



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF PUBLIC WELFARE
BUREAU OF FINANCIAL OPERATIONS
525 Health and Welfare Building
Harrisburg, Pennsylvania 17105-2675

KEVIN M. FRIEL
DIRECTOR

TELEPHONE NUMBER
(717) 772-2231
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(717) 705-9094

February 22, 2010

Ms. Renee Sluzalis, Executive Director
Center for Independent Living of North Central PA
210 Market Street, Suite A
Williamsport, Pennsylvania 17701

Dear Ms. Sluzalis:

I am enclosing the final report of the audit of Center for Independent Living of North Central PA recently completed by this office. Your response has been incorporated into the final report and labeled Appendix B.

The final report will be forwarded to the Department's Office of Developmental Programs (ODP) and Office of Long Term Living (OLTL) to begin the Department's resolution process concerning the report contents. The staff from the ODP and OLTL may be in contact with you to follow-up on the action taken in consideration of the report's findings and recommendations.

I would like to extend my appreciation to all the courtesy extended to my staff during the course of fieldwork.

Please contact Alexander Matolyak, Audit Resolution Section at 717-783-7786 if you have any questions concerning this audit or if we can be of any further assistance in this matter.

Sincerely,

A handwritten signature in black ink that reads "Kevin M. Friel".

Kevin M. Friel

Enclosures

c: Mr. Kevin T. Casey
Mr. John Witt
Mr. Joseph Church
Mr. John Hall
Mr. Michael Hale
Ms. Deborah Duffy
Ms. Judith Davis

Some information has been redacted from this audit report. The redaction is indicated by magic marker highlight. If you want to request an unredacted copy of this audit report, you should submit a written Right to Know Law (RTKL) request to DPW's RTKL Office. The request should identify the audit report and ask for an unredacted copy. The RTKL Office will consider your request and respond in accordance with the RTKL (65 P.S. §§ 67.101 et seq.). The DPW RTKL Office can be contacted by email at: ra-dpwtkl@pa.gov.



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February 22, 2010

Ms. Deborah Duffy, Administrator
Lycoming/Clinton County MH/MR Program
Sharewell Building
200 East Street
Williamsport, Pennsylvania 17701

Dear Ms. Duffy:

I am enclosing the final audit report of Center for Independent Living of North Central PA prepared by the Division of Audit and Review. You are receiving this report because your county contracts with the agency. Please review this report and be aware of the issues and recommendations contained in it.

The Department's Office of Developmental Programs and the Office of Long Term Living are in the process of dealing with the report's findings and recommendations.

If you have any questions concerning this matter, please contact Alex Matolyak, Audit Resolution Section, at (717) 783-7786.

Sincerely,

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Kevin M. Friel

Enclosure



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DEPARTMENT OF PUBLIC WELFARE
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Harrisburg, Pennsylvania 17105-2675

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February 22, 2010

Ms. Judith C. Davis, Administrator
Northumberland County MH/MR Program
300 Market Street, 1st Floor
Sunbury, Pennsylvania 17801

Dear Ms. Davis:

I am enclosing the final audit report of Center for Independent Living of North Central PA prepared by the Division of Audit and Review. You are receiving this report because your county contracts with the agency. Please review this report and be aware of the issues and recommendations contained in it.

The Department's Office of Developmental Programs and the Office of Long Term Living are in the process of dealing with the report's findings and recommendations.

If you have any questions concerning this matter, please contact Alex Matolyak, Audit Resolution Section, at (717) 783-7786.

Sincerely,

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Kevin M. Friel

Enclosure



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF PUBLIC WELFARE
BUREAU OF FINANCIAL OPERATIONS
ROOM 525 HEALTH & WELFARE BUILDING
HARRISBURG, PA 17105-2675

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February 22, 2010

Mr. Kevin T. Casey
Deputy Secretary for Developmental Programs
Room 512 Health & Welfare Building
Harrisburg, Pennsylvania 17105-2675

Mr. John Michael Hall
Acting Secretary for Aging
555 Walnut Street, 5th Floor
Harrisburg, Pennsylvania 17101

Dear Mr. Casey and Mr. Hall:

In response to a request from the Office of Developmental Programs (ODP), the Bureau of Financial Operations (BFO) has completed a performance audit of the Center for Independent Living of North Central PA. (CILNCP). The audit was initiated in response to concerns detailed in a number of anonymous complaint letters received by the ODP and the Office of Long-Term Living (OLTL). The letters included allegations related to the lapse of workers' compensation coverage in Attendant Care Program (ACP), the charging of inappropriate expenses, and the expansion and renovation of leased space during a time when the program was suffering losses. The audit was primarily directed towards a review of the allegations as well as the CILNCP compliance with applicable regulations and management of its various programs and grants.

The CILNCP views on the report findings, conclusions or recommendations is included in the report and identified as Appendix B. The data used to prepare the report findings was discussed with CILNCP management at a closing conference held on August 6, 2009. The CILNCP did not request an exit conference.

The audit report identifies deficiencies within the management of the ACP program, the improper allocation of costs, non-compliance with Title 55 Pa. Code Chapter 4300 regulations applicable to cost allocation plans and cost settlement of the Fiscal Intermediary Services Organization Program (ISO). Additionally, the audit addresses the absence of appropriate financial oversight of the Microboards for which the CILNCP is the ISO.

Center for Independent Living of North Central PA

Executive Summary

CILNCP is a 501(c) (3) non-profit corporation headquartered in Williamsport, Lycoming County, Pennsylvania. CILNCP provides support services to people with disabilities and mental retardation issues. The services provided by the CILNCP include the ACP consumer model, Fiscal Agent Services for MR consumers, ADA Technical Assistance, life skills, and service coordination for consumers with disabilities. CILNCP is subject to

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the Title 55 Pa. Code Chapter 4300 MH-MR fiscal regulations for the Fiscal Intermediary Services Organization (ISO) services it provides to consumers and the microboards.

Although the CILNCP is headquartered in Lycoming County, it also serves consumers from Northumberland, Clinton, Tioga, Centre, Montour, and Union Counties. For FY 06-07, the revenues and expenditures of the administrative component of the CILNCP were approximately \$1 million.

FINDINGS	SUMMARY
<p><i>Finding No. 1 – CILNCP Has Been Overpaid by \$348,105 Due to Absence of Cost Reconciliation Conducted by the County MH-MR Programs</i></p>	<ul style="list-style-type: none"> • The CILNCP was overpaid by \$348,105 to provide ISO services to consumers of Lycoming/Clinton and Northumberland Counties. • The \$348,105 overpayment was generated through the billing of services to the County Programs at rates that exceeded actual costs. • The CILNCP did not submit expenditure reports as required in the contract and the ISO funds were not included in the agency independent audit.
HIGHLIGHTS OF RECOMMENDATIONS	
<p>ODP should:</p> <ul style="list-style-type: none"> • Recover \$348,105 from the CILNCP which represent the funds that were reimbursed by the County MH-MR Programs in excess of actual costs. <p>CILNCP should:</p> <ul style="list-style-type: none"> • Implement procedures to ensure the ISO account activity is included within its internal and external financial statements. All accounts should be audited and represented in the financial statements. 	

FINDINGS	SUMMARY
<p><i>Finding No. 2 – Improvements Should Be Implemented to Strengthen the Oversight of the Attendant Care Program</i></p>	<ul style="list-style-type: none"> • The CILNCP provides fiscal oversight and financial services to clients of the ACP. The absence of controls resulted in the lapsing of certain workers' compensation policies. In at least one case, an injured worker had to initiate a lawsuit in order to receive compensation. • The checking account for the ACP has not been audited and is not represented in the certified financial statements. • The CILNCP generated \$200,000 in excess revenue for FY 07-08. The balance of surplus funds in the ACP was \$393,582 as of March 2009.

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HIGHLIGHTS OF RECOMMENDATIONS	
<p>CILNCP should:</p> <ul style="list-style-type: none"> • Monitor the workers' compensation policies on an on-going basis to ensure all consumers have adequate coverage. This will protect the CILNCP from any future liability resulting from failure to purchase the polices for which CILNCP is reimbursed. • Include the checking account balance and transactions in the agency general ledger subject to independent audit. This will ensure the CILNCP is compliant with Generally Accepted Accounting Principles. • Consider the interest of consumers and the best possible use of the excess funds generated. The use of excess ACP funds should first be considered for use in expanding programs and direct services to consumers <p>OLTL should:</p> <ul style="list-style-type: none"> • Determine the appropriateness of the profits and CILNCP's use of these funds in relation to the goals and objectives of the program. 	

SUMMARY	
<p><i>Finding No. 3 – The CILNCP Does Not Have A Rational Methodology For Allocating Costs.</i></p>	<ul style="list-style-type: none"> • The CILNCP does not adhere to its written Cost Allocation Plan (CAP) • Costs are charged to programs based upon available funding and without regard to the function of the expense. • The CAP has not been audited as required per ISO and Chapter 4300 regulations.

HIGHLIGHTS OF RECOMMENDATIONS	
<p>CILNCP should:</p> <ul style="list-style-type: none"> • Discontinue the practice of allocating costs based upon available funding. • Implement and follow the recently completed written CAP, which is structured based on OMB CIRCULAR A-122. • Require the Independent Auditor to provide an opinion on the CAP as part of the audit process, which will allow compliance with Chapter 4300 regulations. 	

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FINDINGS	SUMMARY
<p><i>Finding No. 4 – Absence of Appropriate Financial Oversight Of The Microboards</i></p>	<ul style="list-style-type: none"> • ISO services are being provided to local Microboards without a contract. • Financial oversight is not being effectively provided by either the CILNCP or the County MH-MR Programs. • The CILNCP as ISO is required to pay allowable expenses and monitor the spending of three Microboards • Our sampling of Microboard expenses identified costs incurred which do not appear to be prudent and necessary and in one instance where the Microboard had overspent its allocation.

HIGHLIGHTS OF RECOMMENDATIONS
<p>ODP should:</p> <ul style="list-style-type: none"> • Require the County Programs to provide additional monitoring to the Microboards • Ensure that all services funded are covered by contract. • Consider whether the CILNCP is the best suited agency to provide ISO services for the Microboards

Background

The CILNCP began as a satellite office of the Center for Independent Living of Central Pennsylvania, located in Camp Hill, PA on October 1, 1995. Three years later, the CILNCP was granted independent status. The CILNCP's mission is to advance the rights of persons with disabilities through the elimination of barriers that people with disabilities experience.

The CILNCP's largest program is the ACP. The program is jointly funded by the Department of Public Welfare (DPW) and Department of Aging (Aging). In addition to the ACP program, the CILNCP receives grant funding from the Department of Education to assist individuals in the development and achievement of independent living goals. The CILNCP also receives funding from ODP to provide ISO services and IM4Q services to individuals. The IM4Q is a fee-for-service program developed by ODP to gather information to increase satisfaction, encourage recovery and promote change.

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Objective, Scope and Methodology

The primary audit objective, developed in concurrence with ODP and OLTL was:

- To determine if the allegations contained in the anonymous complaint letters were occurring and if so the impact of those allegations to the various CILNCP programs.

In pursuing the objective, the BFO interviewed staff members from CILNCP. We also reviewed accounting records, budgets, financial records, timesheets, and other pertinent data necessary to complete our objectives.

We conducted this 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 the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Government auditing standards require that we obtain an understanding of the management controls that are relevant to the audit objective described above. The applicable controls were examined to the extent necessary to provide reasonable assurance of the effectiveness of these controls. The deficiencies that are addressed in the findings of this report are based on our understanding of these controls.

The audit fieldwork was conducted intermittently between March 4, 2009 and July 30, 2009. The fieldwork was performed in accordance with generally accepted government auditing standards. A closing conference was conducted on August 6, 2009 with CILNCP's management. The report, when presented in its final form, is available for public inspection.

Results of Fieldwork

Finding No. 1 - CILNCP Has Been Overpaid by \$348,105 Due to Absence of Cost Reconciliation Conducted by the County MH-MR Programs

The CILNCP over billed for ISO services provided to consumers of Lycoming/Clinton and Northumberland Counties. The over billing occurred over a number of years and has resulted in the accumulation of \$348,105 that should now be returned to the DPW. The CILNCP contracted to provide fiscal and administrative services to consumers who were enrolled *in person directed at home* services within the consolidated and PFSDW waiver programs.

The funds accumulated in the Fiscal Agent Service Account (FAS) were primarily generated through billing of services and administrative fees to the County MH-MR Programs, which exceeded actual costs. A limited sample of Lycoming County consumers, for FY 07-08, identified payments in excess of actual expenses by \$27,119. We also noted \$13,188 in refunds received for consumer workers' compensation

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policies and unemployment taxes were deposited in this account and were not used reduce expenses to the County programs.

The Accumulation of the \$348,105 Balance

The CILNCP deposited the ISO funding into a separate account that is not represented in the agencies financial statements. According to the account detail, the ISO program had accumulated a \$345,490 in excess of appropriate payments and charges as of the close of the program. This amount along with \$2,615 interest earned through June 2009 represents the amount that should be recovered. The CILNCP, with the exception of services to Microboards, ceased providing ISO services as of December 31, 2009 when responsibility for the management of these services was transferred to Acumen Services as part of a statewide contract.

Requirements for Cost Settlement of ISO Contracts

The ISO contracts in effect through FY 08-09 between CILNCP and Lycoming/Clinton MH-MR were based on program funding or County negotiated fees which require payments be adjusted for reported or audited actual costs.

According to Section III, Paragraph E of the Lycoming/Clinton administrative and micro board fiscal agent service contracts: "payments to the provider will be on a program funded basis."

According to Section III Paragraph H of these contracts, "The Provider (CILNCP) will reimburse the Program (MH-MR Program) for overpayments resulting from any reason including, but not limited to, errors, contract limitations, actual or audited cost adjustments or non-compliance with applicable policies and procedures."

Section II, Paragraph O of these contracts require the provider "to monitor and track all direct care financial expenses according to the direct care budget and report these expenses to the Consumer and the Program on a monthly basis. These expenses will also be compiled and reported as part of the annual financial report at the end of the fiscal year."

For the direct service contracts with Northumberland and Lycoming/Clinton Counties, which are based on county negotiated rates, Section I, Paragraph A states, "Payments for waiver eligible services will be in accordance with 55 Pa. Code Chapter 4300 County Mental Health and Mental Retardation Fiscal Manual, or any subsequent bulletin issued by the Office of Mental Retardation."

Title 55, Chapter 4300.116(d) County negotiated fees state "Departmental participation in payments based on negotiated rates shall be adjusted for reported or actual costs, or both..." For County negotiated fees such as the rates included in the service contracts, the reporting of actual and audited expenses is a requirement of the contracts in order to allow adjustment of payments to audited, actual costs. In addition to the 4300 regulations, Mental Retardation Bulletins 00-04-01 and successor Bulletin 00-08-14 applies to the ISO's. Section G of the 00-04-01 Bulletin states, "A county shall establish

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a financial rate paid to an ISO that is consistent with Title 55, Chapter 4300. Counties shall negotiate a rate for ISO services in accordance with Title 55, Chapter 4300 cost principles.”

Both the CILNCP administrative and service contracts with the Counties require compliance with Title 55, Chapter 4300 fiscal regulations. The 4300 regulations require that in absence of a Department established fee, County negotiated fees must be cost settled to actual allowable costs or expenses be program funded based on total eligible expenditures as pre-determined by the county authority. ISO costs, whether administrative or direct service, were never audited and reported to the Counties as required by Section 11, Paragraph O of the County contracts. This did not allow cost settlement be completed which would have resulted in identification of excess revenue being accumulated.

FAS Account Not Included in CPA Audit

The FAS account balance, revenues and expenses have never been audited and are not included on the balance sheet and income and expense statement of the CILNCP independent audit. We were informed that the existence of the account was not disclosed to the CILNCP auditors as the amounts were considered “pass through” payments.

We also noted that the CILNCP never provided quarterly and annual expenditure reports to the county MH-MR Programs as required per contract. The CILNCP Executive Director believed that the reports were not required as the services were billed in accordance with the fee schedule. The Counties also failed to pursue receipt of the reports. Without the actual cost data, the County MH-MR Program’s were not aware that the payments exceeded actual costs. The exclusion of the FAS account from the independent audit, limited the Counties ability to complete a cost settlement as required per the contract and Chapter 4300 regulations.

Recommendations

The BFO recommends ODP recover \$348,105 from the CILNCP, which represents the funds reimbursed by the County Programs in excess of actual costs.

The BFO further recommends the CILNCP implement procedures to ensure all accounts are audited and included within internal and external financial statements. This will ensure both the Board and funding sources have accurate and detailed information to make decisions on service delivery and appropriate funding levels. This will also ensure the CILCNP is compliant with FASB 117.

Finding No. 2 – Improvements Should Be Implemented to Strengthen the Oversight of the Attendant Care Program

The ACP is funded by DPW and Aging and encompasses two models, the Agency Directed Model and the Consumer Model. Each model has its own distinct fee-for-service rate depending upon the region in which the provider is located. The Agency

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Directed Model is structured for providers who directly hire employees to perform the actual direct care service to the consumer. The Consumer Model allows the consumers to employ their own attendants and have an organization provide the fiscal and administrative oversight for the consumers.

The CILNCP ACP is based on the Consumer Model. The CILNCP trains the consumer how to hire employees, aids in obtaining proper paperwork, processes and distributes payroll and the taxes associated with it, and purchases workers' compensation policies.

The complaints received by DPW and OLTC focused on the improper management of the ACP and the funds it receives to operate it. Our review found three areas within the the program in which the CILNCP needs to improve the effectiveness of its management:

Workers' Compensation Policies

The Consumer Model of the ACP requires a workers' compensation (WC) policy to be purchased by every consumer who receives services. The consumer rather than the CILNCP acts as the employer. The average cost for a WC policy is \$253.00 per year and is factored into the rate paid to the CILNCP. It was alleged the CILNCP was allowing policies to lapse in order to use the funds for general expenses of the CILNCP.

The BFO sampled current consumers enrolled in the program to determine if the consumer had a valid WC policy in place during the last three fiscal years. Our sampling identified three consumers, whose employees were not covered by a WC policy for varying lengths of time. The CILNCP, as part of the duties of the Consumer Model, was responsible to ensure valid policies were in place.

In one case that we examined a consumer's attendant who worked without WC coverage was injured. Since the attendant was an employee of the consumer and not the CILNCP, the CILNCP workers' compensation policy did not cover the services and expenses of the attendant. The attendant subsequently sued the CILNCP. The CILNCP negotiated a settlement, which was paid by its general liability insurance carrier.

Audit and Accounting Deficiencies

During our analysis of the ACP transactions, we learned that CLINCP management has excluded the checking account used for the ACP deposits and disbursements from its financial statements. This checking account is used for both the direct care services and the administrative costs of the ACP. For FY 07-08, the revenue from DPW approximated \$3.5 million and corresponding expenses were \$3.3 million. This resulted in excess revenue of \$200,000 for the CILNCP.

The CILNP Independent Audit does not recognize the balance of this account in the financial statements. We were informed that the account has never been audited and is not included in the financial statements as management perceived the account as pass-through funds. The only ACP funds the CILNCP reports in its audit are the

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administrative expenses of the CILNCP. Management should note that the exclusion of this account is a violation of FASB 117, which requires non-profit organizations to report organizational funds as an aggregate for financial statement reporting purposes.

The ACP is a fee-for-service program. This entitles the provider to retain any excess revenue over expenses. The account balance as of March 2009 was \$393,582. In our opinion, the exclusion of the total ACP revenue and expenses distorts the financial picture, which can adversely affect the decisions of management, the Board and the Funding sources. We also believe that management's decision to exclude these funds is a material weakness in the accounting controls and places the funds at risk of misappropriation.

Expansion/Renovation of Administrative Building

The CILNCP has expanded its administrative building by negotiating for additional second floor space in its current location. This additional space increased its rental cost by approximately \$1,500 per month. As of the close of our fieldwork, the CILNCP expended \$51,000 for improvements to the additional space. The additional building costs are being funded by the ACP surplus.

Our observation of the organizations space requirements leads us to believe that the space on the first floor appeared sufficient to accommodate the entire staff of the CILNCP. We believe the use of ACP funds for space and building costs could have been better used to provide direct service to consumers and to improve the financial infrastructure of the agency. For example, the CILNCP needs to upgrade its accounting system. The purchase of accounting software is much needed and could result in providing management, board and funding sources with more detailed and accurate financial data for use in making management decisions in the operation and funding of the CILNCP's programs.

Recommendations

The BFO recommends the CILNCP provide ongoing monitoring of the workers' compensation policies to ensure all consumers enrolled in the program have adequate coverage. This will protect the CILNCP and the consumers from any future liability resulting from failure to purchase the policies.

The BFO also recommends the Independent Audit include the ACP checking account which records the revenue and expenses for this program. This will ensure the CILNCP is compliant with FASB 117 as well as provide management, the Board, and its funding sources with the ability to provide a more accurate accounting of its financial statements.

The BFO further recommends the CILNCP and its Board evaluate on an ongoing basis the best possible use of the excess funds generated from the ACP with priority given to services to consumers.

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The BFO finally recommends the OLTL determine the appropriateness of the levels of excess revenue achieved and CILNCP's use of these funds in relation to the goals and objectives of the program.

Finding No. 3 - The CILNCP Does Not Have a Rational Methodology for Allocating Costs

The BFO reviewed the CILNCP cost allocation plan (CAP) and use of the CAP to allocate costs to determine the validity of allegations that the CILNCP allocated costs based upon the availability of funding. The results of our review of the CAP determined the CILNCP did not follow its written CAP and did not use a rational and reasonable methodology to allocate and charge both direct and indirect costs to its various programs. As a result, costs were charged to programs based upon available funding without regard to the function of the cost.

We tested the costs charged to the ACP and ISO programs with emphasis on the ISO, which is subject to Chapter 4300 regulations. Regulation 4300.94 requires the allocation of indirect costs to be fair and equitable. Additionally, OMB Circular A-122 applicable to non-profit organizations requires the CAP to be allocated on a consistent basis. Our analysis determined that the CAP was not used to charge costs to either program and that the methodology used did not result in a reasonable and rational allocation of costs.

Our testing identified instances where employee salaries were charged to cost centers or programs for which they did not work. As an example, payroll charged to the ISO program was primarily limited to one full time and one part-time position for 10 months of the year. During the last two months of the fiscal year, a portion of time for seventeen employees was charged to the ISO program. Additionally, indirect overhead expenses such as rent charged to the ISO program ranged from \$8.67 one month to \$500 the next month.

Chapter 4300.94(f) requires the Independent Auditor to render an opinion within the agency A-133 audit on the equitableness of its cost allocation plan. The CILNCP CAP has not been audited and an audited opinion on whether the CAP is in compliance with 4300.94(f) has never been included within the A-133 audits.

The CILNC recently hired a fiscal officer who is currently developing a new CAP that is structured on the requirements of OMB A-122. As of our closing conference, the new CAP had not been implemented.

Recommendations

The BFO recommends the CILNCP discontinue the practice of allocating costs based upon available funding and utilize the CAP for all costs that are to be allocated.

The BFO also recommends the CILNCP implement the new CAP for FY 09-10. The CAP should comply with the requirements of OMB CIRCULAR A-122.

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The BFO finally recommends the Independent Auditor provide an opinion on the CAP to comply with A-133. This will provide assurances the CILNCP is appropriately allocating costs to its cost centers and programs.

Finding No. 4 - Sufficient Oversight to the Microboards Is Lacking

A Microboard is a small, non-profit corporation that functions as a provider agency and is formed with the specific intent to support only one individual. The microboard concept was designed on a person-centered planning philosophy. The main purpose of the Microboard is to focus on assisting an individual to plan for, obtain and manage the supports they need and desire to direct their own services.

Currently, the CILNCP provides ISO services to three Microboards/Family Owned Corporations: two in Lycoming and one in Northumberland County. Contracts for this service do not exist. The last identified contract was for FY 05-06 and required the CILNCP to monitor and track all direct care expenses, provide fiscal services in accordance with consumer's goals, and provide training, billing and payroll services.

The CILNCP includes its administrative costs within the microboard rate schedule that is submitted to ODP for purpose of rate establishment. The CILNCP cost is not representative of actual cost, but rather is based on a percentage (6-8%) of the total contract budget of the microboard. The bundled rate violates the recommended practice represented in ODP Bulletin 00-08-14, which states that the administrative cost of the ISO is not to be included as part of the microboard rate.

Neither the CILNCP nor the counties are providing sufficient monitoring and oversight of the microboards. The CILNCP does not routinely question the appropriateness of expenses submitted by the microboards and has allowed one of the Microboards to overspend its available allocation. For FY 08-09, one Microboard overspent its allocation by approximately \$15,000 due to expenses exceeding the original approved budget and for line items that were not included and/or approved in the actual budget.

Some examples of insufficient oversight of the microboards are evidenced by the following:

- Allowed refinancing of a mortgage on a property, which increased the outstanding mortgage by \$50,000. According to the parent, of the child residing in the site managed by the Microboard, the \$50,000 was used to reduce the parent's debt (not related to the program). Payment on the mortgage increased \$203.48 per month or \$2,442 annually. According to the parent, the overall budget for the program will not go up because of the refinancing as the parent is going to assume the liability of the real estate taxes, which we were told approximate the annual mortgage increase.
- Competitive bids are not required for the purchase of major renovations and/or assets such as vehicles or computers.

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- During FY 08-09, one Microboard incurred a cost of \$15,000 to replace a 4-year-old pool. The \$15,000 was a net cost. Total cost of “new” pool was \$36,000 less a credit of \$21,000 discount as the new pool was also 4 years old. The County was aware that the pool was purchased. The pool was purchased from a supplier from Michigan who appears to be related to the individual residing at the facility.
- A Microboard is using an outside consultant costing \$6,000 per year to help manage the Microboard. This cost is in addition to the CILNCP’s costs to provide fiscal administration services to the Microboard.
- The CEO of one the Microboards charged \$2,000 to another Microboard for consulting services. .
- The budgeted salary for the CEO of a family owned corporation was \$70,120. The actual salary cost for this individual was \$91,243. This total included the cost of additional hours approved by DPW Hearings and Appeals, which increased the CEO salary from \$55,120 to \$70,120. The balance of salary charged was found to include funding for an IRA for the CEO and a retroactive raise in the hourly rate from \$26.50 to \$30.00, which was not disclosed to the County.

Recommendations

The BFO recommends ODP ensure that financial oversight and monitoring of the microboards is conducted. This should provide assurance that expenses incurred are allowable and reasonable.

The BFO also recommends ODP consider whether the CILNCP is best suited to provide ISO services for the microboards.

The BFO finally recommends that the ODP ensure that all services funded are covered by contract.

CILNCP did not request an exit conference and an exit was not held. CILNCP’s written response dated January 8, 2010 has been incorporated into the final report and is labeled Appendix B.

The CILNCP’s response takes issue with a number of audit issues including the recovery of overpayments. To assure clarity, the BFO feels it is necessary to include an Auditor’s Commentary to address certain comments made in the CILNCP January 8, 2010 response. The Auditor’s Commentary is included as Appendix A to the report.

In accordance with our established procedures, an audit response matrix will be provided to your office. Once received, please complete the matrix within 60 days and email the Excel file to the DPW Audit Resolution Section at:

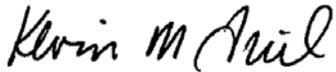
RA-pwauditresolution@state.pa.us

**Center for Independent Living of North Central PA.
July 1, 2006 through June 30, 2009**

The response to each recommendation should indicate your office's concurrence or non-concurrence, the corrective action to be taken, the staff from your office responsible for the corrective action, the expected date that the corrective action will be completed, and any related comments.

Please contact Alex Matolyak at (717) 783-7786 if you have any questions concerning the audit or if we can be of any further assistance in this matter.

Sincerely,



Kevin M. Friel

Enclosures

c: Mr. Joseph Church
Mr. John Witt
Mr. Michael Hall
Ms. Renee Sluzalis

AUDITOR'S COMMENTARY

APPENDIX A

**Center for Independent Living of North Central PA.
July 1, 2006 through June 30, 2009**

Auditor's Commentary

Per BFO audit procedures, the CILNCP was given the opportunity to have an exit conference to discuss the findings and recommendations included in the draft audit report. The CILNCP's Executive Director and Board elected to not have an exit conference. This removed the opportunity for CILNCP to have a forum with the auditors to openly discuss the audit findings and recommendations, which are critical to CILNCP continuing operations. It also removed the opportunity to discuss, clarify, and if necessary make changes to the response. Our review of the response identified that CILNCP management may not have fully understood certain audit findings. This may have resulted in provision of inaccurate and /or incomplete information to CILNCP legal counsel in preparation of the response.

Commentary related to information provided through the CILNCP response is provided below:

Finding # 1 – CILNCP Response Page 3 & 4

The CILNCP position is that the \$348,105 is not an overpayment and that CILNCP is not required to remit this amount to DPW. According to the response, the audit does not cite any regulation or statutory provision that restricts or limits CILNCP from generating excess revenue from the contracts and also requires repayment of excess funds. CILNCP's response also concludes that the report relies on a contractual provision found in a few but not all contracts as basis for asserting overpayments were made. Finally, the response concludes that the report does not cite any regulation that mandates CILNCP to operate at zero margin or break even and also points out that the IRS code permits a non-profit to generate non-taxable funds from operations.

BFO Comment

The BFO agrees the contractual provision cited for asserting overpayments did not exist in all contracts. In response, the final report was changed to clarify that Paragraph H applies to the administrative and microboard contracts. We also added the criteria that is applicable to the direct service contract, which supports the conclusion, that the overpayments should be returned.

PA Code, Chapter 4300, Section 4300.116(d) requires payments on negotiated rates be adjusted for audited actual costs. Section 4300.161(b) identifies the purpose of the provider audit is to provide verified financial information to make final determination of allowable costs. Section 4300.108(b)(c) allows the Department to participate in retained revenue not to exceed 3% of contract revenue only when the County explicitly approves retained revenue by including specific provisions in the contract. The County contracts with CILNCP do not include a retained revenue provision. The IRS regulations are not applicable as it relates to tax code rather than program code as outlined in the Chapter 4300 Regulations.

**Center for Independent Living of North Central PA.
July 1, 2006 through June 30, 2009**

Finding # 1 – CILNCP Response Page 3 & 4

The CILNCP response asserts that the contracts developed by the Counties were based upon actual costs, and the CILNCP never received payments in excess of the contract rates. Furthermore, the CILNCP response asserts the Counties were aware of the fees generated and were instructed to retain the fees in excess of costs.

BFO Comment

The BFO does not dispute CILNCP did not receive payments in excess of actual contract rates. The Audit cites the actual costs were less than contract rates. The BFO contacted the fiscal director and administrator of Lycoming/Clinton MH-MR regarding retention of profits. The administrator responded under no circumstances were CILNCP to retain ISO profits.

Finding # 2 – CILNCP Response Page 4 & 5

The CILNCP response identifies the number of Workers Compensation (WC) policies that lapsed was less than 1% of all consumers, with the lapses the fault of SWIF and not the CILCNP. In addition, the response also cites the auditor comments on use of resources is misplaced, and the insinuation that the CILNCP does not consider the needs of the consumers first and foremost regarding the expansion of space was unwarranted and unjustified.

BFO Comment

While we agree the lapsed WC policies is not a high percentage of total policies, it is still the responsibility of the CILNCP to ensure all consumers have adequate coverage in place. As identified per the report, we conducted a sampling of the policies. The less than 1% cited per the response would require review of 300 policies, while our sample was approximately 75. The CILNCP receives funding from the ACP program to cover the cost to monitor and purchase WC policies. The monitoring needs to ensure policies do not lapse. For the three (3) lapsed policies, the policies lapsed prior to the change in carriers with the carriers not responsible for the lapsed policies.

Our comments on use of funds generated from the ACP program to fund the expansion/renovation of the building leased by CILNCP considered the ACP program services are primarily performed by employees of the consumers at the consumers' residence. The expansion of second floor space has increased rent and facility expenses, and per observation existing first floor, space could accommodate the Program's needs.

Finding # 3 – CILNCP Response Page 5 & 6

The CILNCP response contends it has always adhered to a CAP and never arbitrarily allocated cost without proper consideration.

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BFO Comment

As addressed in the audit finding, payroll expense charged to the largest funding streams significantly increased at year-end without justification. The changes were not supported by a cost allocation plan. Additionally, certain employees interviewed acknowledged they had no direct involvement with the program or its consumers for which their payroll costs were charged.

Finding # 4 – CILNCP Response Page 6

The CILNCP response asserts that all aspects of the finding are the responsibility of the Counties, and the CILNCP never approved any microboard expenditure without prior county approval. It was the CILNCP responsibility to only monitor the consumers' expenses in accordance with their individual budgets, which the CILNCP has performed.

BFO Comment

The examples of insufficient oversight cited per the audit regarding increase in mortgage costs due to refinancing and payments of outside consultants was a result of approval and payment of the transactions by the CILNCP without County knowledge and approval.

CENTER FOR INDEPENDENT LIVING OF NORTH CENTRAL PA
RESPONSE TO THE DRAFT REPORT

APPENDIX B



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January 8, 2010

VIA FEDERAL EXPRESS

Mr. John Hoover, Audit Manager
Division of Audit and Review
Bureau of Financial Operations
Department of Public Welfare
Room 325, Scranton State Office Building
100 Lackawanna Avenue
Scranton, PA 18503

**Re: Center for Independent Living of North Central Pennsylvania:
Response to Draft of Proposed Audit Report**

Dear Mr. Hoover:

The Center for Independent Living of North Central Pennsylvania (“CILNCP”), through its undersigned counsel of Semanoff Ormsby Greenberg & Torchia, LLC and John A. Kane, Esq. of Kelley & Murphy, LLP, hereby submits its response to the draft audit report (“Report”) prepared by the Bureau of Financial Operations (“BFO”) dated October 30, 2009.

BACKGROUND OF THE CILNCP

The CILNCP is currently located in Williamsport. On October 1, 1995, it began as a satellite office of the Center for Independent Living of Central Pennsylvania located in Camp Hill. On October 1, 1998, the CILNCP was granted independent status and became an independent center for independent living in Pennsylvania and was incorporated as CILNCP, Inc. under Section 501(c)(3) of the IRS Code. The CILNCP exists to serve and assist individuals with disabilities and to protect and enhance the rights of disabled citizens primarily in Bradford, Cameron, Centre, Clearfield, Clinton, Columbia, Elk, Jefferson, Lycoming, McKean, Montour, Northumberland, Potter, Snyder, Sullivan, Susquehanna, Tioga, and Union counties. The CILNCP receives a combination of federal, state and local funding and grants pursuant to which it provides numerous services including home and community based services through the Office of Long Term Living, and fiscal agent services to consumers in accordance with contracts with various counties in central Pennsylvania.



OVERVIEW OF RESPONSE

The Report contains four primary Findings and makes a series of operational recommendations related to the fiscal operations of the CILNCP. Over the past 12 months the CILNCP has implemented a number of significant improvements and enhancements to its fiscal operations that are consistent with the auditor's recommendations and which, in large part, address the operational recommendations in the Report.

The primary area of dispute with the Report is the determination that the CILNCP allegedly overbilled \$348,105 for Intermediary Service Organization ("ISO") services which the CILNCP provided to consumers in Lycoming/Clinton and Northumberland counties over the past three years, which the BFO claims should be remitted back to the Office of Developmental Programs ("ODP"). The alleged overpayments relate to monies received by the CILNCP in accordance with written contracts with the counties pursuant to which the CILNCP administered the counties' MH-MR programs.

The CILNCP is subcontracted by the counties to provide fiscal agent services in accordance with the rate setting methodology provided by the counties. The contractual rates for the ISO consumers are set by the counties and agreed to by the CILNCP. Each county determines its own rate setting methodology for the consumers that reside in the county.

Four primary bases support the CILNCP's position that it is not required to remit the \$348,105 to ODP as the Report suggests: (1) The Report does not cite to any regulation or statutory provision, nor does any exist, that mandates the CILNCP operate at a "zero margin" or "break even"; (2) the Report does not cite to any regulation or statutory provision, nor does any exist, which requires the CILNCP to repay any sums it lawfully and contractually generated in excess of its costs associated with the provision of the fiscal agent services; (3) Section 4300.113 of the Fiscal Manual places the responsibility for determining fees for the purchase of services on the counties -- not the CILNCP -- and the CILNCP was merely subcontracted by the counties to provide the fiscal agent services at the rates set by the counties, which it did without any overpayment; and (4) the counties were at all times informed of and knowledgeable about the costs incurred and revenues generated by the CILNCP under the contracts through the monthly reports submitted to them by the CILNCP.

RESPONSE TO FINDINGS

The CILNCP provides the following response to the Findings and recommendations set forth in the Report:

FINDING NO. 1

Finding No. 1 asserts the "CILNCP has been overpaid by \$348,105 due to absence of cost reconciliation conducted by the County MH-MR programs." As explained below, the CILNCP was not "overpaid" at all as this Finding suggests, but received payments to which it was contractually entitled for ISO services it provided to consumers in Lycoming/Clinton and Northumberland counties based upon rates set by the counties, for which ODP has no right of recovery.

The Report asserts the CILNCP was allegedly overpaid for ISO services provided to consumers in Lycoming/Clinton and Northumberland Counties. The alleged overpayment was for amounts generated by the CILNCP through the billing of services and administrative fees to the County MH-MR programs over the past three years. With the exception of the microboards, addressed below, the CILNCP ceased providing ISO services as of December 31, 2009.

The Report does not cite to any regulation or statutory provision, nor does any exist, that mandates the CILNCP generate no excess revenue whatsoever from the contracts. Moreover, there is no regulation or statutory provision which requires the CILNCP to repay sums it lawfully and contractually generated in excess of its costs associated with the provision of the fiscal agent services. Indeed, by claiming that all proceeds other than the exact costs incurred by the CILNCP under the contracts must be remitted back to ODP, the Report is dictating that the CILNCP operate at a zero margin on the contracts. For an entity such as the CILNCP which is tremendously impacted by the Commonwealth's budget as well as the other external economic factors that affect businesses generally, it would be patently unreasonable to expect the CILNCP not to maintain a surplus of funds which it can utilize to cover operational costs in the event of budget cuts or a budget impasse such as the one that occurred this past year.

Furthermore, the IRS Code permits a non-profit organization to generate non-taxable funds from their activities, which can be used to cover the organization's expenses, so long as the activities are associated with the non-profit organization's purpose. *See* 26 U.S.C. § 501(a) (West 2010). Indeed, it is a standard accounting objective of every 501(c)(3) organization to generate excess funds (as allowed by IRS regulations) to secure the financial stability of the venture and ensure its continued growth and success.

Initially, it is important to understand that the contracts in effect were drafted by the individual counties and the contractual rates for the services provided to the ISO consumers were established/offered by the counties and accepted by CILNCP. The CILNCP performed its services as identified in the contracts at the exact rates set forth in the contracts and never received any payments in excess of the contract rates. Section 4300.113 of the Fiscal Manual authorizes county programs to negotiate and establish fees for the purchase of services.

The report relies on a contractual provision found in a few but not all of CILNCP's contracts for ISO services as its basis for asserting that "overpayments" were made to CILNCP. This provision states (emphasis added):

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the provider will reimburse the program for **overpayments** resulting from any reason including, but limited to, errors, contract limitations, actual or audited cost adjustments or non-compliance with applicable policies and procedures.

There is no finding or determination whatsoever by the auditors that “overpayments” occurred due to “errors, contract limitations, actual or audited cost adjustments or non-compliance with applicable policies and procedures.” Rather, the auditors simply contend that all revenues earned by the CILNCP in excess of costs constitute an “overpayment” under the terms of the contracts. Neither the plain terms of any of the contracts nor the intention of the parties to the contracts remotely support the auditors’ interpretation that “overpayments” occurred under the contracts at any time during the three year period under review.

Lastly, notwithstanding the allegations in the Report to the contrary, the counties were at all times informed of the fees generated by the CILNCP under the contracts through monthly reports provided by the CILNCP and the counties were contacted on an annual basis by Jon Bausinger, Director of Operations, regarding the disposition of fees generated by the CILNCP in excess of costs, which the CILNCP was instructed by the counties to retain. Thus, the CILNCP was not operating in the dark with regard to the fees generated pursuant to the contracts as the Report suggests, but to the contrary, made the counties aware on a monthly and annual basis of the fees that were generated by the contracts.

FINDING NO. 2

Finding No. 2 asserts “improvements should be implemented to strengthen the oversight of the Attendant Care Program.” The Report suggests three areas within the program in which the CILNCP purportedly needs to improve the effectiveness of its management including (1) workers’ compensation policies; (2) audit and accounting deficiencies; and (3) expansion/renovation of the administrative building.

Workers’ Compensation Insurance

With regard to the workers’ compensation policies, the Report asserts that an absence of controls resulted in a lapse of consumers’ workers’ compensation policies, which led to the recommendation that the CILNCP needs to better monitor the workers’ compensation policies to ensure all consumers enrolled in the program have adequate coverage. The Report states the auditors were able to locate only three consumers whose employees were not covered by workers’ compensation insurance at some point during the three years prior to the audit – this de minimis finding equates to less than 1% of all the consumers with workers’ compensation policies in effect during that period.

In any event, the lapse in workers’ compensation policies was not the result of the CILNCP’s failure to renew the policies. To the contrary, the CILNCP’s former workers’ compensation carrier SWIF failed to properly transfer the policies when the consumers changed carriers, which led to the lapses in coverage. In any event, prior to the BFO audit, the CILNCP

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addressed this issue by changing workers' compensation carriers from SWIF to [REDACTED] Insurance Company because the CILNCP was concerned that SWIF's actions were placing it at risk of future claims.

Audit and Accounting Deficiencies

The Report cites to certain alleged audit and accounting deficiencies, which resulted in the recommendation that the CILNCP incorporate transactions relating to the ACP programs in to its Independent Audit. This recommendation has been implemented for fiscal year 2008 and for all future Independent Audits.

Expansion/Renovation of Administrative Building

The Report concludes that "due to [the auditor's] observation of the space requirements" of the CILNCP, the first floor allegedly appeared to be sufficient to accommodate the staff of the CILNCP and that the CILNCP's use of the ACP funds could have been better used to provide direct service to consumers and to improve the financial infrastructure of the agency. The Report thus recommends the CILNCP Board of Directors evaluate on an on-going basis the best possible use of the excess funds generated from the ACP with priority given to services to consumers.

The subjective determinations of the auditors regarding how the CILNCP allocates its resources is misplaced in this Report and the insinuation that the CILNCP does not consider the needs of the consumers first and foremost is unwarranted and unjustified. By way of response, however, the expansion of the CILNCP's facilities with which the auditors apparently take issue in fact permitted the CILNCP to provide the consumers with a new volunteer office, a consumer lounge and a consumer assistive technology demonstration center that enables consumer to obtain hands-on training on computers and other technological devices. These improvements to the CILNCP's facilities have allowed it to provide better and more diverse services to the consumers. Notably, the auditors did not speak to the administrators of the CILNCP about the need for and purpose of obtaining additional space. The auditors apparently also did not speak to any consumers/clients regarding the improvements made to the CILNCP's facility. The CILNCP welcomes the opportunity to discuss with the auditors and/or any representatives from ODP of the need for and use of the additional space by the CILNCP staff and consumers.

FINDING NO. 3

Finding No. 3 asserts, "the CILNCP does not have a rational methodology for allocating costs." The Report accordingly recommends the CILNCP discontinue the practice of allocating costs based upon available funding, implement and follow a recently completed cost allocation plan ("CAP") based upon OMB Circular A-122 and requires the independent auditor to provide an opinion on the CAP as part of the audit process to facilitate compliance with Chapter 4300 regulations.

The CILNCP now and always has adhered to a CAP and has never arbitrarily allocated costs without proper consideration. Nevertheless, the CILNCP acknowledges that its former CAP methodology could be improved and hired a Director of Fiscal Operations in June, 2007, who has recently developed a new CAP, which is structured on the requirements of OMB Circular A-122 as the Report suggests.

FINDING NO. 4

Finding No. 4 alleges an “absence of appropriate financial oversights of the microboards.” The Report thus recommends that ODP provide additional monitoring of the microboards.

When the microboards were first established beginning in 1999, each county developed its own contract relating to the provision of these services. At the end of each subsequent year, the counties submit approval for continuing funding to their respective county commissioners. The county then notifies the CILNCP of any budget changes for the individual consumers to whom the CILNCP provides services. The CILNCP has never been the entity responsible to develop or update the microboard contracts. All aspects of this Finding are the responsibility of the counties, which must adhere to the Commonwealth’s regulatory guidelines and Bulletin 00-08-14. The CILNCP is merely a subcontracted entity subject to the terms of its contract. Indeed, the Report acknowledges it was the counties that failed to sufficiently monitor the microboards, not the CILNCP.

Lastly, with regard to the assertion that the bundled rates for the microboards violate ODP Bulletin 00-08-14, this assertion is properly directed to the counties as the rate setting entities. The CILNCP never approved any expenditure for the microboards without prior approval from the county and it is not the obligation of the CILNCP to monitor the counties’ approval of expenses; it was the CILNCP’s responsibility only to monitor the consumers’ expenses in accordance with their individual budgets, which the CILNCP has done at all times.

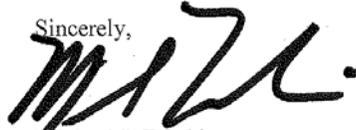
CONCLUSION

Based upon the foregoing, the CILNCP requests that BFO reconsider its recommendation that ODP attempt to recover the allegedly overbilled \$348,105 for ISO services which the CILNCP provided to consumers in Lycoming/Clinton and Northumberland Counties over the past three years. Furthermore, the CILNCP has made significant improvements and enhancements to its fiscal operations which, in large part, address the operational recommendations in the Report, and no further action is necessary in this regard.

Mr. John Hoover
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Thank you for your consideration of this response to the Report. If you have any questions or concerns, please feel free to contact us at any time.

Sincerely,

A handwritten signature in black ink, appearing to read "M. J. Torchia". The signature is stylized and cursive.

Michael J. Torchia

SCG/adm

c: Renee Sluzalis, Executive Director (via e-mail)
Stephen C. Goldblum, Esquire
John A. Kane, Esquire (via email)