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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

August 10, 2023

Suzanne Miles-Gustave, Esq.
Acting Commissioner
Office of Children and Family Services
52 Washington Street
Rensselaer, NY 12144

Re: Oversight of Adult Protective Services
Programs
Report 2023-F-6

Dear Acting Commissioner Miles-Gustave:

Pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law, we have followed up on the actions taken by officials of the Office of Children and Family Services (OCFS) to implement the recommendations contained in our initial audit report, *Oversight of Adult Protective Services Programs* (Report [2020-S-2](#)).

Background, Scope, and Objective

OCFS is charged with promoting the well-being and safety of the State's children, families, and communities. Toward this end, OCFS oversees Adult Protective Services (APS) – a program of State-mandated services for adults (over age 18) who, because of a mental or physical impairment, are unable to meet their essential needs (e.g., food, shelter, clothing, medical care); are in need of protection from abuse, neglect, financial exploitation, or other harm; and have no one available who is willing and able to assist them responsibly. Services provided range from safety monitoring, linkages with other service providers (e.g., health, mental health, aging), and assistance in obtaining benefits such as informal money management and court petitions to appoint a guardian or other legal intervention. Within OCFS, the Bureau of Adult Services (Bureau) oversees local APS programs statewide. OCFS' network of APS providers is composed of several categories of entities: the 57 county Local Districts of Social Services and the St. Regis Mohawk Tribe Department of Human Services, responsible for addressing APS referrals outside of New York City (rest of State, or ROS); and 12 field offices and/or contractors in New York City, responsible for addressing APS referrals in the five boroughs. Hereafter, these entities are collectively referred to as APS providers.

Once a referral is received, the APS provider is responsible for assessing the adult's needs and risk of harm, which may also require coordination with law enforcement and other agencies. APS providers may determine that services (e.g., counseling; coordination of services delivery, such as Meals on Wheels; securing alternative living arrangements) are necessary. However, generally, clients must be willing to accept services offered and APS providers should ensure that services be as least restrictive as possible. Where adults are found to be at

imminent risk of death or serious physical harm, and do not understand the consequences of their situation, judicial proceedings may be required.

OCFS' policy requires APS providers to sufficiently document the assessment of the client's needs, their due diligence in helping the client obtain services, and if services were not warranted, the reasons why. OCFS uses two systems to record APS referrals and monitor APS providers' actions: Adult Protective Services Net for New York City referrals and Adult Services Automation Project (ASAP) for ROS referrals.

To ensure that APS activities meet State standards, the Bureau conducts Practice Reviews (Reviews) of each APS provider. Upon completion of the Review, the Bureau informs the APS provider of its findings. Based on the findings of the Review, the Bureau may require the APS provider to submit a written program improvement plan (PIP). The PIP must be completed using a template OCFS provides to the APS provider and be completed by the due date OCFS establishes. The Bureau follows up with the APS provider at a later date to determine if the deficiencies have been corrected and notifies the APS provider, in writing, of the findings of the follow-up review. If the Bureau determines that any of the deficiencies have not been corrected, and the PIP is extended, the Bureau provides additional support to the APS provider, as needed.

The objective of our initial audit, issued in November 2021, was to determine if OCFS adequately monitors APS activities to protect vulnerable adults. The audit covered referrals received for the period from April 2017 through December 2020 and included the relevant work completed through April 2021. The audit found that OCFS did not effectively monitor APS providers and their activities to ensure vulnerable adults were protected and received the services they need. While OCFS established processes, as well as policies and procedures, to review APS activities, it did not always ensure these processes were being executed as required. OCFS' policies and procedures lacked explicit guidance on critical aspects of the Review process, including the target time frames for conducting Reviews, the follow-up with APS providers regarding deficiencies and improvement plans, and documentation of these efforts. Specifically, we found that for a sample of 20 Reviews, many were not conducted timely, did not contain all required information critical to an accurate assessment, and lacked documentation that deficiencies were followed up on. Further, while APS providers' case file documentation for referrals generally contained a sufficient explanation for clients' risks and needs, supported their assessment to either open or close a case, and supported the need for specific services provided to the clients, we found progress notes were not always entered into the case files within the required 30-day time frame and, thus, may not have captured the most accurate, detailed record of client events to ensure that APS activities and services were appropriate and clients' needs were being met. The initial audit found the issues with case file documentation were most prevalent with the Staten Island field office – an issue also identified by the Bureau during its 2017 Review.

The objective of our follow-up was to assess the extent of implementation, as of June 2023, of the three recommendations included in our initial audit report.

Summary Conclusions and Status of Audit Recommendations

OCFS officials have made progress in addressing the issues identified in our initial report; however, improvements are still needed. Of the initial report's three recommendations, one was implemented and the other two were partially implemented.

Follow-Up Observations

Recommendation 1

Revise existing policies and procedures to include written guidance on the frequency of Reviews as well as practices for following up on and documenting that deficiencies have been corrected.

Status – Partially Implemented

Agency Action – In February 2023, the Bureau issued written procedures for the APS Review process. These new written procedures outline the activities Bureau staff must conduct and designate the staff who should be responsible for each activity. The procedures also specify a 4-year time frame for the frequency of Reviews and, when deficiencies are identified, a requirement for following up on PIPs within 6-8 months by OCFS. In addition, since the initial audit, OCFS has implemented an APS Review Schedule Tracking System (tracking system) to monitor the status of Reviews and associated PIPs and to document when deficiencies have been corrected. The tracking system is being used for Reviews that were completed since November 2021 with open PIPs and new Reviews scheduled for 2023. We reviewed the system and found it tracks key dates, such as Review initiation, findings report issuance, and the next Review due date. It also indicates whether a Review resulted in a PIP. If a Review did result in a PIP, the system contains additional dates, including the date each PIP is due, received, and to be followed up on by the Bureau. The system also captures when officials have verified that all deficiencies have been corrected and the PIP is considered complete.

However, we found the new written procedures do not include guidance for staff for follow-up with APS providers that continue to have deficiencies subsequent to the Bureau's initial follow-up on corrective actions taken as a result of the PIP. Specifically, the procedures do not establish time frames for when staff should conduct additional follow-ups to ensure APS providers correct remaining deficiencies. OCFS officials stated, and we verified, that in practice they are putting a timeline for the additional review in a letter to the APS provider. However, this practice is not included in the written procedures, and we found deficiencies remained unaddressed after the Bureau's initial follow-up for some APS providers. According to information provided from the tracking system, of the 32 Reviews the Bureau has completed since the new tracking system was implemented, 20 had a PIP. Of the 20 PIPs, two have been closed (deficiencies were sufficiently addressed), 10 have scheduled follow-up reviews to determine if deficiencies continue to exist, and eight continued to have uncorrected deficiencies after the Bureau's initial follow-up. While the Bureau extended the deadline to correct deficiencies for five of those eight PIPs, three PIPs were last reviewed in 2022 and still noted as "in process" with no scheduled follow-up.

Recommendation 2

Work with APS providers to improve case file documentation, including ensuring case notes are sufficiently detailed and entered timely to ensure that required visits are made to adequately assess the needs of the clients.

Status – Implemented

Agency Action – Since our initial audit, the Bureau has offered two training classes on case file documentation and writing case notes to APS providers. According to materials provided

by OCFS officials, these trainings covered relevant topics, including the need to ensure case notes are sufficiently detailed and contain an adequate assessment of each client's needs, and also reiterated that documentation should be timely, complete, concise, accurate, and consistent. The training was voluntary and offered in December 2021 and July 2022. Based on the attendance lists provided, we determined about 33% of the APS providers have attended the training and additional trainings are scheduled for October and December of 2023. OCFS also included instruction on case note documentation and the importance of effective progress notes during its annual APS Conference, which was held from October 12, 2022 through October 14, 2022.

With regard to issues with the Staten Island field office, the office submitted a PIP in August 2021 to correct issues related to insufficient case documentation. Among its strategies, it planned to re-issue policies and procedures concerning documentation, provide refresher training to all Staten Island case management staff to be completed by December 2021, conduct two internal reviews prior to our follow-up, and increase supervisory and director case reviews to focus on documentation scrutiny. The Bureau monitored strategies outlined in Staten Island's PIP and conducted a follow-up review in June 2022. During its review, the Bureau found that 36 of a sample of 40 cases (90%) contained descriptive documentation and met requirements and expectations of regulatory compliance. OCFS officials also provided support that 12 of the 13 Staten Island field staff attended OCFS' case management refresher training, as required by the PIP. Based on the noted improvement in practice, the Bureau determined that Staten Island achieved regulatory requirements and its PIP was closed.

Recommendation 3

Develop processes to improve the reliability and consistency of ASAP data, and communicate consistent expectations on when and how to enter information into the system, including but not limited to referral dates.

Status – Partially Implemented

Agency Action – Since the initial audit, OCFS has begun to implement enhancements to improve the reliability and consistency of ASAP data, but has not fully implemented all the planned changes. OCFS completed several system patches to enhance the reliability and accuracy of APS data and developed new reports to better monitor ASAP data and gaps. OCFS also conducted an ASAP focus group and distributed step-by-step update guides to communicate consistent expectations on when and how to enter APS information and utilize the ASAP system. According to officials, several key additional ASAP system enhancements – designed to strongly improve the reliability and accuracy of APS data – are planned, but there is no estimated date for completion. Further, officials stated that they are working on developing six data-related reports that could be used to improve the monitoring, consistency, and reliability of APS data, but there is also no estimated date of completion for these reports.

Major contributors to this report were Brandon Ogden, Amy Tedesco, Erin Maloney, and Alcides Ortiz.

We would appreciate your response to this report within 30 days, indicating any actions planned to address the unresolved issues discussed in this report. We thank the management and staff of OCFS for the courtesies and cooperation extended to our auditors during this follow-up.

Very truly yours,

Andrea LaBarge
Audit Manager

cc: Bonnie Hahn, OCFS Audit Liaison