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OFFICE OF THE STATE COMPTROLLER

October 30, 2023

Chinazo Cunningham, M.D.
Commissioner
Office of Addiction Services and Supports
1450 Western Avenue
Albany, NY 12203-3526

Re: Oversight of Chemical Dependence
Residential Services
Report 2023-F-17

Dear Dr. Cunningham:

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 Addiction Services and Supports to implement the recommendations contained in our initial audit report *Oversight of Chemical Dependence Residential Services* (Report [2020-S-49](#)).

Background, Scope, and Objective

The Office of Addiction Services and Supports' (OASAS) mission is to improve the lives of New Yorkers by leading a comprehensive system of addiction services for prevention, treatment, and recovery. OASAS oversees one of the largest substance use disorder systems of care in the nation, with approximately 1,700 prevention, treatment, and recovery programs that provide services for over 680,000 New Yorkers each year, including inpatient and residential services for about 8,000 individuals.

OASAS' regulations – Title 14 of the New York Codes, Rules and Regulations (Regulations) – govern Chemical Dependence Residential Services (Part 819) and Residential Services (Part 820). Part 819 can include three levels of residential services programs: community residential, supportive living, and intensive residential rehabilitation (our initial audit did not include a review of intensive residential programs). Part 820, adopted in 2015 as part of a redesign that added residential programs, includes three elements that the programs would be approved to provide either separately or in combination: stabilization, rehabilitation, and/or reintegration. The redesign was implemented with the expectation that Part 819 providers would convert their programs to Part 820 programs. As of June 1, 2023, OASAS reported there were 62 Part 819 programs and 137 Part 820 programs across New York State.

OASAS certifies residential services and issues operating certificates to providers that run Part 819 and Part 820 programs. Before issuing an operating certificate, OASAS is required to inspect programs for compliance with all applicable laws, rules, and regulations. In the case of recertification, OASAS must perform an inspection (or recertification review) and a fiscal viability review before the program's current operating certificate expires. According to

the Regulations, operating certificates may be issued for a 3-month, 6-month, 1-year, 2-year, or 3-year term, depending on the compliance rating achieved on the recertification review or fiscal viability review. OASAS' program recertification reviews are conducted on an unannounced basis and include on-site inspections of facility conditions and safety, review of patient records, examination of staffing patterns and staff qualifications, and assessment of compliance with reporting requirements. OASAS suspended the on-site recertification reviews during the COVID-19 pandemic and has since implemented a hybrid-review protocol that includes an on-site component.

Upon completion of a recertification or interim regulatory compliance review, OASAS submits a written report to the program describing the results of the review and identifying any regulatory deficiencies. The program is required to take actions necessary to correct the deficiencies reported and submit a corrective action plan (CAP) of the specific actions planned or taken to bring the program into compliance. As part of the on-site portion of the recertification, OASAS reviews the program's CAP and potentially includes an unannounced interim regulatory compliance review to ensure attention to and correction of previously cited deficiencies.

The objective of our initial audit, issued in December 2021, was to determine whether OASAS properly monitored residential services to ensure conditions were safe and secure for patients. The audit covered the period from April 2017 through February 2021. Our audit found that OASAS was not adequately monitoring the programs as prescribed in the Regulations. Specifically, OASAS was not meeting the recertification review requirements, and 76 residential programs continued to operate without OASAS completing recertification reviews before their due date. In addition, OASAS was not always conducting appropriate follow-up of programs to verify that all deficiencies had been addressed – including obtaining documentation from programs supporting that CAPs were implemented to bring programs into compliance. The audit determined this lack of oversight and action posed an increased risk to the safety and security of the conditions of programs and the vulnerable populations served.

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

OASAS has made progress addressing the issues identified in the initial audit report. Of the initial report's three recommendations, two were implemented and one is no longer applicable.

Follow-Up Observations

Recommendation 1

Perform recertification reviews for all programs that are overdue.

Status – Implemented

Agency Action – OASAS has performed recertification reviews for all 76 programs that were overdue during our initial audit. According to data provided by OASAS, 35 remain Part 819 programs, 33 converted to Part 820 programs, and eight programs closed. We selected a sample of 20 programs to review and verified that the information provided by OASAS was accurate.

Recommendation 2

Implement an effective monitoring system to ensure that all recertification reviews are performed timely.

Status – Not Applicable

Agency Action – During our initial audit, multiple factors (which were generally temporary) – including providers' hesitation to convert from Part 819 programs to Part 820 programs and the COVID-19 pandemic – contributed to a backlog of recertifications. OASAS officials stated that these conditions, not their monitoring processes and procedures, were responsible for the 76 overdue recertifications. During our initial review, we could not verify these statements and, therefore, recommended OASAS implement an effective monitoring system to ensure recertification reviews were performed timely. Since our initial audit, OASAS has performed all 76 overdue recertifications. Also, for those programs that required recertification since our initial audit, OASAS has completed recertifications within the prescribed time frames. Therefore, we concluded that the factors inhibiting OASAS' monitoring system are not currently preventing OASAS from completing recertification reviews, and the recommendation is no longer applicable.

Recommendation 3

Implement procedures to ensure that OASAS staff conduct appropriate follow-up of programs with deficiencies identified during recertification reviews.

Status – Implemented

Agency Action – In July 2021, OASAS provided training during its District Quarterly Meeting that addressed how to clearly document deficiencies and how an acceptable CAP should be written. The training covered how staff should verify actions taken by programs, that a CAP cannot be accepted until all deficiencies are sufficiently addressed, and that a renewed operating certificate cannot be issued until the CAP is deemed acceptable by OASAS. We reviewed a sample of 20 programs (of the 76 programs that were overdue during our initial audit), of which seven required CAPs. We reviewed the seven CAPs and determined that OASAS conducted appropriate follow-up with these programs.

Major contributors to this report were Theresa Nellis-Matson, Brian Supple, Kyle Creech, and Usman Khan.

We thank the management and staff of OASAS for the courtesies and cooperation extended to our auditors during this follow-up.

Very truly yours,

Amanda Eveleth, CFE
Audit Manager

cc: Steven J. Shrager, OASAS