

THOMAS P. DINAPOLI
COMPTROLLER



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ALBANY, NEW YORK 12236

STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

December 29, 2014

Dr. John B. King, Jr.
Commissioner
State Education Department
State Education Building
89 Washington Avenue
Albany, NY 12234

Ms. Karen Stolt
Executive Director
Bright Start Pediatric Services
149 North Main Street
Fairport, NY 14450

Re: Compliance With the
Reimbursable Cost Manual
Bright Start Pediatric Services
Report 2014-S-34

Dear Dr. King and Ms. Stolt:

Pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution, Article II, Section 8 of the State Finance Law, and Section 4410-c of the State Education Law, we conducted an audit of the expenses submitted by Bright Start Pediatric Services, LLC (Bright Start) to the State Education Department (SED) for purposes of establishing the preschool special education tuition reimbursement rates used to bill public funding sources that are supported by State aid payments.

Background

Bright Start was established in 2001 and is an SED-approved provider of special education services. Bright Start offers a wide range of services and programs to children with disabilities from birth through age five. Bright Start provides special education services to over 1,700 children with learning disabilities from school districts in three counties in western New York. These programs include preschool Special Education Itinerant Teacher (SEIT) services for children between the

ages of three and five years.

The counties that use Bright Start's special education services pay tuition to Bright Start using reimbursement rates set by SED. The State reimburses the counties 59.5 percent of the special education tuition that counties pay. SED sets the special education tuition rates based on financial information, including costs, reported by Bright Start on its annual Consolidated Fiscal Reports (CFRs) filed with SED. Costs reported on the CFR must comply fully with the guidelines in SED's Reimbursable Cost Manual (RCM) regarding the eligibility of costs and documentation requirements and meet the reporting requirements prescribed in the Consolidated Fiscal Reporting and Claiming Manual (CFR Manual). For the fiscal year ended June 30, 2013, Bright Start reported \$442,638 in reimbursable costs for its SEIT program.

Results of Audit

According to the RCM, costs reported on the CFR should be reasonable, necessary, directly related to the special education program, and properly documented. For the fiscal year ended June 30, 2013, we identified \$4,798 in costs charged to the SEIT program that did not comply with SED's requirements for reimbursement. The disallowances included \$4,552 in various other than personal service (OTPS) costs, such as vehicle and food expenses, and \$246 in personal service costs for employee bonuses.

Other Than Personal Services

We reviewed Bright Start's OTPS costs reported on its 2012-13 CFR and determined Bright Start did not always comply with the RCM provisions. As a result, we identified \$4,552 in disallowances, as follows:

- Bright Start reported \$26,434 in vehicle expenses on its CFR (loan payments, depreciation, repairs and maintenance, and vehicle registration costs) for two vehicles Bright Start owned. For the costs to be reimbursable, the RCM requires the entity to maintain vehicle logs for each vehicle to document the nature and purpose of the travel in order to verify business versus personal usage. Bright Start did not maintain any logs to record vehicle usage. Absent supporting documentation, we identified \$2,609 in disallowances for vehicle expenses that were allocated to the SEIT program.
- Bright Start reported \$12,095 in nursery school supplies on its CFR. The RCM allows for the reimbursement of reasonable and necessary program-related supplies and materials. During the audit period Bright Start operated private pay nursery schools at its main location in Fairport and at a satellite school in the Gananda School District in Wayne County. Bright Start officials claimed they provided SEIT services at these locations, but did not maintain documentation supporting either the extent of SEIT services provided at the locations or the allocation of supplies and materials that were for SEIT services provided at the private pay nursery schools. Absent proper supporting documentation, we identified \$1,257 in disallowances for nursery school supplies that was allocated to the SEIT program.
- Bright Start reported \$3,246 for food provided during staff meetings. The RCM does not

allow reimbursement for the cost of food or entertainment for staff. The amount allocated to the SEIT program for ineligible food purchases totaled \$339.

- Bright Start's costs included \$2,880 in accounting fees for the preparation of an employee's individual tax return and the owners' partnership tax return. Personal expenses and costs associated for non-audit services provided by a registered public accounting firm are not reimbursable according to the RCM. The amount allocated to the SEIT program for these ineligible expenses totaled \$218.
- Cost incurred for telephone services are reimbursable provided they pertain to the special education program. Bright Start claimed \$653 in cell phone costs for a non-employee. The portion allocated to the SEIT program was \$70.
- Costs considered for reimbursement must be directly related to the program. Bright Start claimed \$597 for dues and subscriptions unrelated to the special education program, including an identity theft protection plan, a summer camp room rental, and a wholesale club membership, all of which is not permissible. The amount charged to the SEIT program for these transactions totaled \$59.

Bonus Payments

According to the RCM, bonus compensation is a non-recurring and non-accumulating (i.e., not included in base salary of subsequent years) lump-sum payment in excess of regularly scheduled salary that is not directly related to hours worked. To be reimbursable, bonus compensation must be based on merit, as measured and supported by employee performance evaluations. We identified \$3,250 in bonus payments that were not based on or supported by employee performance evaluations. The amount allocated to the SEIT program for these ineligible expenses was \$246.

Recommendations

To SED:

1. Review the disallowances identified by our audit and, if warranted, make the necessary adjustments to Bright Start's reimbursement rates.
2. Remind Bright Start officials of the pertinent SED guidelines that relate to the deficiencies we identified.

To Bright Start:

3. Ensure that costs reported on annual CFRs fully comply with SED's guidelines and requirements.

Audit Scope, Objective, and Methodology

We audited the expenses submitted by Bright Start on its CFR for the year ended June 30, 2013. The objective of our audit was to determine whether the costs submitted by Bright Start on its CFR were properly calculated, adequately documented, and allowable under SED's guidelines,

including the RCM.

To accomplish our objective, and assess internal controls related to our objective, we reviewed Bright Start's 2012-13 CFR and corresponding financial records. We interviewed Bright Start officials and staff to obtain an understanding of their financial practices relating to the expenses reported on Bright Start's CFR. We also interviewed SED officials to obtain an understanding of the CFR and the policies and procedures contained in the RCM and CFR Manual. To complete our audit work, we reviewed supporting documentation for costs submitted by Bright Start on the CFR and made a determination of whether the costs complied with and were allowable by the RCM and CFR Manual.

We conducted our audit in accordance with generally accepted government auditing standards. These 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 objectives. We believe that the evidence obtained 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 (some of whom have minority voting rights) to certain boards, commissions, and public authorities. 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.

Reporting Requirements

We provided a draft copy of this report to SED and Bright Start officials for their review and formal comment. We considered SED's and Bright Start's comments in preparing this report and have included them in their entirety at the end of it. In their responses, SED and Bright Start officials generally concurred with our recommendations and indicated that certain actions will be taken to address them. Our rejoinders to certain Bright Start comments are included in the report's State Comptroller's Comments.

Within 90 days of the final release of this report, as required by Section 170 of the Executive Law, the Commissioner of Education 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 where recommendations were not implemented, the reasons why.

Major contributors to this report were David Fleming, Ed Durocher, Laurie Burns, Karen Ellis, and Jennifer Habib.

We would like to thank SED and Bright Start management and staff for the courtesies and cooperation extended to our auditors during this review.

Sincerely,

Andrea Inman
Audit Director

cc: Maria Guzman, Director - Office of Audit Services, SED
Suzanne Bolling, Director of Special Education Fiscal Services, SED

Agency Comments - State Education Department



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12234

DEPUTY COMMISSIONER
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December 9, 2014

Ms. Andrea Inman
Audit Director
Office of the State Comptroller
Division of State Government Accountability
110 State Street – 11th Floor
Albany, NY 12236

Dear Ms. Inman:

The following is the New York State Education Department's (Department) response to the draft audit report, (2014-S-34), Compliance with the Reimbursable Cost Manual: Bright Start Pediatric Services.

Recommendation 1: Review the disallowances identified by our audit and, if warranted, make the necessary adjustments to Bright Start's reimbursement rates.

We agree with this recommendation. The Department will review the recommended disallowances as noted in the report and make adjustments to the reported costs to recover any overpayments, as appropriate, by recalculating tuition rates.

Recommendation 2: Remind Bright Start officials of the pertinent SED guidelines that relate to the deficiencies we identified.

We agree with this recommendation.

If you have any questions regarding this response, please contact Suzanne Bolling, Director of Special Education Fiscal Services at (518) 474-3227.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Cates-Williams".

Sharon Cates-Williams

c: James P. DeLorenzo
Suzanne Bolling
Maria Guzman

Agency Comments - Bright Start Pediatric Services



Ms. Andrea Inman, Audit Director (via email @KBott@osc.state.ny.us; on behalf of;
StateGovernmentAccountability@osc.state.ny.us)
Office of the State Comptroller
Division of State Government Accountability
110 State Street - 11th Floor
Albany, NY 12236-0001

December 11, 2014

Re: Response to Preliminary Audit Findings – Audit Report 2014-S-34

Dear Ms. Inman:

As requested, Bright Start is providing this response to the above referenced audit report, which is enclosed herewith for your reference.

Executive Summary:

The total of all audit findings in the report total \$4,798, which represents approximately 1% of the \$442,638 in total reimbursable costs submitted for the period. Bright Start does not believe that changing its reimbursable costs by 1% would change its reimbursement rate per unit of service. In addition, Bright Start does not believe that the audit scope included any review of Bright Start's books and records to determine whether there were any costs that it had not submitted on its CFR, but which are in fact, permitted costs under the Reimbursable Cost Manual (RCM).

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Comment
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As a result of its work in support of the audit, Bright Start has identified additional permitted costs that it had not included as reimbursable costs on its CFR for audit period or any other reporting period to date. Bright Start has determined that these heretofore unclaimed costs greatly exceed the disallowed expenses (by a factor of over 10 times) cited in the audit and will be submitting them on all future CFR reports, beginning with year ending June 30, 2014.

Responses to Specific Findings:

Finding – Bright Start was reimbursed for ineligible vehicle costs. We are disallowing \$2,609 in vehicle costs reported by Bright Start for lack of vehicle logs, as required by the RCM.

Response – The \$2,609 was composed primarily of vehicle repairs, depreciation and insurance (no vehicle fuel charges are paid for by Bright Start) and were part of a larger cost basis that was allocated to several other fee-for-service programs. Bright Start accepts this finding and in the future will no longer include any vehicle expenses for reimbursement, because in its view the additional time and effort required record keeping required would be too cumbersome.

149 North Main Street, Fairport, NY 14450 Phone: (585) 377-2230 Fax: (585) 377-2243

* See State Comptroller's Comments on Page 10.

Finding – Bright Start was reimbursed for ineligible nursery school supply costs. Though some of these supplies may have been used in the delivery of program services. Bright Start provided no documentation to support the allocation of these costs to the program. We are disallowing a total of \$1,257 for Nursery School supplies included on the CFR.

Response - It is not true that Bright Start provided no documentation to support the allocation of Nursery School supplies to its preschool SEIT program, but rather that the Office of the State Comptroller does not consider the methodology used to be adequate to justify a reimbursement claim. Bright Start maintains that these costs are reimbursable (the audit finding acknowledges that some of the \$12,095 in total costs claimed for all programs may have been used to deliver program services) and that allocating the total cost base to the various programs based upon each programs relative portion of the total units of service delivered across all reported programs is a rational basis for allocating the total costs to each program. Clearly a portion of the total submitted costs for all programs were properly allocable to the pre-k SEIT program and to disallow *any* costs claimed because of a disagreement as to whether or not the method of allocation is appropriate seems unduly punitive.

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Comment
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Bright Start would welcome any suggestions as to what alternative allocation method (to allocating costs in proportion to units of service delivered in each program) would provide a better basis for general supplies that are used across all programs on a regular basis.

Finding – Bright Start reported \$339 in reimbursable costs for ineligible food purchases for its staff.

Response: Bright Start was unaware that these costs were non-allowable costs for CFR reporting purposes. However, it wishes to point out that unlike the typical school setting, Bright Start employees do not work in the office and therefore in order to provide them with staff development opportunities, such training and development have to be provided after regular business hours and most typically (due to the size of its staff of approximately 110) at offsite locations. The food and beverages were and will continue to be provided as an accommodation to the staff, but will now be reported as non-reimbursable costs.

Bright Start maintains that this is a typical example where the evolution of program service delivery through for-profit entities is ahead of the RCM. Bright Start provides staff training during off hours (almost exclusively at night) so its employees can spend their workday providing service. This practice results a much higher service delivery rate than one would find in a not-for-profit or school setting, and (Bright Start submits) saves the SED a great amount of money, yet the \$339 claimed to feed the people is not allowable. Bright Start accepts the finding, but maintains that the required reporting methodology “misses the forest for the trees”.

Finding – Bright Start was reimbursed for ineligible accounting expenses. We are disallowing \$218 in for costs unrelated telephone charges unrelated to the program.

Response – The \$218 was allocated in error and Bright Start will review its procedures to ensure each invoice is reviewed prior to including the related costs into the cost allocation base for pre-k SEIT and if not directly related to that program, the amounts will be considered non-allowable, rather than allocable administrative expense. Because all of Bright Start’s audit expenses are properly allocated to the preschool SEIT program and represent that vast majority of the accounting costs paid each year, the CFR preparer incorrectly assumed the entire amount in the account was properly allocable to the SEIT program.

Finding – Telephone Expenses – Bright Start was reimbursed for ineligible telephone costs. We are disallowing \$70 in telephone charges not related to the program.

Response – The \$70 was part of a much larger cost basis that was allocated to several programs. Bright Start agrees with this finding and will ensure this cost as non-allowable going forward.

Finding – Bright Start was reimbursed for ineligible miscellaneous expenses. We are disallowing \$59 for expenses not related to the program.

Response – The BJ's wholesale club membership and the identity theft protection are integral to Bright Start's business. The BJ's club membership allows Bright Start to purchase supplies in a more cost effective manner and Bright Start submits that the amounts saved on supplies more than offsets the cost of the membership fee. However, going forward, Bright Start will purchase Preschool SEIT supplies at full retail prices and submit for program reimbursement on that basis.

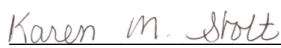
The identity theft protection charges stem from the fact that unlike a school district, Bright Start most often is required to use a company credit card both for online purchases and in-store purchase. Since Bright Start is not a corporation, credit card issuers require the credit cards to be in both the name of the company and in the primary cardholder's name (i.e., in both the business name and in the name of a human being that is ultimately responsible for payment). Bright Start has four business cards, each card indicates the cardholder as "Bright Start Pediatric Services" and then indicates the individual cardholder's name. Bright Start believes the identity theft protection to be an integral to the proper stewardship of the organization. In the future, no portion of the associated costs will not be allocated to the preschool SEIT program.

Finding - \$246 in ineligible bonus payments were disallowed.

Response – Bright Start paid approximately \$85,000 in discretionary bonuses during the period. All direct staff bonuses were properly excluded on the CFR. The \$246 in disallowed costs related the portion of bonuses paid to non-direct staff that were allocated back to the SEIT program through the indirect expenses allocation that occurs as part of the CFR process. Bright Start will make sure to exclude the bonus monies paid to non-direct staff on the CFR-4 so that no part of it is allocated back to the program via the indirect cost allocation.

Bright Start personnel are available to provide any further information the State may need or answer any additional questions.

Sincerely,



Karen Stolt, Executive Director

State Comptroller's Comments

1. Our audit was limited to eligibility of the costs Bright Start reported on its CFR. However, it is the responsibility of the providers (and not the auditors) in the first instance to ensure that all eligible costs are reported on the CFR. If Bright Start officials believe they underreported certain eligible costs, they can submit a revised CFR to SED.
2. As stated in the report, Bright Start officials indicated they provided SEIT services at Bright Start's private pay nursery schools. However, for the nursery school locations, Bright Start officials did not maintain documentation supporting either the extent of SEIT services provided or the allocations of supplies and materials costs among the programs. Consequently, the \$1,257 in question did not meet the requirements of the RCM and are disallowed.