Site), is "OPWDD only."

I. RCM Section III.1.J.2 – Vehicle use must be documented with individual vehicle logs that include, at a minimum, the date, time of travel, to and from destinations, mileage between each, purpose of travel, and name of traveler.

J. RCM Section III.1.M.2 – Entities operating programs must use allocation methods that are fair and reasonable, as determined by the Commissioner of Education's fiscal representatives. Such allocation methods, as well as the statistical basis used to calculate allocation percentages, must be documented and retained for each fiscal year for review upon audit for a minimum of 7 years.

K. RCM Section I.4.A – In general, a less-than-arm's-length relationship exists when there are related parties and one party can exercise control or significant influence over the management or operating policies of another party, to the extent that one of the parties is or may be prevented from fully pursuing its own separate interests.

L. RCM Appendix B.5 – To help ensure effectiveness, trustees/board members need to ensure boards address the following, consistent with statute: Avoid any conflicts of interest or even the appearance of a conflict and maintain a conflict of interest policy for board members and employees.

M. RCM Section II.27.B – Entities have an obligation to adopt insurance practices that will obtain the best coverage for the lowest cost (i.e., solicit competitive bids on insurance).

N. RCM Section III.1 – Section 200.9 (d) of the Regulations requires entities operating approved programs to retain all pertinent accounting, allocation, and enrollment/attendance records supporting reported data directly or indirectly related to the establishment of tuition rates for 7 years following the end of each reporting year. Information relating to the acquisition of fixed assets, equipment, land or building improvements, and any related financing arrangements and grants must be retained as long as the facility is used by any education program the provider operates if this period exceeds 7 years. Costs will not be reimbursable on field audit without appropriate written documentation of costs.

O. RCM Section II.20.A – Costs incurred for the entertainment of officers or employees, for activities not related to the program, or for any related items such as meals, lodging rentals, transportation, and gratuities are not reimbursable.

P. RCM Section II.20.B – All personal expenses, such as personal travel expenses, laundry charges, beverage charges, gift certificates to staff and vendors, flowers or parties for staff, holiday parties, repairs on a personal vehicle, and rental expenses for personal apartments, are not reimbursable unless specified otherwise in the RCM.

Q. RCM Section II.3.A – Promotional items of any type are not reimbursable.

R. RCM Section II.22.C – Costs of food provided to any staff, including lunchroom monitors, are not reimbursable.

S. RCM Section II.30.C – Costs for food, beverages, entertainment, and other related costs for meetings, including board meetings, are not reimbursable.

T. RCM Section II.39.B.2 – For Article 89 preschool students, evaluation costs and bilingual evaluation costs reported in the preschool provider's evaluation cost center are reimbursable, at the evaluation rates established annually pursuant to Section 4410 of the Education Law and the related Regulations.

U. RCM Section II.24 – Gifts of any kind are not reimbursable.

V. RCM Section II.21 – Fines and penalties resulting from violations of or failure by the entity to comply with federal, state, and/or local laws and regulations are not reimbursable.

W. CFR Manual, Section 18 – The CFR-5 schedule is used to report all transactions, including compensation, between the reporting entity, its affiliates, principal owners, management and members of their immediate families, and any other party (including an organization) with which the reporting entity may deal when one party has the ability to significantly influence management or operating policies of the other to the extent that one of the transacting parties might be prevented from fully pursuing its own separate interests.

X. CFR Manual, Appendix J, Section 43 – The recommended allocation methodology for transportation-related OTPS items is number of trips or mileage.

Agency Comments - State Education Department

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

EXECUTIVE DEPUTY COMMISSIONER
(518) 473-8381
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May 19, 2022

Mr. Brian Reilly
Audit Director
Office of the State Comptroller
Division of State Government Accountability
110 State St, 11th Floor
Albany, NY 12236

Dear Mr. Reilly:

The following is the New York State Education Department's (SED) response to the draft audit report, 2021-S-14, *United Cerebral Palsy Association of Nassau County, Inc. (CPN) - Compliance with the Reimbursable Cost Manual*.

Recommendation 1:

"Review the disallowances identified by our audit and, if warranted, make the necessary adjustments to the costs reported on CPN's CFR and to CPN's tuition reimbursement rates."

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. NYSED will further review the excess staffing recommendations to determine if the adjustments are appropriate.

Recommendation 2:

"Remind CPN officials of the pertinent SED requirements that relate to the deficiencies we identified."

We agree with this recommendation. SED will continue to provide technical assistance whenever requested and will strongly recommend CPN officials avail themselves of our assistance to help them better understand the rules for cost reporting and criteria for cost reimbursement as presented in the CFR, Regulations, and the Reimbursable Cost Manual (RCM). Furthermore, SED will alert CPN of online CFR training that is available on SED's webpage. SED recommends that all individuals signing the CFR certification statements, namely the Executive Director and Certified Public Accountant, complete this training. This training is a requirement for preschool special education providers upon approval and reapproval.

If you have any questions regarding this response, please contact Nell Brady, Director of the Rate Setting Unit, at (518) 474-1298.

Sincerely,

Sharon Cates-Williams

Sharon Cates-Williams

c: Christopher Suriano
Suzanne Bolling
Nell Brady
James Kampf
Jerry Nestleroad
Jeanne Day

Agency Comments - CPN

GreenbergTraurig

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May 5, 2022

Brian Reilly
Audit Director
Division of State
Government Accountability
Office of the State Comptroller
110 State Street
Albany, NY 12236

Re: State Education Department
Compliance with the Reimbursable Cost Manual
United Cerebral Palsy Association of Nassau County
Draft Audit Report 2021-S-014

Dear Mr. Reilly:

We have reviewed the above-referenced draft audit finding report concerning the audit of Cerebral Palsy Association of Nassau County's compliance with the Reimbursable Cost Manual and the costs and expenses reported on the Consolidated Fiscal Report (CFR) for the year ending June 30, 2018. We welcome the opportunity to correct any potential errors of fact set out in the report, and to provide additional information which should be considered in formulating your audit conclusions, in furtherance of the stated goal of encouraging and maintaining transparency and an open dialog through the audit process.

Personal Services Costs

Unsupported Time and Payroll Records

Over-expensed Salary

CPN maintains its challenge of the auditors' finding that certain bonus and performance evaluation costs were unsupported as relates to the 13 specific instances which we understand the audit team to have reassessed and deleted from the proposed disallowance. We also believe that the auditors may have made adjustment calculations on the same payroll of 5/18/2018 as to the reconsidered bonus payments. Additional bonuses were awarded retroactively upon our certified rate increases. Accordingly, these bonus payments should likewise be allowed, we would argue.

CPN also challenges the auditors' finding that costs for employee accrued sick leave payments were reported in error. In accordance with CPN's policy governing sick-time payments, on December 1 of each year, an employee with 80 or more sick days on record will receive the greater of either one day's compensation, or $250. Under a related policy, an employee who leaves our employment with 80 or more sick days on record receive two weeks compensation.

Accordingly, costs associated with sick leave payments are reimbursable as contemplated and employee anticipated compensation.

Comment 1

Non-direct Care Titles

CPN does not challenge the auditors' findings that certain employee's salary costs were misreported on the CFR. CLT performed the functions of an office manager which is not a direct care title, we agree. The more appropriate code 505 should have been assigned – program administration staff – and costs appropriately allocated to the preschool program and allowable. The documentation provided to the auditors reflects the office manager title and performed activities in support of the reported costs, however, notwithstanding the mistitle.

CPN does not challenge the auditors' finding that the salary costs associated with VM, a computer specialist, were erroneously reported as a program cost, although her titled position was appropriately direct care.

Cost Centers

CPN does not challenges the auditors' findings that the salaries of two employees were misreported on the CFR. However, the associated costs are nonetheless reimbursable. BM functioned as an IEP Coordinator although misreported as a teacher as supported by documentation provided to the auditors.

CN performed the function of a gym teacher, incorrectly reported under the title code 218, while more appropriately reported as 220.

Both staff provided services to the preschool program, as reflected in the provided supporting documentation.

Comment 2

Excess Staffing

CPN challenged the auditors' finding that excessive staffing costs were reported on the CFR beyond classroom ratios. In the interest of consistency, staff identified above by the auditors as not being direct care titled staff should be removed from the calculation of appropriate staffing levels, thus effectively reducing that proportionate "excess" over approved staffing levels.

CPN appreciates the auditors favorable consideration of our request for consideration and the adjustment made.

Non-Reimbursable Expense

CPN does not challenge the auditors' finding that $1,223 in salary and fringe were inadvertently allocated to the cost-based programs.

Salary in Excess of the Median

CPN does not challenge the auditors' finding that a statistically insignificant $42 in non-reimbursable costs were inadvertently reported on the CFR as a result of an accountants' rounding of salary figures across multiple cost centers.

Other Ineligible Costs – Credit Card Transactions

CPN does not challenge many of the audit team's findings around certain credit card expenses which lacked supporting documentation, although program related, or were erroneously reported as reimbursable expenses. However, CPN does challenge $549.17 in expenses proposed to be disallowed as "non-program" related costs. As the provided receipt reflected, a purchase was made from the Apple Store of several refurbished iPod Touch devices which were necessary to assure teaching staff communication access with parents through a software application call "Remind" since staff are prohibited from using their personal cell-phones for school related purposes given confidentiality and privacy concerns. These 7 devices were purchased for the exclusive use of CPN preschool staff and assigned to these individuals.

Comment 3

Other Ineligible Costs

CPN does not challenge most of the auditors' findings around certain costs which should have been reported as non-reimbursable, such as certain fees associated with litigation settlements. CPN appreciates the auditors' favorable consideration of our challenge of approximately $5,387 in costs associated with LPN/RN services proposed in disallowance.

Secondly, it appears that the auditors' may have incorrectly included in their calculations for services provided outside the audit period of the extent of $3,125.74 as well.

Accordingly, we respectfully request the disallowance be reconsidered.

Comment 4

Matters for Consideration

CPN appreciates the opportunity to strengthen the potential weaknesses in its internal controls and procedures, as identified by the audit team and have undertaken the necessary steps to assure fuller adherence to documentation requirements and allocation of costs.

Undisclosed Related Parties

As reflected in the Board meeting minutes provided to the audit team during the field audit, CPN is vigilant in its efforts to comply with all applicable rules and regulations governing conflicts of interests, including the Not-for-Profit Revitalization Act which prompted the Board to evaluate and discuss potential conflicts of interest at its February 2017 meeting. In its review, the Board recognized that while JH was a long-time member of the Foundation Board, he was not a member of the NCPA, Inc. Board of Directors, and thus not able to exert any undue influence in the decision making of the NCPA, Inc. Board – the clear intent of the conflict-of-interest mandates. In addition, the Treasurer of CPN's Investment Committee is not a "family member of the financial advisor who consults for the Investment Committee." He was an Investment Committee member who assisted CPN in understanding the investment sector who adhered to all applicable rules relating to the avoidance of even an appearance of a conflict of interest.

Comment 5

Lack of Bidding Documentation

Moreover, as reflected in the September 2021 correspondence provided to the auditors, standard protocols are consistently applied by CPN's insurance agency to determine the most competitive insurance coverage in both pricing and coverage. Although documentation reflecting select quotes from alternative markets was not retrievable by the agency, the agency did present the comparisons in the report to the Board of Trustees at the point of selection of insurance carrier. Thus, the underlying principle of competitiveness and cost-effectiveness was clearly demonstrated through the Insurance Agency's own due diligence.

Brian Reilly
Office of the State Comptroller

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Accordingly, the demonstrated competitiveness and cost-effectiveness of insurance as secured by a principal who was not a member of the Board of Director's argues against the auditors assertion that the protocols resulted in a matter worthy of note in the Report.

Comment 6

Nonetheless, CPN again acknowledges the need to continue to strengthen its internal controls and procedures around disclosure of relationship and transactions and has renewed its focus on transparency.

• • • • •

We appreciate the opportunity to provide comment on the preliminary findings described above.

Very truly yours,

GREENBERG TRAURIG, LLP

PAM/maf
Enclosures
ACTIVE 64577161v2

cc: Leonard Weil (CPN)
Robert McGure (CPN)
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James Kampf (SED)
Nell Brady (SED)
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State Comptroller’s Comments

1. CPN is challenging findings related to bonus and performance evaluation costs and sick leave payouts; however, these findings were not contained in the draft report.
2. Our finding is not related to misreporting of the employees’ title codes. As discussed with school officials during the closing conference, we acknowledge that both employees provided direct care. However, both employees were reported in the wrong cost centers, with a larger allocation amount charged to the Programs than the cost center in which the employees actually worked. Therefore, we disallowed the difference between the amount submitted under the incorrect cost center and the amount that should have been reported under the correct cost center.
3. The documentation provided to us for the seven iPod Touch devices showed that they were for program 9000, which CPN officials confirmed in a subsequent meeting, and were not for the Programs we audited.
4. Our calculations for services provided outside of the audit period were based on the ratio value applied to certain costs listed on the CFR that was used for the audit’s scope period. We maintain our finding.
5. CPN’s own meeting minutes noted that there were potential conflicts of interest, including that the son of the Treasurer of the Investment Committee was acting as the financial advisor to that same Investment Committee.
6. As stated in the report, according to the RCM, entities have an obligation to adopt insurance practices that will provide the best coverage for the lowest cost (i.e., solicit competitive bids on insurance). Furthermore, entities must retain all pertinent accounting records supporting reported data directly or indirectly related to the establishment of tuition rates for 7 years following the end of each reporting year. As the only documentation provided to us came from the selected insurance agency, we do not agree that it supports or demonstrates competitive bidding.

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