

THOMAS P. DiNAPOLI
COMPTROLLER



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ALBANY, NEW YORK 12236

STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

November 10, 2017

Howard A. Zucker, M.D., J.D.
Commissioner
Department of Health
Empire State Plaza
Corning Tower Building
Albany, NY 12237

Re: Report 2017-BSE6-01

Dear Dr. Zucker:

We previously reported that the administrative fees on employee health insurance (i.e., medical and dental expenses) charged to the Department of Health (Department) by the Long Island Association for AIDS Care, Inc. (LIAAC) were neither justified nor appropriate (Report 2012-0063, *Long Island Association for AIDS Care, Inc.*, September 30, 2014) under the terms of contract C023121. Based on information obtained subsequent to that report, we questioned the authenticity of documents LIAAC submitted to our Office to support the reimbursement for employee medical and dental costs under contracts C028421 and C027633. As a result, we continued our examination¹ of medical and dental expenses claimed for reimbursement by LIAAC. We also examined refunds and reimbursements from other entities for covered individuals' medical and dental expenses.

This report summarizes the results of our examination of LIAAC's claims for payment totaling \$120,293 for employee medical and dental insurance expenses for the period February 2014 through May 2015. This report also identifies the results of our examination of refunds and reimbursements totaling \$195,791 received from other entities for covered individuals' medical and dental expenses. The objectives of our examination were to determine whether the claims were appropriate for payment and whether any portion of refunds and reimbursements received from other entities totaling \$195,791 for covered individuals' medical and dental expenses should be disallowed under previous contracts with the Department (Contracts) and remitted to the Department.

¹ We performed our examination in accordance with the State Comptroller's authority set forth in Article V, Section 1 of the State Constitution, as well as Article II, Section 8, and Article VII, Section 111 of the State Finance Law.

A. Results of Examination

We found the claims for payment LIAAC submitted contained overbillings of \$15,777. The claims were returned to the Department. We also identified \$95,918 in refunds and reimbursements from other entities for medical and dental expenses paid to LIAAC's related entity and group medical benefits provider, the Long Island Network of Community Services (LINCS), which should have been remitted to the Department.

We shared a draft report with Department officials and considered their comments (Attachment A) in preparing this final report. The State Comptroller's Office comments on the Department's response are included in Attachment B. Department officials generally agreed with our recommendations and stated they require full back-up for medical and dental charges claimed for reimbursement. They have taken steps to recover \$95,918 from LIAAC for the Department's proportional share of reimbursements LIAAC's related entity, LINCS, received from other entities.

B. Background and Methodology

During the period of this examination LIAAC purchased group medical benefits from LINCS, which is self-insured for medical and dental insurance. The CEO of LIAAC also served as the CEO of LINCS. Each month, LINCS paid its third party administrator for covered individuals' medical and dental claims, as well as stop-loss insurance to cover LINCS in the event claims liabilities reach a specific threshold. In addition, LINCS voluntarily paid an additional amount above the cost of the medical and dental claims so that the third party administrator would have a cash reserve on hand to hasten payments to the medical providers. LINCS then passed the total amount of medical and dental costs, as well as the cost of the cash reserve, to LIAAC. LIAAC then received reimbursement from the Department for a portion of the stop-loss insurance expenses and the cash reserve.

To perform our examination, we reviewed invoices, bank records, and employee payroll records submitted by LIAAC to support the expenses claimed. Based on our concerns related to the authenticity of the payroll records LIAAC produced in response to our Office's request, we obtained payroll records directly from LIAAC's payroll servicer.

C. Details of Findings**Overbillings**

During our examination of these claims for payment, we found the payroll records LIAAC submitted in response to our Office's request to support employee medical and dental insurance contributions were altered to exclude employee contributions that should have been used to offset

the expenses claimed. In addition, the medical and dental expenses LIAAC submitted for reimbursement included expenses for some LINCS employees, as well as medical expenses for dependents of LIAAC employees, who are not covered according to LIAAC's fringe benefit policy. As a result, \$120,293 in claims for payment that LIAAC submitted to the Department contained overbillings totaling \$15,777. Our Office subsequently returned the claims to the Department.

Refunds and Reimbursements from Other Entities

We also found that LINCS retained refunds and reimbursements of medical and dental expenses in the aggregate amount of \$195,791 for: (i) the remaining balance of its cash reserve account when LINCS changed its third party administrator (\$119,807), and (ii) claims that were covered by stop-loss insurance (\$75,984).

Under the Contracts, the allowability of costs claimed for reimbursement by LIAAC is subject to the cost principles contained in the Office of Management and Budget (OMB) Circular A-122: *Cost Principles for Non-Profit Organizations* (previously codified at 2 C.F.R. Part 230 and subsequently superseded by 2 C.F.R. Part 200), as well as other OMB standards applicable to the organization. One of the overarching principles in OMB Circular A-122 requires each expense to be reasonable and necessary for the performance of the Contract and adequately documented. In addition, according to 2 C.F.R. § 200.447, which is located in 2 C.F.R. Part 200, whenever funds are transferred from a self-insurance reserve to another account, refunds must be made to the government for its share of funds transferred. Such refunds must be credited against insurance costs in the year the refund is received.

Based on our review, we found that the expenditures identified above did not comply with the OMB standards applicable to non-profit organizations. In addition, more fundamentally, an expense should not be deemed to have been incurred where a payment is subject to a refund (i.e., self-insurance reserve) or is reimbursable (i.e., stop-loss insurance). LIAAC claimed \$97,704 of this amount was repurposed by LINCS for other valid medical and dental insurance expenses. However, LIAAC did not submit sufficient documentation to support the validity of this claim.

Because LIAAC reimbursed LINCS for the total amount of medical and dental expenses paid to the third party administrator, and because the Department reimbursed LIAAC for an average of 48.99 percent of medical and dental expenses, the Department is entitled to an equivalent amount of these refunds and reimbursements, which totals \$95,918.

It is important to note that in our report dated September 30, 2014, we identified instances where LIAAC paid LINCS under arrangements that financially benefited LINCS but lacked a clear or

documented benefit to LIAAC, including paying LINCS an administrative fee on top of medical and dental expenses.

Recommendations

- 1) *Ensure LIAAC provides sufficient, appropriate evidence to support expense reimbursements.*
- 2) *Review the disallowances identified and take appropriate actions to recover the disallowed expenses, as appropriate.*
- 3) *Assess the authenticity of the altered business records LIAAC submitted to support employee medical and dental expenses and take appropriate action.*

We thank the management and staff of the Department of Health for the courtesies and cooperation extended to our auditors. Please provide a response to our recommendations by December 11, 2017, indicating any actions planned to address the recommendations in this report.

Sincerely,

Bernard J. McHugh
Director of State Expenditures

Enc: Attachment A
Attachment B

cc: Sally Dreslin, Executive Deputy Commissioner
Diane Christensen, Director of Audit Services
Johanne Morne, Director, AIDS Institute



**Department
of Health**

ANDREW M. CUOMO
Governor

HOWARD A. ZUCKER, M.D., J.D.
Commissioner

SALLY DRESLIN, M.S., R.N.
Executive Deputy Commissioner

August 30, 2017

Mr. Bernard J. McHugh, Director
Office of the State Comptroller
Bureau of State Expenditures
110 State Street
Albany, New York 12236-0001

Dear Mr. McHugh:

Enclosed are the Department of Health's comments on the Office of the State Comptroller's Draft Audit Report 2012-0063 entitled "Long Island Association for AIDS Care, Inc. (LIAAC)."

Thank you for the opportunity to comment.

Sincerely,

Sally Dreslin, M.S., R.N.
Executive Deputy Commissioner

Enclosure

cc: Marybeth Hefner
Brad Hutton
Ellen Anderson
Johanne Morne
Valerie White
Doug Manion
Diane Christensen
Lori Conway

**Department of Health
Comments on the
Office of the State Comptroller's
Draft Audit Report 2012-0063 entitled,
Long Island Association for AIDS Care, Inc. (LIACC)**

The following are the Department of Health's (Department) comments in response to the Office of the State Comptroller's (OSC) Draft Audit Report 2012-0063 entitled, "Long Island Association for AIDS Care, Inc. (LIACC)"

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| * Comment 1 |
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OSC Recommendation #1

Ensure LIAAC provides sufficient, appropriate evidence to support expenses where reimbursement is requested.

Department Response #1

For approximately two years, LIAAC was unable to provide adequate back-up documentation for the medical and dental self-insurance program. As a result, the department issued the following corrective action to LIAAC in May of 2016.

Starting July 1, 2016, the DOH will no longer consider reimbursement of the self-insurance program. LIAAC needs to obtain a fully-insured traditional health and dental plan from an insurance carrier. The new plan must be procured according to your agency's Policies and Procedures. This plan must offer all employees the same options for their health and dental care at the same cost.

In June of 2017, LIAAC started contracting with Oxford for medical insurance and Guardian for dental insurance. Full back-up for medical and dental charges on reimbursement vouchers starting with June 2017 will be required.

OSC Recommendation #2

Recover \$95,918 for the Department's proportional share of reimbursements LIAAC received from third parties.

Department Response #2

The Department is in the process of recovering \$95,918 from LIAAC for the findings in the report related to medical and dental insurance reimbursements. LIAAC was sent a letter on August 21, 2017 requesting repayment of the \$95,918 within 30 days. If a check is not received, \$95,918 will be reduced from reimbursement vouchers submitted by LIAAC.

State Comptroller's Office Comment on Auditee Response

1. Please note, the Office of the State Comptroller (OSC) added an additional recommendation to the final report that was not included in the draft report (see recommendation 3). Therefore, the Department of Health (Department) did not have an opportunity to comment on that recommendation.