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**OFFICE OF THE
NEW YORK STATE COMPTROLLER**

**DIVISION OF STATE
GOVERNMENT ACCOUNTABILITY**

DEPARTMENT OF HEALTH

**OVERSIGHT OF ADULT
CARE FACILITIES**

Report 2006-S-7

AUDIT OBJECTIVE

The objective of our audit was to determine if the Department of Health performed and followed up on inspections, and investigated adult care facility complaints according to State law.

AUDIT RESULTS - SUMMARY

Adult care facilities (facilities) provide temporary or long-term residential care to adults who are unable to live independently. The Department of Health (Department) is responsible for overseeing three types of adult care facilities in the State - Adult Homes, Enriched Housing, and Residences. The remaining two types of adult care facilities - Shelters and Family Type Homes - are overseen by the Office of Temporary and Disability Assistance and the Office of Children and Family Services, respectively.

There are four regional offices responsible for inspecting adult care facilities and handling the investigation of complaints: the Capital District, Central New York, Western (which has a local office in Rochester and a local office in Buffalo); and the Metropolitan Area Office (which has a local office in Suffolk County and a local office in New York City).

We have done several audits of the Department's oversight of adult care facilities in the past, the most recent one was released in 2003 (Report 2002-S-1). In that audit, we found that the Department was not inspecting facilities as frequently and thoroughly as required by law. We further determined that the Department was often slow to respond to complaints, particularly in the New York City area.

In our current audit, we found that the Department generally completed inspections

within the required time frame. However, it did not always start inspections within the required time frame, or issue inspection reports and investigate complaints in a timely manner, thereby delaying corrective action.

According to the law, facilities must be inspected every 12 to 18 months. We evaluated the timeliness of 56 full inspections performed by the Department during our audit period and found that 7 of the 56 were not started within the required time frame. [Page 4]

The Department's inspection manual requires inspections to be completed within 30 days. We noted that, out of the 93 inspections we reviewed, 87 (94 percent) were completed within the 30-day requirement. [Page 5]

Written reports with the results of all inspections must be sent to the facilities within 30 days of the inspection. The only exception to this is for inspections of facilities within the jurisdiction of the Metropolitan Area Office; for these inspectors have 45 days to issue reports due to the high number of facilities in this region. Out of the 134 reports we reviewed during our audit period, 61 were issued late to facilities. [Pages 5-6]

When significant violations are found during full inspections, the Department is required to verify that the facility corrects the corresponding condition. To do this, the Department can verify the correction through documentation submitted by the facility or, in its absence, conduct a follow-up inspection. We found that the Department was not doing all of the follow-up inspections it was required to do. [Pages 6-7]

Between April 1, 2004 and June 15, 2006, the Department received 1,869 complaints about the care provided to residents of facilities.

Complaints are classified into one of three categories based on the nature and severity of the complaint. To determine whether the Department was investigating complaints as required, we reviewed the investigation records for a judgmental sample of 253 out of 1,670 complaints that were closed as of May 26, 2006. Of the 253 complaints, we found investigations for 24 were initiated late. Out of the 24, four were considered 72-hour cases (those in which residents' health and/or safety are imminently at risk or waiting to investigate can jeopardize the integrity of the complaint). In reviewing the complaints, we believe 19 of the 253 complaints that were designated as either 90 or 120 day complaints (non-imminent risk) should have been designated as 72-hour complaints. Some of these involved residents receiving inappropriate medication or an overdose of medication. [Pages 7-9]

Our audit report contains six recommendations.

This report, dated March 4, 2008, is available on our website at: <http://www.osc.state.ny.us>. Add or update your mailing list address by contacting us at: (518) 474-3271 or Office of the State Comptroller
Division of State Government Accountability
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BACKGROUND

Adult care facilities (facilities) provide temporary or long-term residential care to adults who are unable to live independently because of physical or other limitations associated with age, physical or mental disabilities, or other factors. The residents in these facilities require less intensive care than residents in nursing homes.

The Department of Health (Department) is responsible for overseeing three types of adult care facilities in the State - Adult Homes, Enriched Housing, and Residences. The remaining two types of adult care facilities - Shelters and Family Type Homes - are overseen by the Office of Temporary and Disability Assistance and the Office of Children and Family Services, respectively. As of May 2006, there were 504 facilities under the Department's jurisdiction. Within the Department, facilities are overseen by the Bureau of Adult Care Facilities Quality and Surveillance (Bureau). The Bureau has a main office in Albany, and oversees four independent regional offices: the Capital District, Central New York, Western (which has a local office in Rochester and a local office in Buffalo); and the Metropolitan Area Office (which has a local office in Suffolk County and a local office in New York City). The Bureau makes program implementation recommendations to each regional office, which is responsible for managing its own resources. The Metropolitan Area Office oversees facilities in New York City, the lower Hudson Valley, and Long Island, and handles approximately 55 percent of all facilities in the State. Among the responsibilities of regional offices are inspecting adult care facilities and handling the investigation of complaints.

According to the law, facilities must be inspected every 12 to 18 months. Violations found during inspections must be corrected (or a formal plan for correcting the violations must be developed) within 30 days of the issuance of the inspection report to the facility. In addition, complaints about facilities must be investigated within specified time frames.

We have done several audits of the Department's oversight of adult care facilities in the past, the most recent one was released

in 2003 (Report 2002-S-1). In that audit, we found that the Department was not inspecting facilities as frequently and thoroughly as required by law, and violations may not be corrected. We further determined that the Department was often slow to respond to complaints, particularly in the New York City area.

AUDIT FINDINGS AND RECOMMENDATIONS

Inspection Activities

The law requires the Department to conduct and report on inspections within specified time limits. The Department must meet the specific requirements for: (1) frequency of inspections, (2) time allowed for completing inspections; and (3) time allowed for issuing inspection reports. We found that the Department did not always perform inspections as frequently as required or issue inspection reports within the required time frames. These weaknesses risk delay of necessary corrective action. However, once started, the Department generally completed the inspections within the required time frames.

Frequency of Inspections

The Department is required to completely inspect facilities on an unannounced basis, at least once every 12 to 18 months. Inspections include interviews with staff at the facilities, touring the facility, examining the medical, dietary and social services records of residents; reviewing the structural aspects of the facility (e.g., building safety standards), and noting the adequacy of care given to residents. The frequency of inspection (12 or 18 months) depends on the results of the previous inspection. If significant problems were found in the previous inspection, the next inspection must be performed within 12

months. If significant problems were not found, the next inspection must be performed within 18 months. We found that, since our prior audit was issued, the Department has reduced the delays in inspecting facilities within the 12 and 18 month requirement.

To determine whether the Department was inspecting facilities within the required time frame, we selected a judgmental sample of 28 of the 504 facilities and reviewed their inspection files. For these 28 facilities, there were 134 reports issued. Of these, 56 were for full inspections, 7 were partial inspections, 30 were follow-ups, and 41 were complaint investigations.

To assess the frequency of inspections, we evaluated the timeliness of the 56 full inspections and found that 7 out of 56 inspections were not started within the required time frame (3 in the Central New York Office, and 4 in the Metropolitan Area Office). Delays in starting these 7 inspections ranged from 11 to 401 days and averaged 105 days late.

Metropolitan Area Office officials responded to our findings, stating that they are responsible for inspecting 55 percent of all of the facilities in the State and do not have enough staff to perform all inspections in a timely manner. However, based on staffing and facility information provided by the Department (as of April 2006), we determined that the Western Office has the most facilities to inspect per inspector. As the following table shows, the Western Office has approximately 12 facilities per inspector, while the Metropolitan Area Office has approximately 8 facilities per inspector.

	Metro Area	Western	Capital District	Central NY
Number of Facilities	215	121	75	93
Number of Inspectors	26	10	9	8
Approx. Number of Facilities Per Inspector	8	12	8	12

Further, the Western Office has the best record of performing inspections timely. For the 13 full inspections performed by the Western Office during our audit period, 12 were on time. Therefore, the Metropolitan Area Office's claim that it does not have enough staff may not be the root cause of its inability to conduct inspections timely. We suggest the Bureau review the operations of the Western Office to determine best practices that it may be able to apply to the Metropolitan Area Office or elsewhere.

Completing Inspections

The Department's inspection manual requires inspections to be completed within 30 days. This means that the inspection process, starting with the inspection entrance interview at the facility through to the exit interview, must be completed during this time period. Overall, the Department completed inspections within 30 days for 94 percent of those tested in our sample.

To determine the amount of time it took inspectors to complete their inspections, we reviewed the 56 full inspections, 30 follow-up inspections and 7 partial inspections in our sample; and found that of the 93 inspections, 87 (94 percent) were completed within the 30-day requirement, and 6 were completed late. The amount of time required to complete the 6 ranged from 38 to 189 days. Five of the untimely inspections occurred in the Metropolitan Area Office, including the

inspection that took 189 days to complete, while one was in the Central New York Office. All inspections reviewed in the Capital District and Western Office were completed within 30 days.

Metropolitan Area Office officials responded to our findings by stating they sometimes combine complaint investigations and inspections, and report the results in a single report. While it may be acceptable to do concurrent inspections and complaint investigations, each must be completed according to their required time frames established. The practice of coupling inspection and investigation activities must not delay the required inspection process.

Inspection Reports

According to Department procedures, written reports with the results of all inspections (e.g., full, partial, etc.), must be sent to the facilities within 30 days of the inspection. The only exception to this is for inspections of facilities within the jurisdiction of the Metropolitan Area Office; these inspectors have 45 days to issue reports due to the high number of facilities in this region.

We reviewed 134 inspection reports in our sample of 28 facilities. We noted the date inspectors ended their inspections and the date the inspection report was issued. We found that 61 (46 percent) of the 134 reports were issued late. The timeliness of the reports varied in the different regional offices, as follows:

- In the Metropolitan Area Office, which uses the 45-day requirement, 24 of the 29 reports were late. These reports were between 1 and 188 days late and, on average, 62 days late.

- In the Central New York Office, 15 of the 23 reports were late. These 15 reports were between 2 and 110 days late and, on average, 45 days late.
- In the Capital District Office, 21 of the 38 reports were late. These 21 reports were between 1 and 68 days late and, on average, 17 days late.
- In the Western Office, only one of the 44 reports was late. This report was late by 6 days.

Department regulations state that the facilities have 30 days from the receipt of the report to take corrective action. Therefore, if the issuance of the report is delayed, corrective action may also be delayed. As such, the late issuance of inspection reports allows violations to continue at the facilities, risking the health and safety of its residents. The need for improved monitoring over report processing was identified in our prior report. In that report, 32 percent of the reports in our sample were issued late. Since then, there has been no improvement by the Department in issuing inspection reports within the required time frame. Further, during our last audit, the Metropolitan Area Office was required to issue reports within 30 days. In that report, 65 percent of its reports were issued late. Since September 2005, the Metropolitan Area Office has had an additional 15 days to issue reports, yet this office has made no improvement in issuing reports since about 71 percent of their reports in our current audit were also issued late. The Metropolitan Area Office staff complained that they are pressed to conduct inspections without adequate time given to write up the respective reports.

Follow-up Inspections

When significant violations are found during full inspections, the Department is required to

verify that the facility corrects the corresponding condition. To do this, the Department can verify the correction through documentation submitted by the facility or by conducting a follow-up inspection. Facilities are required to submit either a notice of correction or plan of correction to the Department outlining what steps they have, or will take, to correct identified violations. However, if they do not submit these documents, follow-up inspections are required. This is the only instance that the Department requires follow-up inspections. When follow-up inspections are done, the Department has first-hand evidence of actual corrective actions taken by facilities, or may observe that some facilities have not taken the required corrective actions.

For the period April 1, 2004 through September 30, 2006, we reviewed inspection cases where violations were noted to determine if the required documentation was submitted or a follow-up inspection was done.

- In the Western Office, we found staff performed at least one follow-up inspection for every full inspection report that showed a violation, even if documentation was submitted. For the six facilities we reviewed, there were 18 follow-up inspections performed for the 13 full inspections conducted.
- In the Metropolitan Area Office, 3 follow-up inspections were done for 18 full inspections; 13 full inspections did not receive follow-ups. Two of the 13 did not have either a notice or a plan of correction and should have received a follow-up inspection. The remaining two follow-up inspections were not yet due at the time of our review.

- In the Capital District Office, 8 follow-up inspections were done for 15 full inspections. For the remaining seven inspections, three were not yet due at the time of our review.
- In the Central New York Office, one follow-up inspection was done for ten full inspections and three were not due at the time of our review. Out of the remaining six inspections without a follow-up, three did not have either a notice or a plan of correction and should have received a follow-up inspection.

In addition to the Department not doing follow-up inspections when established procedures require them to be done, we found evidence indicating that, even when a notice of correction has been submitted by a facility, there is no guarantee that corrective action has taken place. During our audit period, we observed a full inspection for a Metropolitan Area Office facility that resulted in several violations being issued. Two were for residents having expired medications in their rooms and another noted that oxygen was unsecured in some of the rooms. Both conditions are considered significant health risks. The facility submitted the required notice of correction to the Department indicating that these violations had been corrected. Standard procedure at the Department allowed this inspection to be closed. However, we subsequently requested a follow-up inspection be performed to determine if the facility's notice of correction was accurate and complete. During the follow-up inspection at the facility, we, along with Metropolitan Area Office inspectors, found that the oxygen had been secured, but some residents still had expired medication in their rooms. Thus, the violation had not been corrected, as claimed in the facility's written notice of correction. This calls into question

the reliability of some facilities' notices of correction.

Recommendations

1. Instruct the Bureau to review the operations of the Western Office with the objective of identifying best practices that will help the Central New York and Metropolitan Area Offices conduct facility inspections within the 12 and 18 month cycles.
2. Require the Metropolitan Area Office to report inspections and investigations separately.
3. Work with regional offices so inspection reports are completed and issued within the required time frames.
4. Perform follow-up inspections of all full inspections where violations were issued, as required.

Timeliness of Complaint Investigations

Between April 1, 2004 and June 15, 2006, the Department received 1,869 complaints about the care provided to residents of facilities. The law requires the Department to respond within specified time frames to these complaints, depending on the allegation. We identified delays in the Department's response to many complaints.

According to the law, the Department is required to establish procedures governing the receipt and investigation of complaints about the care provided to residents of facilities. These procedures are to address the process used to obtain information from, and protect the confidentiality of, the complainant, establish time frames for the investigation, and report investigation results to the complainant and facility operator. The

Department requires all complaints alleging the abuse or neglect of a resident, and complaints involving incidents that expose a resident to cruel or unsafe care, to be investigated within 72 hours of the complaint being received. All other complaints are to be investigated in accordance with time frames established by the Department.

We noted that, since our last audit, the Department established its automated Uniform Complaint Tracking System, which is maintained by the complaint intake unit within its main office. This unit logs complaints into one of three categories for complaint investigations based on the nature and severity of the complaint: (1) a 72-hour complaint, (2) a 120-day complaint (e.g., the washing machine broke, residents complaining about roommates) and (3) a next standard survey complaint (120-day complaints that can be reviewed before 120 days, since the facility's next designated inspection is within 120 days). We note that, after January 1, 2005, the Department restricted its time frames to two options, 72-hour complaints and 90-day complaints.

To determine whether the Department was investigating complaints as required, we reviewed the investigation records for a judgmental sample of 253 out of 1,670 complaints that were closed as of May 26, 2006. Of the 253 complaints, which were generally divided among the 4 regional offices, we found investigations for 24 were initiated late:

- 16 out of 89 complaints in the Metropolitan Area Office were initiated between 1 and 201 days late and, on average, 52 days late.
- 6 out of 63 complaints in the Central New York Office were initiated

between 7 and 310 days late and, on average, 119 days late.

- 2 out of 32 complaints in the Capital District Office were initiated between 2 and 19 days late and, on average, 11 days late.
- The remaining 69 investigation complaints were in the Western Office and all were initiated on time.

Out of the 24 investigations that were initiated late, 4 were 72-hour cases. These were initiated between 1 and 19 days late and, on average, 6 days late. The four 72-hour cases not initiated on time included allegations of no food being available, a resident overdosing on blood pressure medication, and a lack of personal care for residents needing assistance with bathing and bathroom care.

The Department requires complaints to be designated 72-hour cases where residents' health and/or safety are imminently at risk or waiting to investigate jeopardizes the integrity of the complaint. The Department also requires all complaints involving temperatures at facilities to be investigated within 72 hours. In reviewing the complaints, we believe 19 of the 253 complaints that were designated as either 90 or 120 day complaints should have been designated as 72-hour complaints. Ten of these involved residents either not receiving the required medication in a timely manner or receiving inappropriate medication or an overdose of medication. For example, one complaint alleged a resident was not receiving the appropriate diabetes medication. According to the inspection report, the resident had been given the wrong type of insulin and the wrong dosage. Another one of this resident's medications had not been given to her for 17 days. The resident was eventually sent to the emergency room for treatment. Since this complaint was

not a 72-hour complaint, it took the Department four months to investigate the medication errors.

Other complaints we believe should have been classified as 72-hour complaints were four that involved residents wandering away from facilities due to a lack of supervision, four assaults on residents by other residents and facility on staff, one where the temperature created an unsafe environment at a facility, and one where a resident was suffering from dehydration.

Department officials agreed that 1 of the 19 complaints (patient assault) was misclassified. For the remaining 18 complaints, Department officials provided us with explanations indicating they were not classified as 72-hour complaints because the facts surrounding the reported incidents did not warrant such classification. However, we found that the explanations did not adequately support why the complaints were not classified as 72-hour complaints. We noted that in seven of the 18 cases in question, the regional offices had actually investigated the complaints within a 72-hour period, in spite of the fact that they were not classified as such. As a result of the remaining 12 complaints not being investigated in a timely manner, situations requiring corrective action may not be identified and/or corrected as quickly as they should. We recommend periodic quality assurance reviews be performed to ensure proper classification of complaints.

Recommendations

5. Increase oversight of the complaint investigation process at the Metropolitan Area, Capital District, and Central New York offices so complaints are investigated in a timely manner.

6. Perform periodic quality assurance reviews to verify that complaints are properly classified.

AUDIT SCOPE AND METHODOLOGY

We conducted our audit in accordance with generally accepted government auditing standards. We audited the Department to determine if it performed and followed up on inspections, and investigated adult care facility complaints according to State law for the period April 1, 2004 through December 31, 2006.

To accomplish our audit objective, we interviewed Department officials in the main office and in each regional office. To determine whether the Department was inspecting facilities within the required time frame, we selected a random sample of 23 facilities and a judgmental sample of 5 facilities known for experiencing repeated violations. All 28 facilities were required to be inspected between April 1, 2004 and August 31, 2006. The number of facilities was selected relatively evenly from the four regional offices.

We reviewed all the documentation in the files and spoke to staff at the facilities. To determine if complaints were being investigated in a timely manner, we selected a judgmental sample of 253 out of 1,670 complaints closed by the Department as of May 26, 2006. This sample represented all closed complaints in our 28 sampled facilities. We reviewed the records in the regional offices to determine whether complaints were handled and classified in accordance with requirements.

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

AUTHORITY

This audit was performed according 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.

REPORTING REQUIREMENTS

We provided a draft copy of this report to Department officials for their review and comment. Their comments were considered in preparing this report, and are included as Appendix A. Department officials indicated that, since our audit period, there has been significant improvement in its oversight of adult care facilities, and cited several examples of such. Department officials concurred with our recommendations and indicated steps taken to implement them.

Within 90 days of the final release of this report, as required by Section 170 of the Executive Law, the Department 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 not implemented, the reasons therefor.

CONTRIBUTORS TO THE REPORT

Major contributors to this report include William Challice, Al Kee, Brian Lotz, Kathleen Hotaling, Amanda Strait, Tracy Samuel, Michele Krill, and Sue Gold.

APPENDIX A - AUDITEE RESPONSE



Corning Tower The Governor Nelson A. Rockefeller Empire State Plaza Albany, New York 12237

Richard F. Daines, M.D.
Commissioner

Wendy E. Saunders
Chief of Staff

January 9, 2008

William P. Challice
Office of the State Comptroller
Division of State Government Accountability
110 State Street, 11th Floor
Albany, New York 12236

Dear Mr. Challice:

Enclosed are the New York State Department of Health's comments on the Office of the State Comptroller's draft audit report 2006-S-7 on "Oversight of Adult Care Facilities."

Thank you for the opportunity to comment.

Sincerely,

Wendy E. Saunders
Chief of Staff

Enclosure

cc: Stephen Abbott
Randall Griffin
Mark Kissinger
Sandra Pettinato
Robert W. Reed

**Department of Health
Comments on the
Office of the State Comptroller's
Draft Audit Report 2006-S-7 on
"Oversight of Adult Care Facilities"**

The following are the Department of Health's (Department) comments in response to the Office of the State Comptroller's (OSC) draft audit report 2006-S-7 on "Oversight of Adult Care Facilities", including general comments followed by responses to the specific recommendations contained in the draft audit report. The original draft audit report transmitted to Commissioner Daines on September 4, 2007 was subsequently modified by OSC, with the latest version transmitted to the Department on November 21, 2007. The comments and responses contained herein pertain to the latter report. The Department appreciates the cooperation of the OSC staff responsible for the revisions to the original report.

General Comments:

As the report notes, OSC previously audited the Department's oversight of adult care facilities, with the most recent audit (Report 2002-S-1) finalized February 2003. The Department responded to that audit by recognizing the need for improved timeliness in performing inspections and issuing inspection reports and has worked continuously since then to implement the 2003 audit recommendations, including the development and implementation of major systems and other changes.

The current audit findings address Department oversight activities during April 2004 through December 2006 and include some of the same issues identified by the earlier audit. However, they do not recognize the Department's steady and overall significant improvement over this period. Additionally, the current audit findings do not incorporate Department activities over the past year (since the audit period is through 2006), during which time the Department has made additional significant improvement. This is demonstrated by the following:

- OSC found that seven (13%) of 56 full inspections in their audit sample were not started within the required time frame. A recent Department sample of inspections performed during 2007 determined 99 percent of the 1,021 inspections were initiated within the required timeframe, with only eight inspections (1%) initiated late.
- OSC evaluated 134 inspection reports associated with a sample of 28 facilities, finding that 61 (46%) of the 134 reports were issued late, with the Metropolitan Area Regional Office (MARO) identified as requiring the most improvement with a 17 percent compliance rate. MARO is responsible for oversight of approximately 55 percent of the State's facilities, and Department management has worked closely with MARO staff to implement system changes and

corrective actions necessary to improve its reporting compliance rate, which has increased to 90 percent.

- Approximately 90 percent of all "72-hour" complaints and 83 percent of all other complaints during 2006 were timely initiated, increasing to 92 percent and 91 percent, respectively, during 2007. This improvement is significant, particularly considering that the Department reduced the time frame for completing complaints during 2006, other than those requiring an investigation within 72-hours, from 120 days to 90 days. At the same time, the number of complaints statewide increased by 10 percent from 2005 to 2006 (from 918 to 1,012).

Additional implemented improvements include requiring Department surveyors to conduct exit interviews with facility staff upon completing inspections, informally communicating any concerns or problems requiring corrective action, including those requiring immediate attention. While a formal Statement of Deficiency report is subsequently compiled and forwarded to the facility, the Department's experience is that most facilities initiate corrective actions prior to receiving the formal report based on the information exchanged during the exit interview.

Recommendation #1:

Instruct the Bureau to review the operations of the Western Office with the objective of identifying best practices that will help the Central New York and Metropolitan Area Offices to conduct facility inspections within the 12 and 18 month cycles.

Response #1:

The Department has reviewed the Western Regional Office's procedures for scheduling and performing inspections from the perspective of identifying best practices that could be incorporated into the Central New York and Metropolitan Area Offices. While work is progressing, it's important to recognize that a best practice in one region is not necessarily so for another, as individual regions' specific character demographics and issues unique to the region can impact its ability to perform inspections.

Recommendation #2:

Require the Metropolitan Area Office to report inspections and investigations separately.

Response #2:

MARO has been separately reporting inspections and investigations since implementation of the Department's ASPEN Central Office (ACO) surveillance system in 2006, which prevents all regional offices from issuing combined reports.

Recommendation #3:

Work with regional offices so inspection reports are completed and issued within the required time frames.

Response #3:

The Department has implemented a system for monitoring regional offices' performance. Currently, 99 percent of surveys are completed within the required time frame, and 73 percent of reports are issued within 30 days. Department management continues to work on improving regional offices' timeliness in issuing inspection reports.

Recommendation #4:

Perform follow-up inspections of all full inspections where violations were issued, as required.

Response #4:

The Department currently performs follow-up activities on all violations, although not all require an on-site visit to confirm corrective actions have been implemented. For some violations, facilities are allowed to submit an acceptable plan of correction along with documentation, pictures, receipts, etc. confirming corrective actions have been implemented, and substantiating current compliance. For example, if an inspection of a facility determined its fire extinguishers had not been inspected as required, the facility could submit an inspector's report confirming inspection, precluding the need for on-site follow-up inspection by the Department. However, the Department would always perform on-site follow-up inspections of facilities with significant violations that potentially endanger the welfare of its residents.

Additionally, the Department requests that OSC remove from the final report the reference to the imposition of a \$50 per day civil penalty, as it relates to *NYS Department of Health v. Narrowsburgh Home, Inc.*, a matter decided in 2003, which precedes the audit period.

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Comment

Recommendation #5:

Increase oversight of the complaint investigation process at the Metropolitan Area, Capital District and Central New York offices so complaints are investigated in a timely manner.

Response #5:

The Department's automated Uniform Complaint Tracking System generates monthly management reports containing statistical information, including complaint volumes and investigation statuses, which are utilized by Department management with oversight

* We revised this final report in response to the Department's request.

responsibility for complaint investigations. In addition, complaint intake and investigative procedures are routinely reviewed by the Department's Quality Assurance Workgroup (see Response #6 below).

The report states that OSC "identified delays in the Department's response to many complaints." Some of these perceived delays may be the result of the OSC's interpretation of the complaint assignment priority. The Department is required to respond to complaints within specified time frames, depending on the seriousness of the specific allegation. The complaint assignment priority is based on the intake information furnished and the expertise of the personnel in the complaint intake unit. Not every complaint concerning medication assistance automatically warrants a 72-hour priority assignment. For example, the complaint concerning a resident not being provided an adequate amount of medication while on a home visit was not reported until ten days after the resident had returned to the facility. Department follow-up determined this was an isolated incident and not representative of an ongoing medication concern at the facility, which would have prompted an immediate visit from the Department. The report states that ten of the involved residents received inappropriate medication or an overdose of medication. However, review of the complaints associated with medications determined several were related to the availability of the medication rather than improper or incorrect administration.

*
Comment

Recommendation #6:

Perform periodic quality assurance reviews to verify that complaints are properly classified.

Response #6:

The Department has established a Quality Assurance Workgroup comprised of staff from its central and four regional offices, which conducts ongoing quality assurance reviews regarding compliance with complaint intake procedures as well as overall compliance with complaint investigation procedures. The Department shared this information with the OSC and believes that this meets the recommendation's intent.

* We revised this final report in response to the Department's request.