



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

Division of State Government Accountability

Compliance With the Reimbursable Cost Manual

State Education Department Easter Seals New York



Report 2015-S-27

October 2016

Executive Summary

Purpose

To determine whether the costs reported by Easter Seals New York (Easter Seals NY) on its Consolidated Fiscal Report (CFR) were properly calculated, adequately documented, and allowable under the State Education Department's (SED) guidelines, including the Reimbursable Cost Manual (RCM). Our audit covered the three calendar years ended December 31, 2013.

Background

Easter Seals NY, a not-for-profit organization, offers a wide variety of services to children and adults with disabilities and special needs including, but not limited to, medical services, residential services, and many educational services throughout New York State. Easter Seals NY is authorized by SED to provide preschool special education services to children with disabilities between the ages of three and five years. Easter Seals NY operates preschool special education programs at their Bronx, Monticello, Port Jervis, and Valhalla locations. Easter Seals NY is reimbursed for preschool special education services through rates set by SED. The reimbursement rates are based on financial information, including costs, that Easter Seals NY reports to SED on its annual CFR. To be eligible for reimbursement, reported costs must comply with RCM requirements. For the three calendar years ended December 31, 2013, Easter Seals NY reported approximately \$27.6 million in reimbursable costs on its CFRs for three rate-based preschool special education programs.

During our audit scope, Easter Seals New Hampshire (Easter Seals NH) was the parent agency of Easter Seals NY and provided administrative services such as accounts payable, accounts receivable, payroll, and human resource services to Easter Seals NY and other affiliates.

Key Findings

For the three calendar years ended December 31, 2013, Easter Seals NY claimed \$688,543 in ineligible costs for its rate-based preschool special education programs. The ineligible costs included:

- \$546,263 in personal service costs for personnel that exceeded SED-approved staffing ratios for the programs. For example, for the 2012-13 year, Easter Seals NY charged 3.519 full-time equivalent teacher assistants (costing \$111,550) to a preschool integrated special education class above the SED-approved staffing ratio. Easter Seals NY was unable to provide documentation to justify the additional staffing and related cost.
- \$110,206 in parent agency administration services provided by Easter Seals NH that included executive compensation above the allowed regional median salary, bonus payments to non-direct care staff, discriminatory pension expenses, non-reimbursable food and gifts, unsupported charges, and duplicative membership payments.
- \$32,074 in other than personal service costs that were either not allowable or unsupported by proper documentation. This included \$19,714 for gifts to employees and other individuals. According to the RCM, gifts for staff are not reimbursable.

Key Recommendations

To SED:

- Review the disallowances identified by our audit and make the necessary adjustments to the costs reported on Easter Seals NY's CFRs and to Easter Seals NY's tuition reimbursement rates, as appropriate.
- Remind Easter Seals NY officials of the pertinent SED guidelines that relate to the deficiencies we cited.

To Easter Seals NY:

- Ensure that costs reported on annual CFRs fully comply with SED's requirements, and communicate with SED to obtain clarification as needed.

Other Related Audit/Report of Interest

[Dynamic Center Inc.: Compliance With the Reimbursable Cost Manual \(2014-S-3\)](#)

**State of New York
Office of the State Comptroller**

Division of State Government Accountability

October 12, 2016

Ms. MaryEllen Elia
Commissioner
State Education Department
State Education Building
89 Washington Avenue
Albany, NY 12234

Mr. Larry Gammon
President/CEO
Easter Seals New York
c/o Easter Seals New Hampshire
555 Auburn Street
Manchester, NH 03103

Dear Ms. Elia and Mr. Gammon:

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 expenses submitted by Easter Seals New York to the State Education Department for the purpose of establishing the preschool special education tuition reimbursement rates used to bill public funding sources that are supported by State aid payments, entitled *Compliance With the Reimbursable Cost Manual*. The audit was performed 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.

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*

Table of Contents

Background	5
Audit Findings and Recommendations	6
Personal Service Costs	6
Parent Agency Administration Costs	7
Other Than Personal Service Costs	7
Recommendations	8
Audit Scope and Methodology	8
Authority	9
Reporting Requirements	9
Contributors to This Report	10
Exhibit	11
Notes to Exhibit	12
Agency Comments - State Education Department	15
Agency Comments - Easter Seals New York	17
State Comptroller's Comment	20

State Government Accountability Contact Information:

Audit Director: Andrea Inman

Phone: (518) 474-3271

Email: StateGovernmentAccountability@osc.state.ny.us

Address:

Office of the State Comptroller
 Division of State Government Accountability
 110 State Street, 11th Floor
 Albany, NY 12236

This report is also available on our website at: www.osc.state.ny.us

Background

Easter Seals New York (Easter Seals NY), a not-for-profit organization, offers a wide variety of services to children and adults with disabilities and special needs including, but not limited to, medical services, residential services, and many educational services throughout New York State. Easter Seals NY is authorized by the State Education Department (SED) to provide preschool special education services to children with disabilities who are between the ages of three and five years. During our audit period, Easter Seals NY operated three SED-funded rate-based preschool special education programs: Preschool Special Class – over 2.5 hours per day; Preschool Integrated Special Class – 2.5 hours per day; and Preschool Integrated Special Class – over 2.5 hours per day (collectively referred to as the Programs). The Programs served 200 children in six counties (Bronx, Orange, Putnam, Sullivan, Ulster, and Westchester) in New York State. Easter Seals New Hampshire (Easter Seals NH) was the parent agency of Easter Seals NY during our audit period. Easter Seals NH provided administrative (e.g., accounting, payroll, human resources) and management services to Easter Seals NY and other affiliates. Effective September 1, 2015, FedCap Rehabilitation Services, Inc. acquired Easter Seals NY and became Easter Seals NY's parent agency.

The counties that use Easter Seals NY's special education services pay tuition using reimbursement rates set by SED. The State, in turn, reimburses the counties 59.5 percent of the tuition that counties pay. SED sets the special education tuition rates based on financial information, including costs, reported by Easter Seals NY on the annual Consolidated Fiscal Report (CFR) it submits to 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 three-year period ending December 31, 2013, Easter Seals NY claimed approximately \$27.6 million in reimbursable costs on its CFRs for the Programs.

Audit Findings and Recommendations

According to the RCM, costs reported on the CFR are considered for reimbursement if they are reasonable, necessary, directly related to the special education program, and adequately documented. Of the \$27.6 million that Easter Seals NY claimed on its CFRs for the Programs during the three-year period ending December 31, 2013, we identified \$688,543 in costs that did not comply with SED's requirements for reimbursement, including \$546,263 in personal service costs, \$110,206 in parent agency administration costs, and \$32,074 in other than personal service (OTPS) costs.

Personal Service Costs

According to the RCM, staff-to-student ratios are defined in Part 200 of the Commissioner of Education's Regulations as well as in each program's programmatic approval letter from SED's Office of Special Education-Special Education Quality Assurance. Direct care personnel in excess of, or not prescribed by, such ratios are not reimbursable unless supported by the student's Individualized Education Program (IEP) requirements and the program-generated summary data relating to those IEPs.

During the three-year period ending December 31, 2013, Easter Seals NY reported \$19.1 million for personal service and fringe benefit costs for the Programs. We reviewed staffing levels reported by Easter Seals NY against SED-approved staffing ratios and identified \$546,263 in personal service costs that exceeded the approved staffing ratios for the Programs, as follows:

		2011-12		2012-13	
Program	Position	FTEs Reported Over SED-Approved Ratio	Disallowance	FTEs Reported Over SED-Approved Ratio	Disallowance
Preschool Special Class-Over 2.5 Hours Per Day	Teacher	0	\$0	1.373	\$91,937
	Assistant	2.005	60,043	0	0
Preschool Integrated Spec Class-Over 2.5 Hours Per Day	Teacher	1.301	90,201	0.452	26,509
	Assistant	1.513	52,267	3.519	111,550
Preschool Integrated Spec Class-2.5 Hours Per Day	Teacher	0.862	46,319	0.539	32,084
	Assistant	1.185	31,212	0.172	4,141
Disallowance Subtotals			\$280,042		\$266,221
Total Disallowance					\$546,263

Note: FTE = full-time equivalent.

In response to the audit findings, Easter Seals NH officials stated they incorrectly included costs associated with substitute teachers and classroom coverage for paid time off. While the cost of providing classroom coverage may be a reimbursable expense, Easter Seals NH officials were unable to provide adequate documentation to justify that the excess staffing was attributable to classroom coverage. Absent sufficient documentation, we maintain such costs are not reimbursable.

Parent Agency Administration Costs

During the audit period, Easter Seals NH was the parent agency of Easter Seals NY. Easter Seals NH provided administrative services such as accounts payable, accounts receivable, payroll, and human resource services to Easter Seals NY and other affiliates. During the three-year period ending December 31, 2013, approximately \$1.6 million in Easter Seals NH parent agency administrative costs were allocated to the Programs.

According to the RCM, agency administration is defined as those expenses that are not directly related to a specific program but are attributable to the overall operation of the agency. Agency administrative costs include costs for parent agency expenditures. Charges to programs receiving administrative services from a parent or related organization are reimbursable provided they are defined as reimbursable in the RCM, are not duplicative in nature, and provide a direct benefit to the subsidiary charged.

Our review of the parent agency administrative charges reported by Easter Seals NY resulted in the identification of \$110,206 in parent agency costs that are not reimbursable, as follows:

- The RCM states that compensation (i.e., salaries plus fringe benefits) for an entity's staff whose function is that of Executive Director, Assistant Executive Director, or Chief Financial Officer will be directly compared to the regional median compensation for comparable administration job titles of public school districts, as determined and published annually by SED. Reimbursement of employee compensation for these job titles shall not exceed the median compensation paid to comparable personnel in public schools for similar work and hours of employment in the region in which the entity is located. We identified \$41,966 for Easter Seals NH executive salaries and related fringe benefits that were in excess of SED's median compensation for these positions.
- According to the RCM, bonuses are restricted to direct care titles and certain non-direct care titles. We identified \$29,342 in bonuses and related fringe benefits paid to employees in ineligible titles.
- According to the RCM, benefits including pensions for officers/directors are reimbursable if they are proportionally similar to the pensions received by other classes of employees. We identified \$22,248 in pension contributions and related fringe benefits paid to certain Easter Seals NH executive staff that did not meet the RCM's requirements.
- We identified \$16,650 for non-reimbursable items such as food, gifts, duplicative membership payments to Easter Seals National, and other undocumented charges including vehicle costs.

Other Than Personal Service Costs

The RCM states that costs, including OTPS costs, will be considered for reimbursement provided such costs are reasonable, necessary, directly related to the special education program, and sufficiently documented. During the three-year period ending December 31, 2013, Easter Seals NY reported \$4.4 million in OTPS costs for the Programs. For selected expenses, we identified

\$32,074 in costs that were not in compliance with SED guidelines. Specifically, Easter Seals NY claimed:

- \$13,030 for physical therapist services in excess of the amount recorded in Easter Seal's general ledger. We disallowed \$12,360 that was charged to the Programs.
- \$19,714 for gifts to employees and other individuals. According to the RCM, gifts for staff are not reimbursable.

Recommendations

To SED:

1. Review the disallowances identified by our audit and make the necessary adjustments to the costs reported on Easter Seals NY's CFRs and to Easter Seals NY's tuition reimbursement rates, as appropriate.
2. Remind Easter Seals NY officials of the pertinent SED guidelines relating to the deficiencies we cited.

To Easter Seals NY:

3. Ensure that costs reported on annual CFRs fully comply with SED's requirements, and communicate with SED to obtain clarification as needed.

Audit Scope and Methodology

We audited the costs Easter Seals NY reported on its 2013 CFR and certain costs on the 2011 and 2012 CFRs based on issues found during our review of the 2013 CFR. The objective of our audit was to determine whether the reported costs were allowable, properly calculated, and adequately documented in accordance with applicable SED requirements.

To accomplish our objective and assess internal controls related to our objective, we reviewed the RCM that applied to the years we examined as well as the applicable CFR Manual and its related appendices. We also became familiar with Easter Seals NY's and Easter Seals NH's internal controls as they related to costs reported on the CFRs. We reviewed Easter Seals NY's CFRs for the calendar years 2011, 2012, and 2013 and the audited financial statements for these periods. We interviewed SED officials to obtain an understanding of the CFR and the policies and procedures contained in SED's guidelines. We interviewed Easter Seals NY and Easter Seals NH officials and staff to obtain an understanding of their financial practices relating to the expenses reported on Easter Seals NY's CFRs. We also visited one of the preschool facilities in operation to review personnel files. Finally, we reviewed a judgmental sample of Program and parent agency administration costs to determine whether they were supported, appropriate, and reimbursable. The sample included selected items considered to be high risk and reimbursable in limited circumstances, such as food and gifts.

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 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

The audit was performed 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.

Reporting Requirements

We provided a draft copy of this report to SED, Easter Seals NY, and Easter Seals NH officials for their review and formal comment. We considered their comments in preparing this report and have included them in their entirety at the end of it. In their response, SED officials agreed with the audit recommendations and indicated the actions they will take to address them. Additionally, Easter Seals officials concurred with certain findings, but challenged the proposed disallowance related to excess personal service costs. Our rejoinder to those comments is included in the report's State Comptroller's Comment. Also, Easter Seals officials provided extensive attachments with their response. We did not append those attachments to the final report due to their length and the confidential nature of certain information contained within them. However, the attachments will be maintained on file at the Office of the State Comptroller.

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

Contributors to This Report

Andrea Inman, Audit Director
Dave Fleming, Audit Manager
Ed Durocher, Audit Supervisor
Laurie Burns, Examiner-in-Charge
Dylan Spring, Senior Examiner

Division of State Government Accountability

Andrew A. SanFilippo, Executive Deputy Comptroller
518-474-4593, asanfilippo@osc.state.ny.us

Tina Kim, Deputy Comptroller
518-473-3596, tkim@osc.state.ny.us

Brian Mason, Assistant Comptroller
518-473-0334, bmason@osc.state.ny.us

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

**Easter Seals New York
Schedule of Reported and Disallowed Program Costs
for the Three Years Ended December 31, 2013**

Program Costs	Amounts Reported Per CFRs	Amounts Disallowed	Amounts Remaining	Notes to Exhibit
Personal Services	\$19,082,974	\$546,263	18,536,711	A,B
Other Than Personal Services	4,374,492	32,074	4,342,418	C,D
Equipment and Property	2,482,912	–	2,482,912	–
Parent Agency Administration	1,612,884	110,206	1,502,678	C-P
Total Program Costs	\$27,553,262	\$688,543	\$26,864,719	

Notes to Exhibit

The following Notes refer to specific sections of the RCM that we used as a basis for our recommended disallowances. We summarized the applicable sections to explain the basis for each disallowance. We provided the details supporting our recommended disallowances to SED, Easter Seals NY, and Easter Seals NH officials during the course of the audit.

- A. RCM Section I.6 (2012-13, 2013-14): Staff-to-student ratios are defined in Part 200 of the Commissioner's Regulations. A specific approved program's student-to-staff ratio is also defined in that program's programmatic approval letter from Office of Special Education-Special Education Quality Assurance (SEQA). Direct care personnel in excess of, or not prescribed by such ratios, are not reimbursable, unless supported by the student's IEP requirements and the program generated summary data relating to those IEPs. A Department programmatic review and approval of variations from these ratios are required for costs of additional staff to be reimbursable.
- B. RCM Section II.13.A.4.e(2011-12), Section II.14.A.4.e (2012-13): Direct care student to staff ratios shall not exceed the approved staffing levels supported by the Department's program approval letter. Any net excess of staff will not be included as part of reimbursable costs in the program's reconciliation tuition rate. Such additional staff may be deemed reimbursable in the prospective rate upon amendment of the provider's program approval letter and demonstration to the satisfaction of the Commissioner that such costs were necessary.
- C. RCM Section II.24 (2012-13, 2013-14): Gifts of any kind are non-reimbursable.
- D. RCM Page 3 (2012-13, 2013-14): Final costs are determined upon field audit and will be considered for reimbursement provided that such costs are reasonable, necessary and directly related to the education program. Costs must also have adequate substantiating documentation.
- E. RCM Section III.1.D (2011-12, 2012-13, 2013-14): All purchases must be supported with invoices listing items purchased and indicating date of purchase and date of payment, as well as canceled checks. Costs must be charged directly to specific programs whenever possible.
- F. RCM Section II.6 (2012-13, 2013-14): Bad debt expenses are not reimbursable. Actual or estimated losses resulting from uncollectible accounts or other claims, including related finance charges are not reimbursable operating expenses for Article 81 and/or Article 89 funded programs. Collection and legal expenses for collecting bad debts are reimbursable subject to the non-direct care cost parameter.
- G. RCM Section II.37 (2012-13, 2013-14): Costs of the school's membership in civic, business, technical and professional organizations are reimbursable subject to the following restrictions:
 - a. The benefit from the membership is related to Article 81 and/or Article 89 programs.
 - b. The cost of membership is reasonably commensurate to the value of the services or benefits received.
 - c. The expenditure is not for membership in an organization whose primary purpose is to influence legislation.

- H. RCM Section II.10 (2012-13, 2013-14): Charges to programs receiving administrative services, insurance, supplies, technical consultants, etc. from a parent or related organization are reimbursable provided they are not duplicative in nature, provide a direct benefit to the subsidiary charged and based on actual direct and indirect costs, allocated to all programs on a consistent basis and defined as reimbursable in the Regulations of the Commissioner of Education, the CFR Manual or this Manual.
- I. RCM Section III.1.J.2 (2012-13, 2013-14): Vehicle use must be documented with individual vehicle logs that include at a minimum: the date, time of travel, to and from destinations, mileage between each, purpose of travel and name of traveler. If a vehicle was assigned to an employee, also list the name of the employee to whom it was assigned. The annual mileage for program purposes and repairs and maintenance costs for each vehicle should be summarized and maintained.
- J. RCM Section II.16 (2012-13, 2013-14): Political and charitable contributions and donations made by the program are not reimbursable.
- K. RCM Section II.22.C (2012-13, 2013-14): Costs of food provided to any staff including lunchroom monitors are not reimbursable.
- L. RCM Section II.30.C (2012-13, 2013-14): Costs for food, beverages, entertainment and other related costs for meetings, including Board meetings, are not reimbursable.
- M. RCM Section II.13.B.2.C (2012-13, 2013-14): Reimbursement of fringe benefit expenses shall be subject to the following principles:
- a. Benefits including pensions, life insurance and Tax Sheltered Annuities (TSAs) for individual employees or officers/directors are proportionately similar to those received by other classes or groups of employees.
- N. RCM Section II.13.4.A (2012-13, 2013-14): Compensation (i.e., salaries plus fringe benefits) for an entity's staff whose function is that of Executive Director, Assistant Executive Director or Chief Financial Officer will be directly compared to the regional median compensation for comparable administration job titles of public school districts, as determined and published annually by the Department's Basic Educational Data Systems (BEDS). Reimbursement of employee compensation for these job titles shall not exceed the median compensation paid to comparable personnel in public schools for similar work and hours of employment in the region in which the entity is located. Compensation for an "Executive Director" providing services to an Article 81 and/or Article 89 funded program will be compared to the median "Superintendent-Independent" compensation for the region in which the entity is located and compensation for an Assistant Executive Director and Chief Financial Officer will be compared to the median compensation for "Assistant Superintendent."
- O. RCM Section II.13.A.10 (2012-13): A merit award (or bonus compensation) shall mean 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, which is not directly related to hours worked. A merit award may be reimbursed if it is based on merit, as measured and supported by employee performance evaluations and does not exceed three and a half percent of the base salary of the direct care employee who is receiving the merit award. In addition, merit awards:
- a. Are restricted to direct care titles/employees as defined by the Reimbursable Cost Manual's Appendix A-1 and those in the 100 job code series as defined by the

Consolidated Fiscal Report's Appendix R,

- b. Will not be reimbursed if paid to subcontractors and/or independent consultants,
 - c. Shall be subject to all aspects, constraints and cost parameters contained in the methodology.
- P. RCM Section II.13.A.10 (2013-14): A merit award (or bonus compensation) shall mean 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 which is not directly related to hours worked. A merit award may be reimbursed if it is based on merit as measured and supported by employee performance evaluations. In order to demonstrate that a merit award is based on merit and measured and supported by employee performance evaluations, the provider's governing entity must adopt a written employee performance evaluation policy and form that contains sufficient detail as to the criteria and methods used to determine each employee's final evaluation rating. The written employee performance evaluation policy must also describe how the final evaluation rating will directly correlate to any amount of a merit award should funds be available for such an award. In addition, merit awards:
- a. Are restricted to direct care titles/employees as defined by the Reimbursable Cost Manual's Appendix A-1 and those in the 100 position title code series and position title code 505 and 605 as defined by the Consolidated Fiscal Report's Appendix R.
 - b. Will not be reimbursed if paid to subcontractors and/or independent consultants.
 - c. Shall be subject to all aspects, constraints and cost parameters contained in the methodology.
 - d. Must be paid within the year awarded or no later than 2 ½ months after the entity's year end.

Agency Comments - State Education Department



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

DEPUTY COMMISSIONER
Office of Performance Improvement and Management Services
O: 518.473-4706
F: 518.474-5392

September 19, 2016

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 (SED) response to the draft audit report, 2015-S-27, Compliance with the Reimbursable Cost Manual: Easter Seals New York (Easter Seals NY).

In addition to the actions that will be taken in response to the specific recommendations described below, SED will closely examine the circumstances that led to the findings contained in the audit report with particular attention to the findings related to lack of documentation to support expenses and parent agency administration costs. This examination will include an assessment of the programmatic oversight and fiscal management employed at Easter Seals NY and will be a factor in the consideration of the continued approval of this provider and the corrective action or enforcement actions that may be warranted.

Recommendation 1:

Review the disallowances identified by our audit and make the necessary adjustments to the costs reported on Easter Seals NY's CFRs and to Easter Seals NY's tuition reimbursement rates, as appropriate.

We agree with this recommendation. SED 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 Easter Seals NY officials of the pertinent SED guidelines relating to the deficiencies we cited.

We agree with this recommendation. SED will continue to provide technical assistance whenever requested and will strongly recommend the Easter Seals NY officials take advantage of our availability to help them better understand the standards for reimbursement as presented in Regulation and the Reimbursable Cost Manual (RCM). Furthermore, Consolidated Fiscal Report (CFR) training is available both in person, at one of the six locations it is offered across the State, and online on SED's webpage. SED recommends that all individuals signing the CFR certification statements, namely Executive Directors and Certified Public Accountants, complete this training. At the direction of the Board of Regents, the Department intends to require that this training be mandatory and will require individuals to verify that they have completed the training.

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

Sincerely,



Sharon Cates-Williams

c: Christopher Suriano
Suzanne Bolling
Monica Short

Agency Comments - Easter Seals New York



Pamela A. Madeiros
518.689.1412
518.689.1499
madeirosp@gtlaw.com

June 3, 2016

Andrea Inman, Audit Director
Office of the State Comptroller
Division of State Government Accountability
110 State Street, 11th Floor
Albany, New York 12236-0001

**RE: State Education Department
Easter Seals New York // Report 2015-S-27
Compliance with the Reimbursable Cost Manual**

Dear Ms. Inman:

We have reviewed the draft audit findings of Easter Seals New York for the audit period covering the three consecutive calendar years ending December 31, 2013 reflecting approximately \$27.6M in CFR reported educational programming expenses referenced above and appreciate the opportunity to provide comment beyond comment provided to the preliminary reports by the then parent agency of Easter Seal NY. As reflected in the auditors' narrative, Easter Seals New Hampshire (Easter Seals NH) served as the parent agency of Easter Seals NY during the audit period, providing administrative and management services to Easter Seals NY and other affiliates.

Effective September 1, 2015, Fed Cap Rehabilitation Services, Inc. acquired Easter Seals NY and became Easter Seals NY's parent agency. We provide comment and context as set out below.

Parent Agency Administrative (PAA) Charges

In its capacity as parent agency to Easter Seals NY, Easter Seals NH (New Hampshire) provided, administrative non-program operational services to its NY affiliate. As shared with the auditors, Easter Seals NH assumed functions relating to AP purchasing, payroll, IT, billing AR, accounting, external reporting, human resources, and employee relations, and allocated to Easter Seals NY, its proportionate share of all such costs, together with its proportionate share of certain agency management staff costs, legal costs, bad debt, and staff wellness expenses. As with other comprehensive program agencies, Easter Seals is challenged by the inconsistencies of the Consolidated Fiscal Report Manual requirements as related to determining allowable costs and identifying expenses eligible for reimbursement across all state agencies. Costs eligible for

June 3, 2016
Page 2

reimbursement under an OMH program, for example, may be deemed ineligible for reimbursement if incurred in a NYSED approved program. The challenge was further complicated by the fact that Easter Seals NH provided identical services to its affiliates in other states outside of New York. Concedingly, as with most organizations having a multi-state and multiple program presence, certain decisions were made from an organization wide perspective, not specific to New York. Thus, we do not challenge that we did not apply the rigors of New York's standards when awarding bonuses to certain dedicated staff and employees (\$29,342), or certain employment benefits to the parent agency's officers and directors who acted on behalf of the New York affiliate (\$22,248). We also let stand without challenge the sum total of \$16,650 identified as non-reimbursable expenses for which Easter Seals again failed to apply the rigors of the NYSED reimbursable cost manual which denies reimbursement for innumerable categories of costs and expenses deemed program related by the totality of New York's human service state agencies including Office of Mental Health, Office of Child and Family Services and the Office for People with Developmental Disabilities – colleague agencies which share the CFR manual with NYSED.

As relates to the parent organization's administrative charges relating to executive compensation, we believe that the inclusion of administrative compensation within the Easter Seals NH management fee may have complicated the auditors' review and may have potentially presented that executive compensation as in excess of the median compensation. While we believe the appropriate allocation was made to the NY operations within this management fee, we believe a more rigorous application of the NYSED RCM and CFR requirements by Easter Seals NY's new parent agency will prevent reoccurrence of the parent agency administrative charges identified in the Draft report.

Personal Services

We must challenge the Draft disallowance of \$546,263 in personal service costs which the auditors attribute to staffing levels in excess of approved ratios. We assert, as we had in response to the preliminary draft report, that these costs were appropriately associated with classroom staff activities, but were mis-classified on the CFR. As we shared with the auditors, these staff performed specific functions which should have been captured by the appropriate CFR title/position such as "substitute teacher" or "crises interventionist", "floater" or "teacher assistant". The fact that these functions were erroneously categorized under the broader "teacher / teacher assistant" CFR title/position is evidenced by the glaring lack of any staff under those finer categories "substitute" or "floater" on the CFR. Clearly there was a need for substitute staff. As clearly, those staffing costs were misreported as teacher/teacher assistant and not more appropriately identified as "substitute teacher".

* Comment 1

As the attached appendix reflects, Easter Seals has painstakingly reviewed all relevant time sheets, classroom rosters and class schedules to provide documentation in support of our argument. (See Attachment A)

Other than Personal Service Costs

Easter Seals NY, like its colleague organizations serving multiple populations and funded by multiple state agencies, had erroneously reported select costs and expenses which are clearly

*See State Comptroller's Comment, page 20.

June 3, 2016

Page 3

eligible for reimbursement under any other CFR reporting state agency other than NYSED – gift cards, acknowledgements of appreciation, token items which were clearly identified in the General Ledger Assistance to Individuals account. There was no attempt made to secret these costs and expenses which were clearly identified. We are constrained to leave those costs unchallenged.

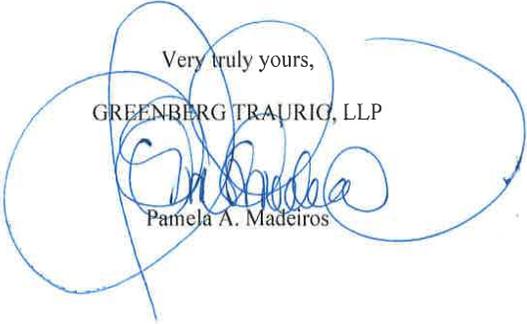
We can only ascribe the reporting of certain physical therapist service costs on the CFR in excess of the amount reflected in the General Ledger as a clerical error.

In each of these instances, Easter Seals has strengthened its internal controls and protocols to prevent the reoccurrence of such errors.

With the committed assistance of our new parent organization, Easter Seals NY is confident that the reporting errors revealed in the Draft Report will be corrected in current year operations. Easter Seals NY has used the audit process and Report to further refine its own self-assessment protocols to assure improved compliance with the RCM and to enhance accountability. Easter Seals NY is renewed and revitalized in its commitment to partnering with the State of New York in the provision of quality therapeutic and educational services to the students and families we serve.

Very truly yours,

GREENBERG TRAURIG, LLP


Pamela A. Madeiros

PAM/dff
ALB 1935586v1

CC: Dave Fleming, Audit Manager, OSC
Ed Durocher, Audit Supervisor, OSC
Laurie Burns, Examiner-in-Charge, OSC
Suzanne Bolling, NYSED
Thalia Melendez, NYSED
Karen Wegmann, Chief Financial Officer, Easter Seals NY
Larry Linden, Director of Finance, Easter Seals New Hampshire
Elin Treanor, CFO, Easter Seals New Hampshire

State Comptroller's Comment

1. We asked Easter Seals officials to provide the required documentation to support that the \$546,263 in question was for other, allowable classroom staffing expenses (such as substitute teachers). However, during the course of the audit fieldwork and in their response to the draft audit report, Easter Seals officials failed to provide sufficient documentary evidence and detail to substantiate which programs substitute teachers purportedly worked in. Therefore, they could not accurately quantify the time and the related program expense for these staff. Also, Easter Seals officials asserted that certain costs were misclassified on the CFR. However, based on our review of the available documentation, this is unclear. Absent sufficient documentation to support amounts for other classroom staffing expenses, we maintain that the \$546,263 in such charges was ineligible for reimbursement.