

New York State Office of the State Comptroller
Thomas P. DiNapoli

Division of State Government Accountability

Administration of the Contract With the Postgraduate Center for Mental Health

Office of Mental Health



Executive Summary

Purpose

To determine whether the Office of Mental Health (OMH) is effectively administering its Supportive Housing Contract C007374 with the Postgraduate Center for Mental Health (PCMH) by ensuring that contracted services were provided and that only appropriate and supported expenses were reimbursed. The audit focused primarily on the contract year ended June 30, 2014. We also reviewed certain transactions incurred during the prior fiscal year (ended June 30, 2013), and performed certain observations of PCMH staff and facilities through the end of our fieldwork.

Background

OMH's mission is to promote the mental health and well-being of all New Yorkers. One of OMH's major programs is known as "supportive housing," which combines affordable housing and varying levels of community-based support services. OMH hires independent contractors to operate many of these programs. PCMH, a not-for-profit entity, is one of New York's largest providers of supportive housing services. PCMH is authorized to serve a maximum of 725 clients. Through the supportive housing program, PCMH assigns clients to private apartments scattered throughout the local communities as well as in multiple dwelling units.

PCMH must file an annual Consolidated Fiscal Report (CFR) with OMH. The CFR categorizes and summarizes all contract costs and serves as a cost claiming document for program reimbursement. At the end of each contract year, OMH reviews the reported data on the CFR for reasonableness, and reconciles the total advance payments to the contract budget and total approved costs claimed on the CFR. PCMH was paid \$9.67 million for its supportive housing program during the 2013-14 contract year.

Key Findings

We found that the sampled clients were program-eligible and were referred to the program via the proper authorities. We also found that the sampled client case files contained documentation of the client's required Service Plan and subsequent monthly case manager contacts. However, our visits to certain client apartments identified what appeared to be ongoing conditions that could negatively affect the health and/or safety of clients. Also, we identified:

- \$697,938 in unsupported and/or inappropriate expenses charged to the audited contract and other related OMH contracts. These expenses include charges for a profit-sharing account that primarily benefited three PCMH executives; a deferred compensation plan reserved solely for PCMH's Chief Executive Officer; parties and alcoholic beverages for staff; and unsupported professional fees and staff travel.
- Deficiencies in efforts by OMH program staff to follow up on recommendations to PCMH resulting from field visits.
- Excessive delay in actions by OMH fiscal staff to recover apparent overpayments to PCMH. During the course of our audit fieldwork, we determined that OMH had not taken actions to recover \$1.4 million in surplus advances from the 2011-12 through 2013-14 fiscal years.

Key Recommendations

- Require PCMH case managers to take prompt action when apartment conditions pose potential health and/or safety hazards to clients.
- Ensure that only program-eligible and properly supported expenses are reimbursed to PCMH.
- Recover the \$697,938 in inappropriate and unsupported expenses charged to the audited contract and other OMH contracts cited in our report.
- Follow up on OMH program staff requests for corrective action plans from providers, and determine whether corrective actions were actually taken.
- Expand desk reviews of provider CFRs to include reviews, on a sample basis, of supporting documentation to ensure that claimed program expenses are reasonable, necessary, and appropriate.
- Develop formal time frames for CFR close-outs and recoupments to help ensure that surplus advances are accounted for and recovered in a timely manner.

Other Related Audits/Reports of Interest

[New York City Department of Health and Mental Hygiene: Administration of the Contract With the Center for Urban Community Services \(2014-N-5\)](#)

[Office of Mental Health: Sky Light Center Inc. – Supported Housing Program \(2012-S-37\)](#)

State of New York
Office of the State Comptroller

Division of State Government Accountability

December 30, 2016

Ann Marie T. Sullivan, M.D.
Commissioner
Office of Mental Health
44 Holland Avenue
Albany, NY 12229

Dear Dr. Sullivan:

The Office of the State Comptroller is committed to helping State agencies, public authorities, and local government agencies manage government resources efficiently and effectively and, by so doing, providing accountability for 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 of our audit of the Office of Mental Health entitled *Administration of the Contract With the Postgraduate Center for Mental Health*. The audit was performed 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.

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,

Office of the State Comptroller
Division of State Government Accountability

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Background

The mission of the Office of Mental Health (OMH) is to promote the mental health and well-being of all New Yorkers. OMH operates psychiatric centers across the State, and regulates, certifies, and oversees a variety of inpatient, outpatient, residential, and family care programs. One of OMH's major programs is known as "supportive housing," which combines affordable housing and varying levels of community-based support services, depending on the needs of the individuals served. OMH hires independent contractors to operate many of its supportive housing programs.

The Postgraduate Center for Mental Health (PCMH) is one of New York's largest providers of supportive housing services. PCMH's OMH-funded programs include congregate (generally known as "transitional") housing and permanent (generally known as "supported") housing for individuals with severe and persistent mental illness. These programs include both multiple and single occupancy apartments located in Brooklyn, the Bronx, Queens, and Manhattan. PCMH is authorized to serve a maximum of 725 clients. Supportive housing clients must be at least 18 years of age and referred to the program by the NYC Human Resources Administration (HRA).

In transitional housing, clients are assigned individual units within apartment building settings where program staff are available 24 hours a day, 7 days a week. In supportive housing, PCMH assigns clients to private apartments scattered throughout the local communities, where they live virtually on their own, subject to periodic meetings with program staff. In supportive housing, clients contribute up to 30 percent of their income toward rent; the remainder is paid by PCMH with contract funds. In transitional housing, clients pay a flat fee toward their support.

Transitional housing programs are governed by Title 14 of the New York Codes, Rules and Regulations, Part 595 (Regulations), while supportive housing programs are governed by OMH's Supported Housing Guidelines (Program Guidelines) for services and by OMH's Supported Housing Contract and Budgeting Guidelines (Fiscal Guidelines) for fiscal administration purposes.

Pursuant to Contract C007374, OMH made four quarterly (advance) payments to PCMH during the year to provide supportive housing services. Providers, such as PCMH, must file an annual Consolidated Fiscal Report (CFR) with OMH. The CFR categorizes and summarizes all contract costs and serves as a claiming document for program reimbursement. The Consolidated Fiscal Reporting and Claiming Manual (Manual) offers guidance to service providers on how to complete the CFR. Manual specifics include: acceptable software to use when preparing the CFR; how to categorize allowable expenses; and how to upload the CFRs into OMH's tracking system. At the end of each contract year, OMH is to review the reported data on the CFR for reasonableness and reconcile the total advance payments to the contract budget and total approved costs claimed on the CFR.

PCMH's most recently completed contract (C007374) with OMH covered the period July 1, 2009-June 30, 2014. PCMH was paid \$40.8 million under this contract, of which \$9.67 million pertained to the year ended June 30, 2014.

Audit Findings and Recommendations

We found that all sampled clients were program-eligible and were referred to the program via the proper authorities. We also found that the sampled client case files contained documentation of the client's required Service Plan and subsequent monthly contacts with case managers. However, our visits to client apartments identified what appear to be long-term conditions in some of the apartments that may affect the health and/or safety of those clients. We also identified \$697,938 in unsupported and/or inappropriate expenses charged to the audited contract as well as other related OMH contracts. Of the \$697,938 in ineligible costs, \$568,133 pertained to Contract C007374 and the remaining \$129,805 pertained to other OMH contracts (see Exhibit A).

Further, OMH officials did not recover annual surplus advances to PCMH in a timely manner. For the 2011-12 through 2013-14 fiscal years, these surpluses totaled about \$1.4 million.

Compliance With Program Requirements

In the supportive housing program, each client is assigned a case manager who develops an individualized service plan (Plan) in collaboration with the client. The plan should contain clearly stated goals and outcomes, and identify the services and support needed for clients to live successfully and independently in the community. The plan is to be developed within the first 30 days after the client enters the program. OMH's Program Guidelines also require case managers to meet face-to-face with each client monthly. Every third meeting (or quarterly), clients must be seen in their apartment. Although not specifically stated in the Program Guidelines, OMH officials told us the in-home visit includes an assessment of the client's living conditions. Further, support services include assistance or instruction on how to resolve apartment and building maintenance issues.

Clients in permanent housing are required to contribute up to 30 percent of their monthly income toward their rent, while the provider/State pays the remainder. The client's contribution is calculated based on whatever income documentation is available (e.g., Supplemental Security Income award letters) and is reflected on a rental stipend worksheet. This worksheet should be completed annually so that adjustments in income can be appropriately addressed.

We selected a judgmental sample of 28 client case files from PCMH's supportive housing client rosters, for the contract year ended June 30, 2014, to determine whether clients were program-eligible and received the required program services. Of the 28 sampled client case files, 14 were selected based on the number of complaints lodged against their respective buildings with the New York City Department of Housing, Preservation and Development, and the other 14 were selected based on the availability of case managers to accompany auditors to clients' apartments. We visited these 14 clients in their homes to observe their living conditions.

We found that the sampled clients were program-eligible and referred to the program via the proper channels. We also found that the sampled files contained documentation of the client's Service Plan and subsequent monthly contacts. However, our visits to client apartments identified

conditions in some of the apartments that may affect the health and/or safety of those clients. For example:

- Three of the apartments visited had significantly damaged ceilings/walls (see Exhibit B-1). In one of these three apartments, the bathroom door was detached from its hinges (see Exhibit B-2).
- One apartment had a strong smell of cat urine. The case manager's progress notes for the related client noted an instance when a hospital mobile crisis unit representative would not enter this apartment because of the severe odor.
- Two apartments did not have smoke/carbon monoxide detectors installed.
- An apartment had a severe bedbug problem (see Exhibits B-3 and B-4) and the kitchen vent was very dirty (see Exhibit B-5).
- Another apartment had significant damage to a ceiling and wall (see Exhibit B-6), a very dirty stove (see Exhibit B-7), and a dirty and chipped bathtub (see Exhibit B-8).

Based on our review of notes kept by case managers who visited the aforementioned apartments, the case managers sometimes did not note the conditions that we observed in those apartments. Further, when notations were made, we did not always see evidence of follow-up actions. As a result, we question whether case managers adequately addressed the poor conditions found in some client apartments, leaving some clients to reside in potentially unhealthy and/or hazardous conditions.

PCMH officials acknowledged that most of the maintenance deficiencies we identified are troubling. Officials indicated that maintenance issues were often related to client illnesses and should be addressed. Officials added that PCMH staff often do not enter every room in an apartment during home visits; rather, clients' apartments are formally reviewed twice a year, at six-month intervals. PCMH officials further stated that almost all the apartment condition issues identified in this report occurred during the six-month gap between apartment inspections, and many were not known to PCMH until we identified them during our visits. PCMH officials also questioned whether supportive housing was the most appropriate program placement for certain clients.

That notwithstanding, we concluded that PCMH's current system of apartment inspections did not function effectively in the aforementioned cases. OMH must work with PCMH and similar providers to ensure that client apartments are inspected within reasonable periodic time frames and, where health and/or safety violations/hazards are noted, that prompt corrective action is taken. While these clients are in the care of OMH and PCMH, both entities have the responsibility to ensure the health, safety, and well-being of these vulnerable people.

Further, since neither the contract nor existing Program Guidelines instruct providers on what to do in cases where the client's mental health condition contributes to a recurring, unsafe living environment, we recommend OMH develop procedures for providers to follow to help ensure that clients are in the most suitable environment.

Contract Cost Charges

OMH's contract with PCMH stipulates that the provider must maintain complete and accurate books, records, documents, receipts, and other evidence supporting its performance under the contract for a period of six years. According to Appendix X of the Manual, reimbursable costs must be reasonable and/or necessary for providing services in both nature and amount. In determining the reasonableness of a given cost, consideration will be given to whether the cost is generally recognized as ordinary and necessary for the operation of the organization and the restraints or requirements imposed by Federal and State laws and regulations. Unreasonable and/or unnecessary costs are not allowable.

Our review of selected PCMH expenses identified both unsupported and inappropriate costs claimed for reimbursement as well as questionable costs (based on the reasonableness of their dollar amounts), as detailed below.

Personal Service Costs

PCMH charged the personal service costs of 236 employees to the audited contract year. The associated personal service and fringe benefit costs charged to the contract for these employees totaled \$4,927,398. Further, PCMH maintains a personnel file and time and attendance records for each of its employees. From our review of 25 selected personnel files representing a cross-section of employees, and the salary registers available for our review period, we conclude that most of PCMH's claimed personal service costs were eligible for reimbursement. However, certain personal service costs charged to the contract were not adequately supported nor appropriate.

Profit Sharing

During the 2013-14 contract year, PCMH, a not-for-profit entity, contributed \$600,000 to a profit-sharing plan, of which \$207,743 was charged to its supportive housing contract with OMH. We note that PCMH's contract with OMH does not provide for profit sharing. When questioned, PCMH officials asserted that their employees are not highly paid, and program surpluses, when realized, are distributed to staff to augment their base annual compensation.

Per the contract, as a not-for-profit entity under contract with the State, any year-end surpluses (unspent contract monies) should be returned to the State. We further note that the distribution of surpluses mainly benefited three of PCMH's executive staff (who received \$50,000 each). In contrast, only \$1,092 (on average) was made available to each of PCMH's remaining lower paid employees. Clearly, the surplus distributions to the executives were significantly disproportional to the distributions made to rank-and-file employees. Based on actual 2013-14 distributions to employees, payments to these three employees approximate 25 percent of the total distribution.

In addition, we noted that PCMH charged \$21,214 in profit-sharing costs to other OMH contracts for the 2013-14 year. PCMH also charged profit-sharing costs totaling \$228,957 to all OMH contracts for the 2012-13 year.

Deferred Compensation

PCMH charged \$21,076 during the 2013-14 contract year for contributions to a deferred compensation plan for which PCMH's Chief Executive Officer (CEO) was the only covered employee. Since this plan was not available to all PCMH employees, it was not reimbursable pursuant to the Manual. Also, PCMH similarly charged another \$28,505 in deferred compensation to other OMH contracts during the audit period.

Other Than Personal Service Costs

According to the Manual, to be reimbursable, other than personal service (OTPS) expenses must be reasonable, necessary, provided for in the program budget, program-related, and not specifically prohibited in Appendix X of the Manual.

We judgmentally selected 435 OTPS transactions, totaling \$323,206, based on the nature and/or amount of the account, to determine whether each was reimbursable per the Manual. We identified \$190,443 of these sampled expenses that were non-reimbursable because they were non-program-related or unsupported.

Non-Program-Related Costs

We found that costs totaling \$164,845 should not have been charged to the audited program or to other OMH contracts with PCMH. These charges did not relate to the program and include:

- \$58,786 in mortgage interest already paid by OMH for some of PCMH's residential properties.
- \$14,005 in professional fees related to a private asset sale. In August 2014, PCMH sold a donated building for \$50.8 million. PCMH reported the proceeds from the sale on the books of non-OMH programs. Another \$18,941 of these fees was charged to other OMH contracts.
- \$10,830 in portfolio/investment management fees specifically precluded from reimbursement. Another \$14,648 of these fees was allocated to other OMH contracts.
- \$8,555 for staff parties and other staff food and beverages charged to the audited contract (\$3,821) as well as other related OMH contracts (\$4,734). Holiday parties included the purchase of alcoholic beverages.
- \$7,038 for client medications and medical supplies that should have been billed through each client's government or private health insurance.
- \$4,973 in membership dues paid to a behavioral health coalition charged to the contract. The payee is an advocacy group that performs lobbying on behalf of its member providers. Another \$6,726 in dues to this organization was charged to other OMH contracts.
- \$4,586 in food and beverage costs purportedly for clients. There was no documentation supporting the propriety or identifying the recipients of these items.
- \$4,390 for movie tickets and gift cards purportedly given to clients. However, there is no documentation denoting who received the tickets and gift cards.
- \$4,365 in professional fees related to the attempted acquisition of two new sites in the

Bronx. However, PCMH did not obtain OMH approval for acquiring these sites and did not complete the acquisition. We also noted that another \$5,904 of these fees was charged to other OMH contracts.

- \$1,098 for sundry items (\$697 charged to the audited contract and \$401 charged to other OMH contracts), such as a newspaper condolence advertisement and a fire code violation.

Unsupported Charges

We found the following costs, totaling \$18,080, were not properly supported and, therefore, were ineligible for reimbursement. The unsupported charges included:

- \$6,572 in vehicle-related expenses, including repairs and maintenance, E-ZPass charges, parking, and insurance. No mileage logs were maintained to substantiate program-related auto usage.
- \$6,214 for items such as legal fees and staff and client travel. There was no documentation to evidence what services were provided or the program-related nature of the travel.
- \$2,363 for food, beverages, utensils, and decorations for client holiday parties, dinners, and barbeques.
- \$1,734 in advertising and recruitment costs. PCMH did not provide the actual advertisements.
- \$1,077 for contracted grant-writing service costs. Although this contract calls for the consultant to provide grant-writing services, PCMH did not provide documentation showing the actual services performed.
- \$120 in travel expenses to Miami. PCMH officials indicated that the travel was related to a conference attended by the CEO. However, PCMH officials did not provide documentation substantiating who attended, nor the program-related aspects of the conference.

In addition, we noted that another \$7,518 was allocated to other OMH contracts for the aforementioned ineligible costs.

Contract Oversight and Monitoring

OMH has regional offices throughout the State whose staff periodically visit contracted providers to review, among other issues, their client occupancy rates, resident eligibility, client income verification, and the condition of client apartments. OMH's New York City Field Office made such a visit to PCMH in October 2015. In a report dated December 22, 2015, OMH staff documented the October visit and made comments regarding observations and/or concerns as required for the various items reviewed. The comments included observations, similar to our own, of an apartment that did not have a working smoke detector and another that was cluttered. For these and other observations, OMH asked PCMH officials to prepare a corrective action plan and submit it to OMH in two weeks. We concluded that OMH staff made periodic visits to providers and documented their visits, but had limited effectiveness based on the aforementioned conditions of the apartments we observed.

OMH also has fiscal staff responsible for reviewing provider CFRs at year's end. The Manual

requires providers to electronically file their CFRs with OMH within four months of their fiscal year end. A 30-day extension is permitted upon request. Following submission, the CFR claiming schedules are uploaded into OMH's Aid-to-Localities Financial Management System. OMH staff then perform a "close-out" review.

The close-out process is a reconciliation of quarterly advance payments made to the providers to the approved CFR summary to determine whether any monies are due back from the provider. During the close-out, OMH staff perform a desk review of the claimed expenses and make inquiries on questionable expenses. It is essential that both the close-out review and any recoupment of funds be done on a timely basis so that unused funds can be redirected effectively and efficiently.

On March 15, 2016, we requested the three most recent PCMH close-outs performed by OMH. The close-outs identified collective overpayments totaling \$1,390,147 (\$113,106 for fiscal year 2011-12; \$265,146 for 2012-13; and \$1,011,895 for 2013-14). However, OMH did not notify PCMH of the overpayments until March 15, 2016 (the same day we requested the three close-out analyses). OMH officials recovered the overpayments in July 2016. For the 2011-12 year, the recovery took place more than three years after the 2011-12 CFR was due. Since OMH notified PCMH of all amounts due on March 15, 2016, either the required reconciliations were prepared long after CFR submission, or the reconciliations were prepared timely but OMH did not take actions to recover the overpayments in a timely manner.

According to OMH's Internal Controls Manual, OMH should be able to complete close-outs within two years of the end of a contract fiscal year. However, as previously detailed, sufficient actions to close-out the 2011-12 and 2012-13 fiscal years had not been taken when we brought these matters to the attention of OMH officials in March 2016 (more than two years after the fiscal years in question). OMH officials indicated that the unit responsible for conducting the close-out process lacks sufficient resources, and they were in the process of backfilling the position of the primary close-out staff person, who retired in December 2015.

Questionable Executive Compensation

For the 2013-14 contract year, PCMH's CEO was paid a total of \$847,118, consisting of \$396,289 in base salary, \$273,000 in bonus pay, and a \$177,829 distribution from his deferred compensation account. Of this amount, \$222,295 was charged to the audited contract and other OMH contracts.

However, the salaries paid to CEOs of not-for-profits contracting with the State are generally limited to \$199,000 based on New York State Executive Order 38 (Order), which was issued to help prevent excessive charges for such compensation. Applying the limit of \$199,000, the OMH contracts would have been charged only \$66,095, based on the percentage allocation used by PCMH.

As permitted by the Order, to justify CEO compensation, PCMH hired a consultant to perform a comparative analysis of PCMH's CEO compensation and the compensation of other CEOs in similar capacities. Based on its research, the consultant concluded that PCMH's CEO compensation was reasonable because it fell below the 75th percentile of cash compensation paid to CEOs of similar

providers. In conducting its research, the consultant included the compensation paid to CEOs of large, for-profit real estate companies, in addition to compensation paid to other not-for-profit supportive housing providers, because certain PCMH affiliates had real estate interests and functions. As such, it was not clear that the consultant's work was based on an analysis of CEO compensation for an appropriate peer grouping of organizations.

In fact, when PCMH's CFR for this period was submitted to OMH for approval, OMH questioned the amount of executive compensation paid to PCMH's CEO. In response, PCMH stated that the questioned compensation was accurate as reported. However, there was no evidence that OMH officials formally requested and obtained the consultant's report to assess the reasonableness of its work and the related amount of compensation paid to the CEO. If some of the entities included in the consultant's research were not appropriate peers of PCMH (based on the nature of their operations or size of budgets, for example), there is material risk that the consultant's work was flawed and PCMH overcharged OMH for executive compensation.

Contingency Funds

As noted in our prior audits of supportive housing providers, according to OMH's Fiscal Guidelines, service providers are to set aside, on average, a minimum of \$500 per client as a contingency fund. This money is not to be used for daily living expenses, but instead to resolve situations that place a client at risk of losing his/her program housing. Contingency funds are intended to be used as a last resort, supplementing other emergency funds that may be available to the client. Expenses that may be covered by contingency funds include furniture storage and minor repairs (other than those the landlord is responsible for) to the client's apartment.

If a client is hospitalized, incarcerated, or loses a roommate, contingency funds may also be used to pay the client's share of rent up to three months. Contingency funds should be separately tracked to ensure that they are spent in accordance with the prescribed requirements. The OMH contract we audited provided 390 beds to PCMH for its Supported Housing Scattered Site Program. At \$500 per bed, PCMH should have set aside about \$195,000 in contingency funds.

PCMH officials told us that their contingency funds are tracked and recorded in accounts for "tenant crisis costs." However, when we reviewed PCMH's general ledger for the audit period, only \$3,669 was recorded as tenant crisis costs for PCMH's Supported Housing Scattered Site Program. There was no accounting record for the remaining amount that should have been set aside for the period.

In response to our recent audits on this subject, OMH officials have asserted that the setting aside of contingency funds by providers is only a suggestion, as evidenced by the wording in its Program Guidelines. However, the Program Guidelines are inconsistent with OMH's Fiscal Guidelines and its Program Guidelines Questions & Answers supplement, which require contingency funds to be set aside. As such, OMH officials should review and resolve the inconsistencies in their formal program guidance.

Recommendations

1. Require PCMH case managers to take prompt action when apartment conditions pose potential health and/or safety hazards to clients.
2. Issue formal guidance to providers that addresses the actions to be taken when clients exhibit significant problems living on their own and pose a potential danger to themselves and/or others.
3. Ensure that only program-eligible and properly supported expenses are reimbursed to PCMH.
4. Recover the \$697,938 in inappropriate and unsupported expenses charged to the audited contract and other OMH contracts cited in our report.
5. Follow up on OMH program staff requests for corrective action plans from providers, and determine whether corrective actions were actually taken in these cases, as well as any other apartments where similar conditions exist.
6. Expand desk reviews of provider CFRs to include review, on a sample basis, of supporting documentation to ensure that claimed program expenses are reasonable, necessary, and appropriate.
7. Develop formal time frames for CFR close-outs and recoupments to help ensure that surplus advances are accounted for and recovered in a timely manner.
8. Formally request, obtain, and review the consultant study of executive compensation performed for PCHM. Review and revise the amounts of executive compensation costs eligible for reimbursement, as warranted, if the study did not provide an adequate basis for the amounts of executive compensation claimed by PCHM.
9. Review the various sources of OMH guidance pertaining to contingency funds and ensure they are consistent. Follow up with PCMH officials to ensure PCHM has a clear and accurate record-keeping system for the use of contingency funds.

Audit Scope and Methodology

The objective of this audit was to determine whether OMH is effectively administering its Supportive Housing Contract C007374 with PCMH by ensuring that contracted services were provided, and that only appropriate and supported expenses were reimbursed. The audit primarily covered the contract year ended June 30, 2014 and certain expenses for the prior fiscal year ended June 30, 2013. Where we identified disallowances, we further determined whether other OMH contracts were also charged. We also performed on-site observations of PCMH staff, clients, and facilities through June 15, 2016.

To achieve our objective, we reviewed the contract and PCMH's CFRs, and interviewed OMH and

PCMH officials regarding program and fiscal requirements. We reviewed the controls over, and records documenting, contractor operations and fiscal reporting. We also reviewed the Manual, OMH's Program Guidelines, the Regulations governing licensed programs, and relevant OMH and PCMH policies and procedures.

We also selected a sample of 28 PCMH clients and reviewed their case files to determine whether the clients were eligible to receive, and were receiving, the contracted services. Further, we performed site visits to 28 selected apartments to observe whether apartments were properly maintained. We performed floor checks at PCMH work sites to confirm the existence of employees charged to the contract and the clients receiving services. To review contract-related personal service costs, we reviewed 25 employee personnel files, payroll registers, and the amounts claimed for each on the CFR. To review OTPS costs, we selected a sample of 435 expense transactions and reviewed each for support and justification.

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 during the audit 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. 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 pursuant to the State Comptroller's authority under 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 OMH officials for their review and formal comment. We considered officials' comments in preparing this final report and have attached them in their entirety to it. In their response, OMH officials took issue with several of our report's findings and recommendations. In addition, officials asserted that OMH has clear guidelines regarding year-end close-outs, including extensive communications between OMH analysts and providers. Nonetheless, OMH officials agreed to review the inappropriate and unsupported expenses we cite in the report and to follow up on our recommendations regarding executive compensation and

contingency funds. Also, our rejoinders to certain OMH comments are included in the report's State Comptroller's Comments.

Within 90 days after final release of this report, as required by Section 170 of the Executive Law, the Commissioner of the Office of Mental Health shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising them what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons why.

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Vision

A team of accountability experts respected for providing information that decision makers value.

Mission

To improve government operations by conducting independent audits, reviews and evaluations of New York State and New York City taxpayer financed programs.

Exhibit A

Summary of Audit Disallowances

Expense Category	Amount Disallowed C007374	Amount Disallowed Other OMH Contracts	Total Amount Disallowed in Expense Category
Profit-Sharing Contributions	\$415,486	\$42,428	\$457,914
Deferred Compensation	21,076	28,505	49,581
Non-Program Related OTPS Charges	113,491	51,354	164,845
Unsupported OTPS Charges	18,080	7,518	25,598
Total Disallowances	\$568,133	\$129,805	\$697,938

Exhibits B-1 through B-8

Exhibit B-1



Significantly damaged ceiling and walls in client's bathroom.

Exhibit B-2



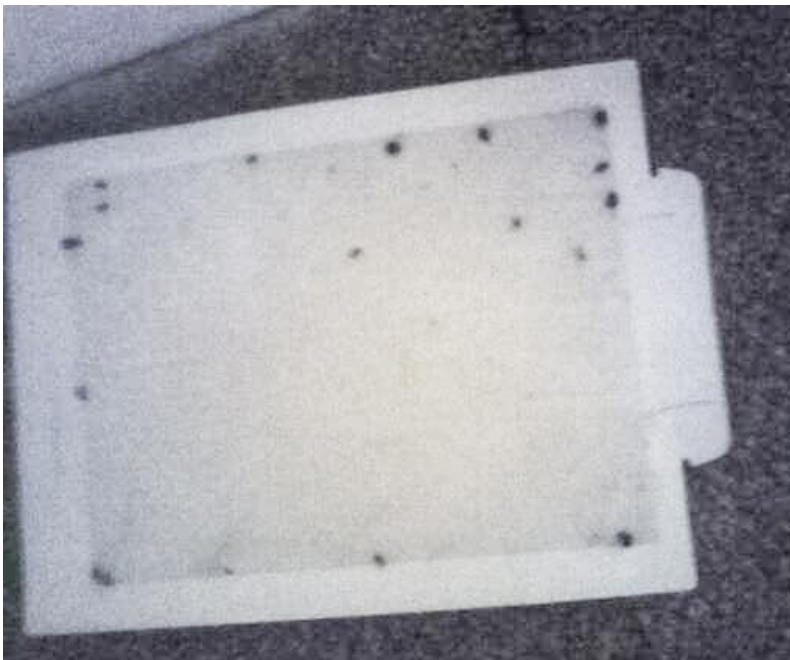
Client's bathroom door detached from its hinges.

Exhibit B-3



Reported bedbug blood stains on client walls.

Exhibit B-4



Bedbugs caught in trap (same apartment as shown in Exhibit B-3).

Exhibit B-5

Vent in client's kitchen (same apartment as shown in Exhibit B-3 and Exhibit B-4).

Exhibit B-6



Damaged ceiling and walls.

Exhibit B-7

Client stove (same apartment as shown in Exhibit B-6).

Exhibit B-8



Client's bathtub (same apartment as shown in Exhibit B-6 and Exhibit B-7).

Agency Comments



ANDREW M. CUOMO
Governor

Office of Mental Health

ANN MARIE T. SULLIVAN, M.D.
Commissioner

MARTHA SCHAEFER
Executive Deputy Commissioner

November 8, 2016

Frank Patone, CPA
Audit Director
Office of the State Comptroller
Division of State Government Accountability
59 Maiden Lane – 21st Floor
New York, NY 10038

Dear Mr. Patone:

The Office of Mental Health has reviewed the Office of the State Comptroller's (OSC's) draft audit report entitled, "Administration of the Contract with the Postgraduate Center for Mental Health" (2015-S-88). Our comments to the findings and recommendations are enclosed.

The Office of Mental Health appreciates OSC's efforts to recommend improvements in our operations.

Sincerely yours,

A handwritten signature in purple ink that reads "Martha Schaefer".

Martha Schaefer
Executive Deputy Commissioner

**OFFICE OF MENTAL HEALTH
RESPONSE TO OFFICE OF THE STATE
COMPTROLLER DRAFT REPORT 2015-S-88
ADMINISTRATION OF THE CONTRACT WITH THE
POSTGRADUATE CENTER FOR MENTAL
HEALTH**

The Office of Mental Health (OMH) takes issue with several of the draft findings and recommendations in the Office of the State Comptroller's (OSC) draft report (2015-S-88) entitled "Administration of the Contract with the Postgraduate Center for Mental Health." The purpose of this audit was to determine whether OMH is effectively administering its supported housing contract with the Postgraduate Center for Mental Health (PCMH). Pursuant to Article 5, Section 1 of the New York State Constitution, OSC should have limited its audit to whether OMH was properly ensuring that contracted services were provided and that only appropriate and supported expenses were reimbursed. OSC evaluated both issues, and determined that PCMH clients were program eligible and that the sampled client case files contained required documentation.

However, OSC went beyond evaluating contract compliance and ventured into making clinical determinations about the appropriateness of OMH's clinical assessments. Not only does this improperly exceed OSC's constitutional authority, a cursory review of OSC's findings demonstrates that OSC does not have the necessary expertise to make such findings. Accordingly, OMH soundly rejects OSC's decision to analyze issues beyond its constitutional authority and outside of OSC's expertise, and takes issue with the facts upon which OSC purportedly bases its clinical conclusions.

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I. OMH Overall Comments

OSC's audit is flawed because it goes beyond the OSC's authority as set forth in in NYS Constitution Article 5, Section 1. OSC is only authorized to "(1) to audit all vouchers before payment and all official accounts; (2) to audit the accrual and collection of all revenues and receipts; and (3) to prescribe such methods of accounting as are necessary for the performance of the foregoing duties". In other words, OSC is only authorized to audit whether OMH properly ensured that contracted services were provided and that only appropriate and supported expenses were reimbursed.

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Instead, OSC went beyond its constitutional authority to evaluate the quality and accuracy of clinical assessments made by trained health care professionals. However, OSC has no clinical expertise, should not be second-guessing trained medical experts, and should certainly not be making any findings based on those assessments.

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Further, OSC bases its assessment on faulty data. OSC representatives made one-off visits to individual apartments. But OSC's representatives are not medical experts. In doing so, OSC went beyond the task of ensuring program services were provided and related expenses were appropriate, and instead made its own unqualified programmatic assessments on the basis of information which would have been insufficient under any circumstances. As will be discussed more fully, the result is that OSC made inaccurate conclusions and premised its recommendations on such inaccurate conclusions.

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*See State Comptroller's Comments, page 32

II. OMH Comments to OSC Audit Statements

- **OSC's Clinical Opinion of OMH Housing Clients:** OSC found that sampled clients were program eligible and referred to the program through proper channels. As a matter of constitutional authority, OSC's inquiry should have ended here. Instead, OSC inappropriately expanded the scope of the audit to question the appropriateness of program placement for certain clients. OSC not only lacks the clinical expertise to make this assessment, but, in this case, it also lacked basic facts. OSC based its second-guessing of placements on single visits to individual apartments. As a result of those single visits, OSC states (page 7, fourth paragraph), "since neither the contract nor existing Program Guidelines instruct providers on what to do in cases where the client's mental health condition can contribute to a recurring, unsafe living environment, OMH should develop procedures for providers to follow to ensure that clients are in the most suitable environment."

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OMH Comments: There are two major problems with OSC's assessment. First, this assessment of the clinical appropriateness of housing placement goes beyond OSC's powers under Article 5, Section 1, of the New York State Constitution, which grants OSC powers of audit of state expenditures.

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Second, the premise on which OSC bases its statement violates Olmstead. Under Olmstead, clients are entitled to the most integrated setting that is consistent with their needs and abilities to function self-sufficiently. OSC has identified instances of landlords' improper apartment maintenance, attributed such poor maintenance to the client, and concluded that the client is thus unable to function in an integrated setting. The attribution is wrong, and the conclusion would be equally wrong even if the attribution were correct. With respect to the landlords' responsibilities, housing providers regularly engage with landlords to take necessary steps to ensure proper apartment maintenance. In cases where agreements are not resolved to a tenant's or housing provider's satisfaction, individuals have been relocated. And with respect to OSC's assessments of clients' abilities, OSC is wrong to suggest that clients are a danger to themselves or others based on this information alone.

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Supportive Housing tenants are effectively screened during the referral process for appropriateness. Following the initial placement and development of a housing support plan, Supportive Housing providers are in regular communication with the client and the service providers that comprise the housing support plan. OMH already has processes in place to address a change in a client's clinical need. For example, the Supportive Housing Guidelines indicate that OMH expects access to Supported Housing units to be provided in collaboration with the referral process wherever possible. The referral process includes a clinical and functional assessment to determine the type of housing and level of services that would be appropriate for placement. As a result, if a Supportive Housing provider becomes aware of changes in mental health conditions, communication with the tenant and his/her service providers should occur to determine whether additional supports are necessary or appropriate to assist in maintaining the tenant in supportive housing or if a higher level of service or intervention is necessary.

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- **OSC's Failure to Recognize OMH's Internal Control Procedures:** On page 11, fourth paragraph, OSC states, "Although there are established time limits for providers to submit their CFRs, there are no established timelines for OMH staff to perform their CFR close-out reviews and recover overpayments."

OMH Comments: This statement is inaccurate. OMH guidelines clearly indicate that all closeouts should be completed within two years from the end of the contract fiscal period. Overpayments are generally recovered in the subsequent quarter. This timeframe allows for a number of factors, including: a six-month extension for provider submission of CFRs; the CFR desk audit process; and required review and due process by the provider. OMH already provided OSC with its written internal control procedures documenting this process and OMH requests that the final audit include correct information on this point.

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III. **OMH Responses to OSC Recommendations**

- **OSC Recommendation No. 1 – Poor Apartment Maintenance by Landlords**
Require PCMH case managers to take prompt action where apartment conditions pose potential health and/or safety hazards to clients.

OMH Response

This recommendation is unnecessary because PCMH is already required to take action in such cases. The Supportive Housing Guidelines indicate that providers are to assist "in resolving apartment and building maintenance issues"; advocate to "ensure that the tenant's rights are guaranteed by the lease and under applicable law and that the recipient receives treatment equivalent to other tenants"; and in extreme circumstances, that providers "should have a process for handling resident emergencies after hours."

PCMH has such a process. PCMH staff not only meet with tenants on a regular basis but also continuously conduct apartment inspections. When deficiencies are discovered, landlords are informed of needed repairs. In any event, repair and maintenance is the responsibility, and a failure of, the landlord, not of PCMH or OMH.

OMH monitors the Supported Housing providers for health and safety problems. Health and safety monitoring include, but are not limited to, addressing maintenance issues and apartment conditions. As noted above, providers have a responsibility to make repairs and maintenance as needed.

- **OSC Recommendation No. 2 – Assumption that Clients Are Incapable of Living Self-Sufficiently**
Issue formal guidance to providers that addresses the actions to be taken when clients exhibit significant problems living on their own and pose a potential danger to themselves and/or others.

OMH Response

OMH disagrees with the recommendation that formal guidance is needed because, as noted above, OMH already provides comprehensive guidance to providers through the Supportive Housing Guidelines, which require providers to advocate for mental health

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treatment for persons living on their own and especially for persons who pose a danger to themselves or others. More generally, these guidelines state that “Providers [should] work closely with the local governmental unit, county or SPOA entity, Health Home Entity and other community service providers to advocate for recipients to receive the services they require while residing in Supported Housing.” However, OMH will review and, if necessary, enhance the Supportive Housing Guidelines to reinforce communication between the provider and the involved health home coordinator and/or mental health services provider.

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- **OSC Recommendation No. 3 – Fiscal Controls over Contract Expenditures**

Ensure that only program-eligible and properly supported expenses are reimbursed to PCMH.

OMH Response

This recommendation is unnecessary. OMH already has strong fiscal controls in place to ensure that provider’s use of program funds is appropriate, allowable, and documented. OMH utilizes many guidance and monitoring tools (e.g., SH Guidelines, Aid to Localities Spending Plan Guidelines, Contract Close-Out Process). To enhance efforts to ensure that only program-eligible expenses are included on claims, OMH and the other CFR state agencies have substantially increased the guidance covering non-allowable expenses in the CFR training for providers. .

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- **OSC Recommendation No. 4 – PCMH Reported Expenditures**

Recover \$697,938 in inappropriate and unsupported expenses charged to the contract and other OMH contracts cited in the report.

OMH Response

OMH will review expenses identified by OSC as inappropriate or unsupported and recover overpayments where appropriate.

- **OSC Recommendation No. 5 – Corrective Action Plans**

Follow up on OMH program staff requests for corrective action plans from providers and determined whether corrective actions were actually taken in these cases, as well as any other apartments where similar conditions exist.

OMH Response

OMH disagrees with this recommendation because it is already being accomplished on an ongoing basis. OMH already conducts visits, issues findings, requires corrective action, and oversees approximately 20,000 Supportive Housing beds. Supportive Housing providers such as PCMH similarly conduct visits, advocate to landlords on behalf of clients, and work with tenants to maintain housing and promote recovery. That said, OMH will revisit current monitoring and oversight practices to determine whether adjustments and/or alternative methods of follow up may be pursued to optimize the efficacy of available staff resources.

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- **OSC Recommendation No. 6 – CFR Desk Reviews**

Expand desk reviews of provider CFR’s to include review, on a sample basis, of supporting documentation to ensure that claimed program expenses are reasonable, necessary, and appropriate.

OMH Response

OMH disagrees with this recommendation because program expenses are already reviewed extensively when there are irregularities. First, when there are reporting irregularities, errors or concerns with a CFR filed by a provider, OMH already requests documentation through the desk review process. Desk reviews may include, but are not limited to: extensive communications between OMH analysts and providers; requests for additional documentation and clarification; and further analysis. However, OMH will

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Comment
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consider expanding this process within the context of limited staff resources.

- **OSC Recommendation No. 7 – OMH Internal Controls over Contract Closeouts**
Develop formal time frames for CFR closeouts and recoupments to help ensure that surplus advances are accounted for and recovered in a timely manner.

OMH Response

OMH disagrees with this recommendation because, as previously discussed, OMH already has in place internal control procedures that indicate that all closeouts should be completed within two years from the end of the contract fiscal period. OMH has completed all close-outs for PCMH through the 2013-14 contract year and has recovered all overpayments. Additionally, OMH has taken steps to recover, as appropriate, all calculated direct contract overpayments from 2010-2011 through the 2013-2014.

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- **OSC Recommendation No. 8 – Executive Compensation**
Formally request, obtain, and review the consultant study of executive compensation performed for PCMH. Review and revise the amounts of executive compensation costs eligible for reimbursement, as warranted, if the study did not provide an adequate basis for the amounts of executive compensation claimed by PCMH.

OMH Response

OMH has formally requested executive compensation documents from PCMH. OMH will review the documents once submitted and determine any amounts eligible for reimbursement.

- **OSC Recommendation No. 9 – Contingency Funds**
Review the various sources of OMH guidance pertaining to contingency funds and ensure they are consistent. Follow up with PCMH officials to ensure PCMH has a clear and accurate recordkeeping system for the use of contingency funds.

OMH Response

OMH will review all current guidance on this issue and revise as needed to ensure that all guidance is consistent and clear. OMH will communicate the results of its work to all service providers.

State Comptroller's Comments

1. OMH's assertion is incorrect. In fact, the audit did not include any evaluation of the quality and accuracy of clinical assessments. The quality and accuracy of clinical assessments were not within the scope of the audit, and consequently, auditors did not address them anywhere in the report. However, consistent with the Comptroller's authority, and as acknowledged by OMH, auditors took steps to ensure that contracted services were properly provided. The health and safety hazards auditors identified led them to question whether contracted services were, in fact, properly provided. PCMH officials (and not OSC auditors) often attributed the health and safety concerns identified to the conduct of clients/tenants. Further, PCMH officials informed us, both verbally and in writing, that certain clients posed a recurring danger to themselves. However, as noted in the report, there were no OMH guidelines for PCMH officials to follow when it appeared that supportive housing might not have been the most appropriate placement for certain clients.
2. Our report's conclusions were not based on faulty data. In fact, our conclusions were based on detailed reviews of pertinent PCMH and OMH records and site observations, as presented in the report and in compliance with professional auditing standards. Specifically, auditors observed damaged ceilings/walls, detached doors, strong urine odors, missing smoke and/or carbon monoxide detectors, and bedbug infestations, some of which were photographed and included in the report. As these problematic health and safety conditions were readily apparent, a "medical expert" was not needed to make the observations and reach the conclusions presented in our report. Moreover, PCMH officials acknowledged that most of the aforementioned health and safety conditions were troubling.
3. Although providers often work with landlords to correct health and safety hazards in clients' apartments, PCMH officials advised us that clients sometimes do not allow landlords (and/or PCMH staff) to have access to their apartments, and that service teams sometimes refuse to enter apartments due to the odors they might encounter. These are not instances of auditors questioning clinical decisions, but rather auditors noting providers' concerns about the conditions of apartments and providers' ability to effectively deal with problematic clients.
4. The objective of our audit was not to assess client screening and/or evaluation processes. Consequently, our audit did not address such processes.
5. We acknowledge OMH guidance that close-outs should be completed within two years of the end of contract fiscal years, and we have revised our report (page 11) as appropriate. Moreover, OMH staff sometimes did not comply with such guidelines. As noted in this and other OSC reports, close-outs sometimes occurred several years after the end of the fiscal years in question.
6. We question OMH's assertion. In particular, we note that the precise frequencies of meetings with tenants (on a "regular basis") and continuous apartment inspections are not specified. Moreover, as detailed in the body of our report and in Comment No. 2, the conditions in several of the apartments we site-visited compromised tenants' health and safety.

7. We encourage OMH officials to formally review and enhance their Supported Housing Guidelines to help reinforce communication between providers and home health coordinators and/or mental health services coordinators.
8. We maintain that the recommendation is appropriate and necessary. As detailed in the report, we identified about \$698,000 in unsupported and/or inappropriate expenses that were charged to the audited contract and other OMH contracts.
9. We maintain that the recommendation is appropriate and necessary. Given the conditions identified and photographed in the apartments that auditors site-visited, we question whether providers adequately comply with the provisions of corrective action plans.