



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

Division of State Government Accountability

Youth Facility Chargeback Rates to Localities

Office of Children and Family Services



Report 2009-S-20

March 2012

Executive Summary

Purpose

To determine whether chargeback rates used by the Office of Children and Family Services (OCFS) were calculated appropriately, and whether OCFS has been collecting the appropriate reimbursements from localities. The audit covers the period January 1, 2006 through December 31, 2007 for our evaluation of the chargeback rates, and through January 2010 for our verification of care days and accounts receivable.

Background

OCFS is responsible for all elements of the State's juvenile justice program including the administration and management of various facilities housing juvenile offenders. Localities are required to reimburse OCFS for 50 percent of the expenditures incurred for the care, maintenance, and supervision of the youth within these juvenile facilities. OCFS' Rate Setting Unit develops the "chargeback" rates used to bill localities. In calendar years 2006 and 2007, there were 43 juvenile facilities in New York State servicing over 3,000 youth. OCFS' total annual juvenile facility operating costs for this period exceed \$200 million. Updated cost information for 2008 and 2009 was not available at the time of our audit.

Key Findings

- OCFS calculates juvenile facility chargeback rates correctly. However, in general, OCFS has been deficient in revising its rates in a timely manner, as well as in billing and collecting millions of dollars in required reimbursements from localities.
- As of August 2010, OCFS officials have yet to collect at least \$40 million that should have been billed and collected in prior years.

Key Recommendations

- Revise chargeback rates annually as required and aggressively pursue outstanding receivables from localities. If necessary, offset those receivables with State monies due to those localities.
- Recalculate the rates for 2006 and 2007 by including the underreported expenses included in our report. Adjust future billings for these periods accordingly.

Other Related Audits/Reports of Interest

[Grants and Contracts Awarded to Educators for Children, Youth and Families, Inc.](#)

[Oversight of Operating Revenue Contracts](#)

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

Division of State Government Accountability

March 21, 2012

Ms. Gladys Carrion, Esq.
Commissioner
NYS Office of Children and Family Services
52 Washington Street
Rensselaer, NY 12144

Dear Ms. Carrion:

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 Children and Family Services entitled Accuracy of Youth Facility Chargeback Rates to Localities. 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.

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

Background

The NYS Office of Children and Family Services (OCFS) was established in 1998 to promote the well-being and safety of children, families and communities, and to oversee the State's child welfare system. As such, OCFS is responsible for all elements of the State's juvenile justice program including the administration and management of various facilities housing juvenile offenders (juvenile facilities) placed in the custody of the OCFS Commissioner. Section 529 of the Executive Law requires localities to reimburse OCFS for 50 percent of the expenditures made by OCFS for the care, maintenance, and supervision of the youth within these juvenile facilities. Reimbursable expenditures include education, medical and clinical services. OCFS' Rate Setting Unit develops the "chargeback" rates used to bill localities. The chargeback rates are developed considering all direct and indirect costs expended by OCFS to operate these juvenile facilities.

In calendar years 2006 and most of 2007, there were 43 juvenile facilities in New York State. Three of them closed during 2007, reducing the number to 40. For calendar year 2006, OCFS reported total juvenile facility operating costs of \$217.3 million while serving a total of 3,790 youth. For calendar year 2007, OCFS reported total juvenile facility operating costs of \$224.1 million, an increase of \$6.8 million (or 3 percent), while serving 3,236 youth, a decrease of 554 persons (or 15 percent) served. Updated cost information for 2008 and 2009 was not available at the time of our audit.

Juvenile facilities include six security levels: Secure, Limited Secure, Non-Community-Based Residential, Community Residential, Foster Care and Evening Reporting Centers. Secure and Limited Secure facilities are secure locked-down facilities. Secure, Limited Secure and Non-Community-Based Residential facilities are institutions. Community Residential facilities are group homes. Foster Care facilities consist of family homes licensed to have youth placed there. Evening Reporting Centers are non-residential facilities for youth who are permitted to live at home on "day placement" status.

The total cost of operating each juvenile facility is offset by the revenues each receives for federally-funded meal programs, Medicaid, and what OCFS officials categorize as TANF (Temporary Assistance for Needy Families) replacement funds. The reduced cost figures (net charges) for each security level are divided by the total number of "care days" within each security level to arrive at the daily chargeback rates. A care day is defined by OCFS as any night a placed youth resides in a juvenile facility. All chargeback rates must be approved by the Division of Budget (DOB). To complete the billing forms sent to each locality, the appropriate daily rate is multiplied by the total number of care days provided to the youth placed in each locality.

Audit Findings and Recommendations

We found that OCFS officials largely calculate juvenile facility chargeback rates correctly. However, OCFS has been deficient in revising its rates in a timely manner, and billing and collecting the required reimbursements from localities. As such, OCFS has yet to collect at least \$40 million that should have been billed and collected in prior years. We have also identified several improvement opportunities for OCFS to eliminate the calculation deficiencies that currently exist.

Chargeback Rates and Billings

To ensure that the State receives the appropriate reimbursement from localities for the cost of maintaining the juvenile facilities, OCFS is responsible for revisiting chargeback rates annually, based on current costs, and revising the rates accordingly. We found that for calendar years 2001 through 2005, and 2007, OCFS did not update interim chargeback rates as required. As a result, the correct rates for these periods were not billed to localities in a timely manner. Based on what the rates should have been for the noted periods, OCFS under-billed localities approximately \$127 million for those years. Since the collections from localities are deposited into the State's general fund, the State was not able to invest or spend these needed funds. Further, localities are currently being asked to pay both their current year bills and prior year adjustments concurrently. This is reportedly causing each locality a financial hardship.

When we inquired as to the reasons for the late rate revisions and billings, we were told that the rates for 2001 through 2005 were not updated annually because the persons responsible for doing so had retired and OCFS remained with limited staff and a loss of expertise in the chargeback rate-setting process. Further, OCFS officials had not developed procedures for staff to follow when developing and calculating the chargeback rates. No specific response was offered for 2007.

We found OCFS has not collected all of the reimbursements due from localities. We reviewed a spreadsheet maintained by OCFS that details billings to localities by quarter from the first quarter of 2001 through second quarter 2009. According to the spreadsheet, as of October 14, 2009, 21 localities owed \$51.3 million for this period. Of this amount, \$42.1 million was due from Nassau County and New York City. The majority of this amount (over \$40 million) was still outstanding as of August 2010. In addition, according to OCFS' Finance Unit, Albany County, Nassau County and New York City have not paid any of their retroactive chargeback bills reflecting the corrected rates for calendar years 2002 through 2005.

According to OCFS officials, until June 2010, if a locality did not pay its balance due, OCFS did not have any legal recourse to penalize that locality. As such, they had not aggressively pursued collection. Instead, outstanding balances were added to the locality's subsequent chargeback bill.

Subsequent to our fieldwork, the Governor effected revisions to the Executive Law authorizing OCFS to offset outstanding receivables due from localities with State monies due to localities. This provision became effective June 13, 2010. We did not determine whether OCFS was availing

itself of this new provision.

Recommendations

1. Prepare detailed procedures to guide staff on how to develop and calculate the annual chargeback rates. Distribute the procedures to relevant staff.
2. Revise chargeback rates annually as required.
3. Aggressively pursue outstanding receivables from localities. If necessary, offset those receivables with State monies due to those localities.

Calculation Deficiencies

Depreciation

Included in OCFS' annual calculation of juvenile facility expenses is the depreciation of program-related fixed assets (e.g., buildings, furniture, equipment). Depreciation is a means of allocating the cost of fixed assets over their useful lives. For facilities that operate at multiple security levels, OCFS' policy is to allocate the calculated depreciation expense between each level by the number of care days.

The New York State Office of General Services (OGS) maintains the depreciation records (Statewide Capital Asset Accounting System – SCAAS) for each agency for State financial reporting purposes. Each agency is responsible for informing OGS of new asset purchases, asset transfers between agencies, and asset disposals. When comparing the SCAAS records for 2006 and 2007 with the records maintained by OCFS, we noted SCAAS had a higher depreciation amount for each year. For 2006, SCAAS depreciation for OCFS assets was \$1.07 million higher than the OCFS calculation, and for 2007, the OGS calculation was \$1.17 million higher than the OCFS calculation.

We traced a sample of 378 OCFS assets recorded on its depreciation records to the SCAAS and were able to find 377 of them recorded on SCAAS. However, we noted that SCAAS separated certain assets, such as buildings, into depreciable components, such as roofing and plumbing, that had different useful lives than the assets taken as a whole. These differing methodologies may be the reason for the different depreciation totals.

OCFS officials should work with OGS to reconcile the differences between their depreciation records, agree as to the proper depreciation method to be used, and revise prior OCFS calculations and associated chargeback rates appropriately.

Cost Allocations in Multi-level Security Facilities

As noted above, some juvenile facilities operate at more than one security level (split facilities).

For example, Tryon Girls Center runs programs at the Secure, Limited Secure and Non-Community-Based security levels. OCFS uses care days to assign the direct personal service and non-personal service costs to each security level.

OCFS operated two split facilities in 2006 and three split facilities in 2007. We reviewed OCFS' cost calculations for these facilities and found several expenses were inappropriately charged to the wrong security level at each facility. For example, the largest error was made for the Goshen Residential Center, which began converting from a Limited Secure to a Secure facility in September 2007. The conversion was not complete until May 2008. OCFS did not allocate the costs for this mixed operation by care days, choosing instead to use a 50-percent assumption and divide the costs evenly for the year between Secure and Limited Secure. Although the State is not impacted by these cost allocations, since it ultimately bills for 50 percent of all of its costs, the individual localities may be impacted as a result of incorrectly-developed rates between security levels and the types of facilities their respective youth are housed in.

Indirect Cost Allocations

Indirect costs are expenses allocable to all juvenile facilities and not specifically attached to a particular facility or security level. Such costs may include central office administrative expenses, support staff salaries, etc.

OCFS uses two distinct indirect cost pools (Indirect All and Indirect Limited Secure-Foster Care). From our review of indirect cost allocations, we identified several errors in the amounts included in both cost pools for both years of our review. These errors resulted in \$2.3 million of indirect costs not being included in the chargeback rates billed to localities.

For example, in the 2006 "Indirect All" pool, we found OCFS did not include approximately \$1.5 million in office services costs because they only included nine months of expenditures for this cost center. In addition, OCFS did not include \$822,773 in minor rehabilitation costs because they did not include some or all of the data for seven cost centers.

Recommendations

4. Ensure that all depreciable assets are included in the chargeback rate calculation and that their correct asset values and useful lives are applied.
5. Use care days when calculating the rates for the various facility security levels in compliance with OCFS policy.
6. Ensure that all indirect costs are captured and utilized in the annual chargeback rate calculations.
7. Recalculate the rates for 2006 and 2007 by including the underreported expenses included in our report. Adjust future billings for these periods accordingly.

Audit Scope and Methodology

Our audit determined whether the juvenile facility chargeback rates used by OCFS were calculated appropriately, and whether OCFS has been collecting the appropriate reimbursements from localities. This audit covered the period January 1, 2006 through December 31, 2007 for our evaluation of the chargeback rates, and through January 2010 for our verification of care day data and accounts receivable determinations.

To accomplish our objectives, we reviewed applicable laws, regulations, policies and procedures, and interviewed OCFS, DOB and Office of General Services (OGS) officials. We obtained downloads of applicable expenditure data from OSC's Centralized Accounting System for 2006 and 2007 to determine whether the costs reported by OCFS were accurate. We obtained food program payment information from the State Education Department (SED), and Medicaid payment information from OSC's Medical Claims Unit, to determine whether offsetting revenues reported by OCFS were accurate. We accessed OGS's Statewide Capital Asset Accounting System (SCAAS) to determine whether the costs of assets reported by OCFS were accurate and we obtained the depreciation expense calculated by this system. For 2007, we determined the total amounts billed to localities and compared these billings with associated payments. We also reviewed an OCFS spreadsheet detailing the total amount each locality owed to OCFS for 2001-2009, as of October 14, 2009. Finally, we selected a judgmental sample of 15 localities and solicited their comments on the youth facility chargeback rates development and billing processes.

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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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 and Article II, Section 8 of the State Finance Law.

Reporting Requirements

A draft copy of this report was provided to OCFS officials for their review and comment. Their comments were considered in preparing this final report and are attached in their entirety at the end of the report. OCFS officials agree with most of our recommendations and have begun to implement them. However, they do not believe they should recalculate their chargeback rates for 2006 and 2007, as the revisions would not be material to the small billings and acceptable methods for accounting for depreciation and cost allocations between security levels were used. They further assert that by increasing the accuracy of reporting costs prospectively, future rate calculations will reflect costs more accurately.

Within 90 days of the issuance of this report, in accordance with Section 170 of the Executive Law, the Commissioner of OCFS shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, indicating the steps taken by officials to implement our report recommendations, and where they have not been implemented, the reasons therefor.

Contributors to Report

Frank Patone, Audit Director
Donald Geary, Audit Manager
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Vision

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Agency Comments



New York State
Office of
Children & Family
Services

www.ocfs.state.ny.us

Andrew M. Cuomo
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February 10, 2012

Mr. Frank Patone
Audit Director
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Division of State Government Accountability
110 State Street - 11th Floor
Albany, NY 12236

Dear Mr. Patone:

This is the Office of Children and Family Services (OCFS) response to the draft audit report (2009-S-20) regarding OCFS Youth Facilities Chargeback Rates to Localities dated December 14, 2011. OCFS appreciates the opportunity to respond to the recommendations in the report.

This audit focuses on the activities involved in the development and processing of rates charged to local districts for residential placement costs for youth in OCFS juvenile justice facilities. The costs of OCFS residential placement are initially paid with state funds and later 50% of these costs net of federal reimbursement are recouped from the counties who place youth in the system. This recoupment process is completed through billings to the counties with the OCFS chargeback rates. As discussed in the report, the chargeback rate process involves the calculation of the chargeback rates by OCFS, their review and approval by the New York State Division of the Budget, and subsequent publication of the rates by OCFS for use in billings to the counties. OCFS appreciates the acknowledgement by OSC that OCFS largely calculates the chargeback rates correctly.

OCFS agrees with most of the OSC recommendations and has implemented them for the portion of the chargeback rate process for which it is responsible.

Recommendation 1 – OCFS is in the process of developing detailed procedures related to the chargeback rate calculation process. OCFS has prioritized staff resources to calculate the rates and will now be better able to implement this recommendation.

Recommendation 2 - The recommendation has been addressed. While there is no mandate for the final chargeback rates to be reconciled within a specific period of time, OCFS has prioritized staff resources so that calculations of the rate reconciliations for past periods are now complete. In addition, OCFS is now calculating new chargeback rates closer to the year to which the rates apply.

Mr. Frank Patone
 February 10, 2012
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Recommendation 3 - OCFS began using the new authority it was granted by Chapter 109 of the Laws of 2010 to intercept payments that were past due from counties by intercepting \$51.9 million from New York City and Upstate districts in the December 2010 State settlement.

Recommendation 4 – OCFS has incorporated, for all new chargeback rate calculations, the OSC suggested methodology for calculating depreciable assets based on the Statewide Capital Asset Accounting System (SCAAS). However, under the Executive Law, OCFS is authorized to determine the methodology for calculating the chargeback rates as long as it is not arbitrary or capricious. Therefore, the former methodology OCFS used to depreciate assets as part of the rate calculations cannot be considered to be an error. Consequently, OCFS does not believe that any adjustments need to be made to the depreciation methodology used in prior chargeback rates. It should be noted that the differences in depreciation costs for the 2006 and 2007 Final Rates (which used the former OCFS methodology) and the methodology proposed by OSC, are due in large part to the difference in useful lives for assets used in the calculations; the SCAAS system in many instances uses a shorter useful life with resulting higher annual costs than the former OCFS methodology.

Recommendation 5 – As previously stated, the law provides OCFS with the authority to determine the methodology for calculating the chargeback rates as long as the method is not arbitrary or capricious. OCFS uses the methodology for allocating costs between different security levels that it believes is best reflective of the cost and effort for the provision of services for the different levels. Generally, care days are used in the allocation methodology. However, there is no mandate to solely use care days to determine the allocations. It is the position of OCFS that the allocation methodology it used for the Goshen facility transition from a Limited Secure facility to a mixed-level facility was better reflective of the resources used. It is further the position of OCFS that the decision of the allocation methodology to be used is better made by OCFS with its more intimate knowledge of the OCFS residential services and programs. Therefore, OCFS does not agree with the OSC characterization of OCFS' alternate allocation methodology as an "error" or that the rates were "incorrectly developed".

* Comment 1

Recommendation 6 – OCFS has increased the accuracy of all costs in the calculation of the chargeback rates, including indirect costs, through investment in the creation of a state-of-the-art database system designed for this purpose, as well as enhanced auditing of costs related to the provision of residential services. OCFS now completes a transaction by transaction audit of the costs of residential services.

*See State Comptroller's Comments on page 14.

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Recommendation 7 – OCFS does not agree with the recommendation that the 2006 and 2007 Final Rates should be recalculated to include the underreported \$2.3 million in indirect expenses, less than half of which would be billed to the counties. As stated by OSC, OCFS largely calculated the chargeback rates correctly. While the inclusion of underreported indirect costs in the rate calculations would result in minor changes to the rates, the result would be an increase in billings to the counties. As stated previously, OCFS has increased the accuracy of the reporting of costs in the calculation of the chargeback rates. Therefore, prospectively the rate calculations will reflect these costs accurately.

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Comment
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Any questions or comments about this response may be directed to the OCFS Audit Liaison, Ralph Timber. He can be reached via e-mail at Ralph.Timber@ocfs.state.ny.us or by phone at (518) 473-0796.

Sincerely,



Sheila Poole
Acting Executive Deputy Commissioner
Office of Children and Family Services

*See State Comptroller's Comments on page 14.

State Comptroller's Comments

1. We continue to believe that using care days to allocate costs for multi-level security facilities results in more accurate rates, thereby assuring that localities are not over- or under-charged for the types of facilities their respective youth are housed in.
2. As stated, OCFS largely calculated the chargeback rates correctly. However, we identified \$4.5 million in additional costs. The law requires localities to reimburse OCFS for these costs at a rate of 50 percent.