

THOMAS P. DiNAPOLI  
STATE COMPTROLLER



110 STATE STREET  
ALBANY, NEW YORK 12236

STATE OF NEW YORK  
OFFICE OF THE STATE COMPTROLLER

June 18, 2025

Willow Baer  
Acting Commissioner  
Office for People With Developmental Disabilities  
44 Holland Avenue  
Albany, NY 12229

Re: Pandemic Planning and Care for  
Vulnerable Populations  
Report 2024-F-23

Dear Acting Commissioner Baer:

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 for People With Developmental Disabilities to implement the recommendations contained in our initial audit report, *Pandemic Planning and Care for Vulnerable Populations* (Report [2021-S-9](#)).

**Background, Scope, and Objective**

The Office for People With Developmental Disabilities (OPWDD) is responsible for coordinating services for individuals with intellectual and developmental disabilities (IDD)—lifelong disabilities that involve functional limitations in the areas of learning, language, and behavior. People with IDD face significant health issues that render them more vulnerable in an emergency. For example, individuals with IDD have a higher prevalence of comorbidities and immune dysfunction; are more susceptible to infectious diseases, such as the highly contagious COVID-19; and are at greater risk for more severe outcomes, including intensive care unit admission, invasive mechanical ventilation, and mortality. Further, OPWDD's clients largely receive services in congregate settings, which pose special infection control challenges, especially evident during the COVID-19 public health emergency. For example, according to the Centers for Disease Control and Prevention, OPWDD reported a 15% death rate (2,593 cases/400 deaths) among its residential clients within the first 3 months of the COVID-19 pandemic compared with 8% (396,098 cases/31,634 deaths) for the State overall.

OPWDD assists its clients to live the life they want through access to supports and services, including employment, day services, and housing. OPWDD provides these services directly through State-operated programs administered by six Developmental Disabilities State Operations Offices across the State, and through a network of about 425 private non-profit agencies (voluntary agencies) under the guidance of one of OPWDD's five Developmental Disabilities Regional Offices.

OPWDD oversees several residential service options, which allow clients to live in a community home setting with others and be as independent as possible. Two such community

residence types—Individualized Residential Alternatives (IRAs) and Intermediate Care Facilities (ICFs)—serve most clients and were the focus of the initial audit report. IRAs are family-style group homes that provide support as well as individualized protective oversight. ICFs are designed for individuals whose disabilities severely limit their independence.

OPWDD is responsible for certifying and regulating all residential facilities and providing guidance and best practices to both its own staff at State-operated facilities and voluntary agencies that deliver direct care to people with IDD.

OPWDD's Division of Quality Improvement (DQI) is responsible for certifying homes, which, for the initial certification, involves on-site visits to ensure that the physical plant environment meets program-specific standards, codes, and regulations, and that staffing is adequate. Additionally, ICFs must meet federal regulations that require establishing and maintaining an emergency preparedness program and having an active program for the prevention, control, and investigation of communicable diseases. Pursuant to the State's Medicaid Plan agreement with the Centers for Medicare & Medicaid Services, all ICFs are routinely surveyed by the Department of Health for compliance with State and federal regulations.

One component of OPWDD's mission is providing a safe environment for all staff, people receiving services, and families served in homes and programs operated and/or certified by OPWDD, including disaster preparedness. OPWDD modeled its Emergency Management Operations Protocol (EMOP) on the State's Comprehensive Emergency Management Plan, which was developed by the Division of Homeland Security and Emergency Services (DHSES) and the New York State Disaster Preparedness Commission, which included OPWDD. The EMOP was composed of three tiers of planning:

- Continuity of Operations Plan (COOP) – a statewide plan for the resumption of operations when in a continuity environment, which includes an event requiring relocating to alternate work sites not normally equipped with routine supplies and equipment required to complete job tasks
- Facility-Level Emergency Plans – plans supporting different emergency response types and delineating staff responsibilities and site-specific reporting requirements
- Emergency Response and Reporting Guide – the foundation for response efforts across OPWDD, which drive immediate actions and emergency reporting requirements regionally

The EMOP and associated documents (e.g., COOP) provide OPWDD's overarching policies, authorities, and response organizational structure to all OPWDD-operated and -certified facilities or programs, as well as OPWDD staff who manage and deliver specialized care to ensure an integrated and coordinated local approach to managing emergencies. The EMOP does not specifically apply to the emergency management planning and response efforts of voluntary agency-operated facilities but rather provides a mechanism for communications between them and OPWDD. As per State and federal regulations, voluntary agencies are responsible for creating their own emergency management programs and plans.

The COOP covers OPWDD's internal efforts to ensure it continues with Mission Essential Functions (MEFs) and services. An all-hazards continuity planning approach was developed to identify agency-level MEFs and recovery strategies should a COOP event occur.

The COOP is designed to be flexible; it can be partially or fully activated based on the size, scope, and complexity of an impending/occurring event. The COOP also outlines how OPWDD will return to normal operating procedures when it is deemed safe to do so.

OPWDD also utilizes the Hazard Vulnerability Assessment (HVA) tool to assess what hazards can cause the greatest risk to OPWDD facilities in each region/district, which can be helpful when developing emergency management plans. The HVA uses variables such as probability, magnitude, and impact to assess how much risk a specific hazard poses for a region.

The objectives of our initial audit, issued April 6, 2023, were to determine whether OPWDD adequately addressed the needs of the vulnerable population it serves in its emergency plans and took appropriate actions to care for this vulnerable population during the COVID-19 pandemic. The audit covered the period from January 2019 to April 2022. We found OPWDD did not provide consistent oversight and guidance to all types of homes to ensure they were adequately prepared to manage public health emergencies. For example, OPWDD developed and issued specific COVID-19 plans only to State-operated ICFs (eight facilities that accounted for less than 1% of residential clients). While OPWDD's emergency management and overarching emergency planning documents considered pandemics as a risk even before COVID-19, OPWDD did not take proactive steps to ensure that homes—both State- and voluntary agency-operated—had followed suit in their own emergency plans. Only one of 16 facilities we visited expressly considered pandemics in its emergency planning. Further, OPWDD took some steps in response to COVID-19; however, its efforts were largely reactive rather than proactive. The audit identified improvements that could be made, before another pandemic or infection control incident occurs, to ensure a stronger response.

The objective of our follow-up was to assess the extent of implementation, as of March 2025, of the four recommendations included in our initial audit report.

### **Summary Conclusions and Status of Audit Recommendations**

OPWDD officials made progress in addressing the problems we identified in the initial audit report; however, more work needs to be done. Of the initial report's four recommendations, all four were partially implemented.

### **Follow-Up Observations**

#### **Recommendation 1**

*Periodically review and update as necessary the EMOP and supplemental documents to ensure all homes implement current policies and procedures in the event of another public health emergency.*

Status – Partially Implemented

Agency Action – Since the initial audit, OPWDD updated its EMOP in October 2023 and again in October 2024. OPWDD also completed its annual update of the COOP. According to OPWDD officials, they will be submitting the COOP update to DHSES by June 2025; they also stated no significant changes were made since the 2024 version. For State-run facilities, OPWDD drafted an Emergency Management Plan (EMP) in October 2024, but as of March 2025, it had not been finalized. The EMP is a subset of the EMOP outlining details on how to respond in an emergency. The EMP establishes a framework

to assist facilities in mitigating potential loss of life or injuries and minimizing property damage, and to promote efficient recovery from an emergency by preventing/mitigating, planning/preparing for, responding to, communicating throughout, and recovering from an emergency event. The EMP applies only to State-owned and -operated homes and facilities and works in conjunction with OPWDD's COOP. Specifically, the EMP indicates that it does not apply to the emergency management planning and response efforts of voluntary agencies, despite the partnerships that OPWDD has with these providers. However, in November 2024, OPWDD issued a new regulation that would require all facilities that are certified or operated by OPWDD, except for family care providers, to maintain an EMP and a facility-specific emergency preparedness plan.

Additionally, OPWDD updated the HVA tool to elevate public health emergencies and emerging infectious diseases as the most impactful hazard that could affect OPWDD facilities. Furthermore, OPWDD developed and implemented a State-operated IRA facility-based emergency plan template to accompany the Emergency Reporting and Response Guide. The template includes a hazard analysis and specific hazard-based language that includes public health emergencies. OPWDD is in the process of developing planning documents and training for all providers.

### **Recommendation 2**

*Develop procedures to ensure facility-level emergency plans encompass planning for and responding to public health emergencies.*

Status – Partially Implemented

Agency Action – In November 2024, OPWDD issued a new regulation that requires all facilities that are certified or operated by OPWDD, except for family care providers, to maintain an EMP and a facility-specific emergency preparedness plan. Additionally, the regulation requires each facility to conduct a risk assessment as part of their emergency preparedness plan and clearly states that facilities' emergency preparedness plans must include public health emergencies.

OPWDD also developed a version of its State-operated IRA facility-based emergency plan template with a step-by-step action guide for voluntary agencies' IRAs. The template provides voluntary agencies with one possible framework to develop facility-based emergency response plans and should be tailored to the facilities' individual circumstances. The guide provides information on how facilities should prepare for, and react to, public health emergencies, including preventive actions, training, personal protective equipment (PPE) guidance, surveillance and screening protocols, monitoring and reporting protocols, and containment strategies. In conjunction with the guide, OPWDD intends to host training for voluntary agencies on completing a hazard analysis and developing a facility-based emergency plan. Distribution of the guide and corresponding training are anticipated to begin in late summer or fall 2025, with the implementation of the proposed regulation.

### **Recommendation 3**

*Ensure monitoring and review protocols address infection control practices, are well developed, and are consistently applied when conducting reviews at homes.*

Status – Partially Implemented

Agency Action – OPWDD is in the process of updating its routine Site Review and Agency Review protocols to incorporate a specific section for the review of infection control based upon separate protocols OPWDD developed and applied during the pandemic. A dedicated work group of DQI, Bureau of Program Certification (BPC) leadership, and all BPC Registered Nurses (RNs) have been actively working on the new section. We reviewed the draft version of the new section and found it assesses infection control practices and preparedness and focuses on providers' ability to respond, monitor, and track infection control issues. The draft version specifically assesses infection control practices related to COVID-19, requirements for PPE supplies, and staff training to ensure that homes are prepared to effectively manage infection control.

Additionally, in September 2024, OPWDD issued a new protocol allowing BPC to develop an ad hoc survey promptly to address new or temporary monitoring requirements using a standardized development and approval process. The protocol instructs OPWDD surveyors to delete any previous versions of ad hoc surveys and implement the new and approved version, ensuring that only the current version of ad hoc survey protocols is being used.

#### **Recommendation 4**

*Establish effective communication with individuals responsible for infection control policies and procedures when pertinent deficiencies are identified.*

Status – Partially Implemented

Agency Action – In 2023, OPWDD hired five new RNs in BPC field offices (three in the New York City office, one each in the Capital District and Western New York offices) to participate in field surveys with a primary focus on health care services. These RNs serve as technical advisors to survey teams and are directly involved with concerns or incidents related to medical health issues, such as infection control. The RNs perform interviews, review provider policies and procedures, and ensure regulatory compliance through observations. The RNs discuss concerns and, in coordination with the survey teams, issue Statements of Deficiencies (SODs).

OPWDD also began the process for providers to have direct access to Exit Conference Forms (ECFs), which serve as preliminary findings reports from each completed survey, and SODs for their programs through DQI's Applications database. Providers can have multiple employees obtain direct access to this information. The system will send email alerts notifying providers that such forms have been issued and require their review. Access to ECFs started in March 2024, while access to SODs and Plans of Corrective Action will be phased in starting in early 2026. These efforts should facilitate better communication between DQI and providers regarding surveys and any identified deficiencies. DQI will provide training to providers in fall 2025 on ensuring effective communication with survey deficiencies and plans for corrective actions.

Major contributors to this report were Melissa Davie, Molly Farnan, and Frank Scaturro.

OPWDD officials are requested, but not required, to provide information about any actions planned to address the unresolved issues discussed in this follow-up within 30 days of the report's issuance. We thank the management and staff of OPWDD for the courtesies and cooperation extended to our auditors during this follow-up.

Very truly yours,

Scott Heid  
Audit Manager

cc: Anthony Dolan, Office for People With Developmental Disabilities