



City of New York

OFFICE OF THE COMPTROLLER

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MANAGEMENT AUDIT

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Deputy Comptroller for Audit

Audit Report on the
Department of Health and Mental
Hygiene's Monitoring of
Early Intervention Contractors

MJ12-090A

June 10, 2013

<http://comptroller.nyc.gov>



THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
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NEW YORK, N.Y. 10007-2341

John C. Liu
COMPTROLLER

June 10, 2013

Dear Residents of the City of New York:

My office has audited the Department of Health and Mental Hygiene's (DOHMH) monitoring of contracted Early Intervention (EI) provider agencies. We perform audits of agencies' contract oversight to ensure that their contractors are providing services, meeting contract requirements, and complying with established regulations.

The audit determined that DOHMH has procedures and mechanisms in place to actively monitor EI provider agencies' performance, fiscal management, and compliance with regulatory and contract requirements. However, it needs to enhance its monitoring procedures to address certain control weaknesses disclosed by this audit, which may render ineffective some of the agency's monitoring efforts. Specifically, DOHMH's monitoring unit did not have a procedure to ensure that all provider agencies (including those for which risk was assessed as minor) were visited at some point over a period of time (e.g., once every two or three years). As a routine practice, DOHMH did not obtain verification of service delivery from parents or caregivers or observe the performance of services during monitoring visits to confirm that the service sessions for which DOHMH is paying were actually provided. Further, for the period under review, DOHMH had not required that its fiscal agent hire an independent Certified Public Accounting firm to review and attest to its operating environment and general controls.

To address these weaknesses, the audit made six recommendations, including that DOHMH should: (1) develop a monitoring cycle (e.g., three- or four-year cycle) during which, regardless of risk, each provider agency will be assigned a monitoring visit at least once each cycle; (2) require program evaluators to obtain verification or confirmation of provider service delivery from parents or caregivers and/or observe the performance of services while at a facility-based provider; and (3) require its fiscal agent to obtain a higher level of assurance regarding its operating environment.

The results of the audit have been discussed with DOHMH officials, and their comments have been considered in preparing this report. Their complete written response is attached to this report.

If you have any questions concerning this report, please email my Audit Bureau at audit@comptroller.nyc.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "John C. Liu".

John C. Liu

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THE CITY OF NEW YORK OFFICE OF THE COMPTROLLER MANAGEMENT AUDIT

Audit Report on the Department of Health and Mental Hygiene's Monitoring of Early Intervention Contractors

MJ12-090A

AUDIT REPORT IN BRIEF

This audit determined the adequacy of the New York City Department of Health and Mental Hygiene's (DOHMH) monitoring of contracted Early Intervention (EI) provider agencies' provision of services, fiscal management, and compliance with EI Program regulations.

The New York State EI Program provides rehabilitative and support services to eligible infant and toddler children (aged 0-3 years) with developmental delays or disabilities and their families. EI services include occupational therapy, speech therapy, physical therapy, psychological services, family training, counseling, assistive technology, special instruction, transportation, and respite services.

DOHMH is responsible for the local administration, oversight, and fiscal management of the EI Program for eligible children who reside in New York City. DOHMH contracts with State-approved EI provider agencies to deliver most program services. Provider agencies employ staff and/or sub-contractors that directly service the children either at home or in a facility-based setting (i.e., daycare, hospital, etc.) according to their respective Individualized Family Service Plan. All service providers must be appropriately licensed in their respective field by the New York State Department of Health. DOHMH, through its fiscal agent, CSC Covansys Corporation (CSC), processes and pays provider agency billing claims for services rendered and seeks reimbursement from Medicaid, the State, and private insurance carriers for EI services delivered to eligible children and their families.

In Fiscal Year 2011, DOHMH had contracts with approximately 150 provider agencies to deliver EI services for approximately 34,000 eligible children and their families at a budgeted cost of \$440.9 million, funded through a combination of State and City sources, and Medicaid and private insurance reimbursement.

Audit Findings and Conclusions

DOHMH has procedures and mechanisms in place to actively monitor EI provider agencies' performance, fiscal management, and compliance with regulatory and contract requirements. These include monitoring visits and related follow-up carried out by the Bureau of Early

Interventions' (BEI) monitoring unit and independent audits of provider agencies performed by Certified Public Accountant (CPA) firms under contract with and overseen by the Audit Services Division. DOHMH's monitoring activities are aligned with New York State EI program requirements and, for the period under review, DOHMH complied with its monitoring procedures. However, DOHMH needs to enhance its monitoring procedures to address certain control weaknesses disclosed by this audit, which may render ineffective some of the agency's monitoring efforts.

Specifically, the audit found that BEI's monitoring unit did not have a procedure to ensure that all provider agencies (including those for which risk was assessed as minor) were visited at some point over a period of time (e.g., once every two or three years). BEI's monitoring unit also lacked evidence detailing the specific criteria that it used to select those provider agencies for which it performed monitoring visits during Fiscal Years 2009 – 2011. Accordingly, the audit was unable to assess the reasonableness of BEI's selection criteria and determine whether they had been consistently applied, all applicable provider agencies selected, and monitoring visits performed. Further, as a routine practice, DOHMH did not obtain verification of service delivery from parents or caregivers or observe the performance of services during monitoring visits to confirm that the service sessions for which DOHMH was paying were actually provided. This weakness is of particular concern considering that in Fiscal Year 2011, DOHMH paid \$437.5 million to provider agencies for services rendered.

Regarding the processing and payment of billing claims, the audit concluded that if all processes and functions work as described and designed, the controls built into CSC's automated claims adjudication process would likely provide adequate monitoring over EI provider claims and payments in tandem with DOHMH EI Fiscal oversight. These controls and functions are intended to ensure that the submitted claims for services are authorized, complete, and fall within acceptable ranges. However, for the period under review, DOHMH had not required that CSC hire an independent CPA firm to review and attest to its operating environment and general controls. In consideration of these issues, DOHMH officials took action during the audit to address most of the matters discussed above.

Audit Recommendations

To address these weaknesses, the audit made six recommendations, including that DOHMH should:

- Develop a monitoring cycle (e.g., three- or four-year cycle) during which, regardless of risk, each provider agency will be assigned for a monitoring visit at least once each cycle. However, larger programs should continue to be visited more frequently.
- Require program evaluators to obtain verification or confirmation of provider service delivery from parents or caregivers and/or observe the performance of services while at a facility-based provider agency to obtain greater assurance that service sessions for which DOHMH was paying were actually provided.
- Require a Service Organization Control Report 2 level of assurance from CSC given the regulatory requirements concerning privacy and security and the significant volume and dollar value of provider agency claims and payments thereof.

Agency Response

DOHMH agreed with all six of the recommendations made in this audit report.

INTRODUCTION

Background

The New York State Early Intervention (EI) Program provides rehabilitative and support services to eligible infant and toddler children (aged 0-3 years) with developmental delays or disabilities and their families. The New York State Department of Health (NYSDOH) oversees the statewide EI Program.¹ It coordinates the network of services, develops regulations, sets provider reimbursement rates, and monitors operations of the provision of services by municipalities across the state.

The New York City Department of Health and Mental Hygiene (DOHMH) oversees the EI Program for eligible children who reside in the City. In Fiscal Year 2011, DOHMH had “fee-for-service” contracts² with approximately 150 provider agencies to deliver EI services for approximately 34,000 eligible children and their families at a budgeted cost of \$440.9 million, funded through a combination of State and City sources, and Medicaid and private insurance reimbursement.

EI services include occupational therapy, speech therapy, physical therapy, psychological services, family training, counseling, assistive technology, special instruction, respite and transportation³ services. To be eligible for services, a child must be under three years of age, be referred to DOHMH, and undergo a multidisciplinary evaluation to determine whether s/he has delays that meet EI Program eligibility requirements. If deemed eligible, an Individualized Family Service Plan (Service Plan) is established, which identifies the provider agencies, service coordinator, and the frequency and types of EI services approved for the child to address his/her needs. The Service Plan is re-evaluated every six months to ensure that services continue to meet the child’s needs. EI services are discontinued once a child reaches three years of age, at which time the child comes under the jurisdiction of the Department of Education and will transition to a preschool program or other services for which s/he is deemed eligible.

DOHMH is tasked with the local administration, oversight, and fiscal management of the EI Program in New York City. Accordingly, DOHMH is responsible for identifying, screening, evaluating, and providing comprehensive case management services for eligible children throughout the five boroughs. DOHMH contracts with State-approved EI provider agencies to deliver most program services. Provider agencies employ staff and/or sub-contractors that directly service the children either at home or in a facility-based setting (i.e., daycare, hospital, etc.) according to their respective Service Plan. All service providers must be appropriately licensed in their respective field by NYSDOH.

¹ The NYS EI Program was established by Article 25 of the Public Health Law and has been in effect since July 1, 1993, as part of the national program for infants and toddlers with disabilities and their families, initially created by the U.S. Congress in 1986 under the federal Individuals with Disabilities Education Act (IDEA).

² A “fee-for-service” contract is one that is designed to pay for services that are rendered after a bill (or claim) is submitted for the service.

³ According to DOHMH officials, transportation services for EI clients are billed to and paid by DOHMH, however, the provider agencies are under contract with the Department of Education.

DOHMH, through its fiscal agent, CSC Covansys Corporation (CSC),⁴ processes and pays provider agency billing claims for services rendered and seeks reimbursement from Medicaid, the State, and private insurance carriers for EI services delivered to eligible children and their families.

DOHMH is also responsible for monitoring and auditing provider agencies' delivery of services, fiscal management, and compliance with EI Program regulations. DOHMH's direct monitoring of EI contractors' activities are handled primarily by:

- the Bureau of Early Intervention's (BEI) monitoring unit⁵, which conducts monitoring visits of provider agencies (excluding transportation services) to assess and evaluate their performance and compliance with regulations and contract requirements, and
- Audit Services Division (Audit Services), which is responsible for contracting with external Certified Public Accountant (CPA) firms to perform fiscal audits of all provider agencies each year. Audit Services may directly audit a provider agency or review certain cases as a means to follow up on problems or issues cited in CPA audits and to assess the quality of the contracted CPA firms' audit work.

Additionally, the DOHMH Finance Division's EI Fiscal Unit (EI Fiscal) is responsible for monitoring CSC as well as matters concerning provider claims and payments. EI Fiscal reviews various reports (i.e., exception reports, claims rejections, etc.) generated by CSC and interacts with the BEI monitoring Unit and Audit Services on an ongoing basis concerning matters or issues raised with or by EI provider agencies.

Objective

The objective of this audit was to determine the adequacy of DOHMH's monitoring of contracted EI provider agencies' provision of services, fiscal management, and compliance with EI Program regulations.

Scope and Methodology Statement

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 that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. This audit was conducted in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the New York City Charter.

The audit scope covered Fiscal Year 2009 through 2011. However, to allow for the comparison of DOHMH monitoring activities over time and to assess more recent procedural information, we

⁴ DOHMH's contract with CSC initially ran from May 24, 2007, through December 10, 2011. On December 11, 2011, the contract was renewed for a period extending through June 30, 2014.

⁵ Through December 2011, the unit specifically responsible for monitoring programmatic compliance of EI provider agencies under contract with DOHMH was BEI's "Program Management and Quality Improvement Unit (PMQI)." Effective January 2012, BEI restructured the PMQI unit into two succeeding units, (1) Provider Oversight Unit, which is responsible for monitoring provider agencies, and (2) Technical Assistance Unit, which is responsible for providing technical assistance and support to the provider agencies. Although the scope of duties, leadership, and procedures for Provider Oversight may differ somewhat from its predecessor PMQI, the responsibility for monitoring EI providers remains the same. Therefore, for clarity, in this report the term "BEI monitoring unit" is used to refer to both the former PMQI Unit and current Provider Oversight unit.

later expanded the scope to include Fiscal Years 2008 and 2012 (through December 31, 2011). Please refer to the Detailed Scope and Methodology section at the end of this report for the specific procedures and tests that were conducted.

Discussion of Audit Results

The matters covered in this report were discussed with DOHMH officials during and at the conclusion of this audit. A preliminary draft report was sent to DOHMH officials and discussed at an exit conference on April 22, 2013. We submitted a draft report to DOHMH officials with a request for comments on May 9, 2013. We received a written response from DOHMH officials on May 22, 2013. In their response, DOHMH officials agreed with all six of the recommendations made in this audit report.

The full text of the DOHMH's response is included as an addendum to this report.

FINDINGS AND RECOMMENDATIONS

DOHMH has procedures and mechanisms in place to actively monitor EI provider agencies' performance, fiscal management, and compliance with regulatory and contract requirements. These include monitoring visits and related follow-up carried out by BEI's monitoring unit and independent audits of provider agencies performed by CPA firms under contract with and overseen by Audit Services. DOHMH's monitoring activities are aligned with New York State EI program requirements and, for the period under review, DOHMH complied with its monitoring procedures. However, DOHMH needs to enhance its monitoring procedures to address certain control weaknesses disclosed by this audit, which may render ineffective some of the agency's monitoring efforts.

Specifically, the audit found that BEI's monitoring unit did not have a procedure to ensure that all provider agencies (including those for which risk was assessed as minor) were visited at some point over a period of time (e.g., once every two or three years). BEI's monitoring unit also lacked evidence detailing the specific criteria that it used to select those provider agencies for which it performed monitoring visits during Fiscal Years 2009 – 2011. Accordingly, we were unable to assess the reasonableness of BEI's selection criteria and determine whether they had been consistently applied, all applicable provider agencies selected, and monitoring visits performed. Further, we found that BEI's monitoring unit did not retain the hard-copy monitoring forms used by its program evaluators to record and collect data during monitoring visits, which formed the basis of the monitoring reports issued to the provider agencies. Last, we found that, as a routine practice, DOHMH did not obtain verification of service delivery from parents or caregivers or observe the performance of services during monitoring visits to confirm that the service sessions for which DOHMH was paying were actually provided. This weakness is of particular concern considering that in Fiscal Year 2011, DOHMH paid \$437.5 million to provider agencies for services rendered.

Regarding the processing and payment of billing claims, our review concluded that if all processes and functions work as described and designed, the controls built into CSC's automated claims adjudication process would likely provide adequate monitoring over EI provider claims and payments in tandem with DOHMH EI Fiscal oversight. These controls and functions are intended to ensure that the submitted claims for services are authorized, complete, and fall within acceptable ranges.

However, for the period under review, DOHMH had not required CSC to hire an independent CPA to review and attest to its operating environment and general controls. Therefore, we were only able to obtain limited assurance about those controls as they relate to the monitoring of provider agency claims processing and adjudication for the audit scope period. In consideration of these issues, DOHMH officials took action during the audit to address most of the matters discussed above.

These findings are discussed in greater detail below.

Monitoring Unit Weaknesses

In accordance with Article 25, Title 2A of New York State (NYS) Public Health Law (PHL), program evaluators from BEI's monitoring unit conduct monitoring visits of provider agencies to evaluate their performance, fiscal management, and compliance with regulations and contractual

requirements. The BEI monitoring unit's monitoring visits address both past and current provider performance and compliance.

Program evaluators review case files and other relevant records, prepare monitoring reports of findings, and follow up to ensure that the agencies take corrective action to address noted deficiencies.

During a monitoring visit, program evaluators review operational matters and the ongoing viability of the provider. They also review a sample of case files, records, and documentation to assess whether new case referrals are processed and handled promptly, children are evaluated within established timeframes, and mandated services are provided to children at the frequency established in their respective Service Plan. Overall, the provider agencies are evaluated in 10 different service categories.⁶ BEI's monitoring unit issues a monitoring report detailing the evaluator's findings, which is sent to the respective provider agency and related units within DOHMH.

The provider agencies must submit to DOHMH a corrective action plan (CAP) to address cited deficiencies. If the provider agency has significant deficiencies in one or more evaluation categories, BEI's monitoring unit follows up with another monitoring visit within four months of the CAP acceptance to assess the agency's improvement. If the provider agency remains out of compliance, it may be subject to sanctions, including stoppage of new client referrals, referral to Audit Services for an audit, referrals to City's Law Department and/or Department of Investigation, or contract termination.

The results of tests of BEI's monitoring activities and our review of monitoring reports and related CAPs for Fiscal Years 2009-2011 provided assurance that the above procedures and practices as described were followed by DOHMH. DOHMH needs to enhance its monitoring procedures to address certain control weaknesses disclosed by this audit, which may render ineffective some of the agency's monitoring efforts. Those weaknesses are discussed below.

Monitoring Visits Not Performed for All Provider Agencies

During Fiscal Years 2009-2011, BEI's monitoring unit did not conduct monitoring visits for all provider agencies and did not have a procedure to ensure that all provider agencies (including those for which risk was assessed as minor) were visited at some point over a period of time (e.g., at least once every one, two, or three years).

BEI's monitoring unit also lacked evidence detailing the specific criteria that it used to select those provider agencies for which it performed monitoring visits during Fiscal Years 2009 – 2011. Accordingly, we were unable to assess the reasonableness of the monitoring unit's selection criteria and determining whether it had been consistently applied and all applicable agencies were selected and monitoring visits performed.

Comptroller's Internal Control and Accountability Directive (Comptroller's Directive) #5, "Audits of Agency Programs & Operations," addresses CPA audits of City programs. However, because BEI used a risk-based approach in Fiscal Years 2009 – 2011 to select provider agencies to monitor, we considered the Directive a good guide for assessing the level and coverage of the monitoring unit's monitoring visits across all of DOHMH's contracted provider agencies. Accordingly, we

⁶ The evaluation categories include agency organization, staff credentials, confidentiality of records, service coordination; multidisciplinary evaluations, service delivery, personnel practices, staff training, health/safety and sanitation, and internal quality assurance.

noted that the directive establishes that a risk-based approach to monitoring agencies is acceptable. However, it also states that the result of a risk-based selection process will frequently lead to smaller, non-major programs not receiving any coverage. Accordingly, “City agencies are encouraged to monitor these smaller programs and audit them if necessary.”

For each of Fiscal Years 2009-2011, BEI’s monitoring unit conducted monitoring visits for an average of 65 percent (or an average of 88) of 136 total average provider agencies (exclusive of transportation services) for each of those years.⁷ The agencies that were selected for and received a monitoring visit during those years had an annual average of \$388.6 million (86 percent) of the annual average of \$453.1 million in total paid claims, respectively. Although provider agencies with the larger amount of paid claims were targeted, there still remained 35 percent (an average of 48) of the total 136 provider agencies that were not visited by DOHMH. These latter agencies had an average of \$64.5 million in paid claims during the three years.

According to DOHMH officials, provider agencies were selected for monitoring visits based on an assessment of their relative risk for non-compliance. They stated that for Fiscal Years 2009 – 2011, the selection criteria established by BEI was based on various sources from within and outside the agency (i.e., EI Fiscal, Consumer Affairs, Regional Office, Audit Services, and NYSDOH) and included the results of prior monitoring visits, findings disclosed in CPA audits (discussed later), parental and sub-contractor complaints, claims rejection rate, NYSDOH investigations, and data and feedback from other DOHMH sources, such as General Counsel and the Bureau of Child Care. However, this risk-based approach did not ensure that provider agencies, for which risk was assessed as minor, were visited at some point over a period of time (e.g., at least once every one, two, or three years).

According to officials, the BEI monitoring unit’s selection criteria were set by the BEI Assistant Commissioner and Executive Team and had remained unchanged during Fiscal Years 2009 – 2011. However, they did not have evidence to detail the specific criteria that the monitoring unit applied to select EI provider agencies for monitoring visits during those years. Officials also stated that the former Director of BEI’s monitoring unit left the agency in late 2011 and left no information or documentation detailing how agencies had been selected for monitoring visits during his/her tenure. Moreover, they could not explain and we were unable to determine why one provider agency was selected over another for a monitoring visit. Consequently, we were unable to assess the reasonableness of the selection criteria and determine whether they had been consistently applied to ensure that all of the agencies that met the criteria had been selected and monitoring visits had been performed.

For those agencies that were visited in Fiscal Years 2009-2011, DOHMH reported completing 265 monitoring visits for a total of 105 different provider agencies (without duplication). Our review of 38 monitoring reports associated with 16 of the 20 sampled provider agencies for Fiscal Years 2009-2011 provided assurance that the monitoring visits had indeed been made and that the matters reviewed therein were performed in accordance with BEI’s monitoring standards. Further, we found that to address deficiencies, all of the provider agencies submitted CAPs to DOHMH, which initially accepted all but two of them. Accordingly, deficiencies were appropriately addressed in accordance with DOHMH practices and regulatory requirements.

⁷ At the exit conference, BEI officials stated that the monitoring unit did not monitor two EI respite care providers that are under contract with DOHMH. However, as noted in the agency’s response to the draft report, subsequent to the exit conference DOHMH provided evidence confirming that the two respite care contractors had been monitored during the audit scope period.

However, during our review of BEI monitoring procedures and standards, we found that program evaluators do not obtain verification or confirmation of service delivery from parents or caregivers or observe the performance of services while at a facility-based provider agency. Considering that monitoring visits address more current and ongoing cases than those reviewed by a CPA audit, it would be appropriate, therefore, for program evaluators to perform such service verification or confirmation as an added procedure to gain assurance that service sessions for which DOHMH is paying for were actually delivered. The potential for the fraudulent billing of services that were not provided is high and found to be a major inherent control risk in similar programs funded by Medicaid and other government-funded programs. Consequently, the monitoring unit's lack of point-of-service confirmation is of particular concern, especially considering that in Fiscal Year 2011, DOHMH paid \$437.5 million to provider agencies for services rendered.

Considering that independent CPA audits are conducted only for those provider agencies selected by Audit Services (discussed later) based on a risk evaluation, conducting monitoring visits of all provider agencies is essential as they review current matters, including compliance and the ongoing viability of the agencies in meeting their contractual obligations and delivering services to assigned children and their families. When a CPA audit of a provider agency is undertaken, it is conducted at least one year or more after the end of the fiscal or contract year under review. At the time the audit is conducted, documentation may not be available to substantiate that service was actually provided and funds appropriately spent. Moreover, confirmations of service from parents may be ineffective because, with the passage of time, they will likely not be able to recall specific dates of service. This weakness could be more effectively addressed if BEI's monitoring unit included such confirmations/verifications of service delivery in its set of monitoring procedures.

To address the issue of smaller agencies not being monitored, during the audit BEI officials stated that beginning in January 2012, *all* contracted provider agencies (excluding transportation and respite services) are scheduled to receive a visit at least once each year by monitoring staff under BEI's new Provider Oversight Unit. At the beginning of May 2012, officials reported that BEI's monitoring staff had performed monitoring visits for 19 provider agencies and, by the end of October 2012, it had completed monitoring visits of 56 provider agencies with an additional eight in progress. They noted that the remaining agencies would be visited on an ongoing basis within one year of the last monitoring visit performed. Given BEI's current level of program evaluators and the average time of two to three days to perform a monitoring visit, it appears that the unit will be able to monitor all provider agencies each year with little, if any, additional resources required.

Program Monitoring Documents Not Maintained

According to DOHMH officials, program evaluators use a standard monitoring form to record and collect data during monitoring visits. Our review of the blank monitoring form found that it incorporated key provisions of NYS PHL Article 25, Title 2A. However, we found that program evaluators did not retain the actual forms they had completed during their monitoring visits performed in Fiscal Years 2009-2011. The completed monitoring forms are the source documentation that supports the findings disclosed in monitoring reports issued to the provider agencies.

Our review of files maintained by BEI's monitoring unit for our sample of 20 EI provider agencies provided assurance that DOHMH maintains files for each contracted provider agency, which contain evidence (i.e., correspondence, audit reports, monitoring reports, etc.) of ongoing monitoring. However, BEI does not retain the original monitoring form completed by program

evaluators for each monitoring visit to support findings summarized and disclosed in the monitoring report issued to the provider agency.

Even though DOHMH policies and procedures do not specifically require that specific documentation of monitoring activities be kept in their work files, Procurement Policy Board (PPB) rules, §1-04, states: “Each agency shall maintain files that contain all documentation pertaining to the solicitation, award, and *management of each of its contracts*” (emphasis added). Comptroller’s Directive #1, “Principles of Internal Control,” states, “control activities should exist at all levels and functions of an agency. They include a wide range of diverse activities such as . . . transaction analyses, performance reviews, security evaluations, and the creation and maintenance of related records that provide evidence of the execution of these activities.”

The monitoring form is the primary source document and data collection form upon which the sampled case files that were assessed for compliance are recorded. Accordingly, it may be beneficial to retain the monitoring form, either in electronic or hard-copy format, as part of the other documentation retained because it provides evidence of monitoring activities performed and cases reviewed.

Lack of Central File of Issues and Concerns

At the initiation of the audit, we found that DOHMH did not have a central repository where various internal stakeholders could easily record and track problems or issues for each provider agency.

Directive #1 states: “Pertinent operational and financial information must be identified, routinely captured, and distributed in a form and time frame that permits people to perform their duties efficiently.” Instead of a central repository, each unit maintained its own record of issues for any given agency. For example, Consumer Affairs kept a manual notebook and electronic spreadsheet of parent complaints and Audit Services maintained issues detailing CPA audit findings, etc. Consequently, the likelihood existed that some reportable issue(s) could be overlooked, which would then fail to trigger further review and prompt follow-up.

After we discussed our observation with DOHMH officials, in April 2012 the agency hired an analyst to specifically develop a computer system that could be accessed by the various EI stakeholders within DOHMH to record and track issues, complaints, and other such matters for each of the contracted EI provider agencies. According to DOHMH officials, the new “Electronic Data and Information Management System” has been in place and in use since approximately May 2012. The system resides on a secure, shared drive. However, it is currently used primarily by BEI’s monitoring staff and management.

According to DOHMH officials, as of October 13, 2012, the development of the interactive and central repository capabilities of the new system was still in progress and scheduled to go live in the second quarter of 2013. This development involves utilizing Microsoft SharePoint⁸ technology to establish a series of SharePoint sites, one for each provider agency, to collect information specific to each provider agency, including monitoring results, fiscal audits, and performance concerns. The projected users will both access and submit information. These users include EI management, Program Oversight, Regional Offices, other EI work units, Audit Services, Day Care, and Finance.

⁸ SharePoint is a web-based platform that creates an environment in which teams of people can collaborate on various types of projects. The SharePoint infrastructure allows for the creation and management of business websites, internal or private websites, and even public websites. It can be used for document and file management and includes collaboration spaces.

Our walk-through of the new database on December 6, 2012, confirmed its development and partial implementation. If designed and used as described by DOHMH officials, once fully developed and implemented, the new computer system would likely have the capability of enhancing DOHMH's oversight of contracted provider agencies by equipping it with the ability to keep apprised of issues, perform ongoing monitoring, and take prompt, appropriate action to address problems or deficiencies with EI provider agencies sooner rather than later.

Audit Services' Efforts Generally Adequate

As part of DOHMH's overall monitoring activities, Audit Services, through its contracted CPA firms, conducts audits of EI provider agencies in accordance with NYS PHL Article 25, Title 2A and Comptroller's Directive #5. When conducting an audit, the CPA firms review a sample of the provider agencies' case files and related billings to assess whether new referrals and evaluations were appropriately handled and children received mandated services at the frequency established in his/her respective Service Plan. The CPA firms also review financial statements, minutes from Board of Director meetings, staff credentials, and other matters to gain assurance about the provider agencies' governance, internal controls, financial management, and compliance with regulations and contract provisions.

Audit Services had contracts with three independent CPA firms⁹ to audit provider agencies' performance, fiscal management, and compliance with regulations and contractual requirements for the audit scope period. We found that DOHMH's Audit Guide and the procedures established in the scope of services detailed in DOHMH's contracts with CPA firms generally conformed to Directive #5 requirements. Further, a review of 37 audit reports issued for 19 of the 20 sampled provider agencies audited in Fiscal Years 2009-2011 (covering Fiscal Years 2008-2010) provided assurance that the CPAs applied procedures and reviewed required topics set forth in DOHMH's Audit Guide and contract provisions. (One of the 20 sampled provider agencies was not audited in those three years.)

Audit Services uses a risk-based approach to select EI provider agencies to audit, based on specific criteria, including total payments, prior audit experience (findings), when last audited, and other factors such as significant internal control deficiencies, compliance issues, outstanding fiscal issues, complaints, etc. Audit Services' risk-based criteria are modified each year with the development of its Audit Plan considering the prior year's audits. For Fiscal Years 2009-2011, we determined that Audit Services' selection criteria was reasonable, in line with Directive #5, and applied as designed. Accordingly, as shown in Table I, on average, each year Audit Services selected more than one-third of all provider agencies, which were paid more than two-thirds of payments to provider agencies overall.

⁹ The CPA firms were from the New York City Comptroller's list of pre-qualified CPA firms.

Table I

Provider Agencies Audited by
DOHMH Contracted CPA Firms in
Fiscal Years 2009 – 2011

FY Audit Conducted	All Provider Agencies Paid by CSC				Provider Agencies Audited			
	a		b		c		d	
	# of Agencies	% of All Agencies <i>(Col. a ÷ Col. a)</i>	Total Paid Amt (000,000)	% of Total Amt Paid <i>(Col. b ÷ Col. b)</i>	# of Agencies	% of Total Agencies <i>(Col. c ÷ Col. a)</i>	Total Paid Amt (000,000)	% of Total Amt Paid <i>(Col. d ÷ Col. b)</i>
2009	167	100%	\$442.5	100%	66	40%	\$283.7	64%
2010	155	100%	\$502.2	100%	50	32%	\$308.4	61%
2011	144	100%	\$437.5	100%	55	38%	\$338.8	77%
Annual Average	155	100%	\$460.7	100%	57	37%	\$310.3	68%

Based on these facts and the results of audit tests, taken as a whole, our review found that Audit Services' monitoring activities are generally adequate to assess provider agencies' performance, fiscal management, and compliance with regulations and contractual requirements. However, when we asked DOHMH officials how the CPA firms, when performing an audit, verify service delivery, they stated that the CPAs are required to send confirmations to children's caregivers requesting them to affirm certain past service dates. Officials noted, however, that because the confirmations deal with dates a year or more in the past, parents or caregivers may not remember specific dates of service, negating the effectiveness of the procedure. Although confirmations are not a full-proof measure of verifying that services billed by a provider were actually provided, the procedure provides some level of assurance beyond a signature on a session note, which could have been easily falsified. Therefore, to address the acknowledged weaknesses of CPAs conducting confirmation of service delivery, as discussed earlier, DOHMH would benefit by strengthening its monitoring activities and having BEI's monitoring staff perform such confirmations/verification of service delivery as part of its routine procedures when conducting monitoring visits of EI provider agencies.

Limited Assurance about Monitoring of Claims Processing

Based on our review of relevant work-flow documentation and interviews of DOHMH officials, we believe that if all processes and functions work as described and designed, the controls built into CSC's automated claims adjudication process would likely provide adequate monitoring over EI provider claims and payments in tandem with DOHMH EI Fiscal oversight. These controls and functions are intended to ensure that the submitted claims for services are authorized, complete, and fall within acceptable ranges. However, because of the limitations of location and the fact that DOHMH had not required CSC to hire an independent CPA to review and attest to its operating environment and controls, we were only able to obtain limited assurance about the effectiveness of controls as they relate to the monitoring of claims processing for the audit scope period.

NYS PHL Article 25, Title 2A establishes that each municipality is responsible for monitoring claims submitted by provider agencies for services rendered and verifying such claims prior to payment. DOHMH's EI Fiscal is charged with this task. However, it is primarily carried out by the fiscal agent. CSC, through its web-based systems, receives, processes, adjudicates, and monitors billing claims submitted by contracted provider agencies for authorized EI services rendered, and processes and remits payments to those agencies. Each week a dataset is extracted from the NYSDOH New York Early Intervention System (NYEIS)¹⁰ or the Kids Integrated Data System (KIDS) and uploaded to CSC systems for processing. Monitoring is accomplished through a series of application controls and business rules programmed into the automated process. Provider agencies' billing submissions are electronically matched against the NYEIS and KIDS data sets (case file data) and DOHMH business rules (edit checks) built into the process. If the provider claims information does not match or has some deficiency, the claim is rejected and flagged as pending in the system, indicating the reason for rejection and actions needed to clear the exception. Any claim that successfully adjudicates by satisfying all criteria is approved for payment. Rejected claims that remain pending are not paid unless cleared by a provider agency or overridden by DOHMH.

Our review of reports, meeting agendas, and relevant documentation confirmed that CSC sends biweekly reports to DOHMH that show exceptions that caused claims to be rejected. According to DOHMH officials, CSC analyzes the exception reports and interacts with provider agencies to advise them on how to correct problems with claims. DOHMH also holds biweekly teleconferences with CSC to discuss financials, reports, and summaries of rejected invoices. CSC in tandem with EI Fiscal monitors provider agencies' transactions. EI Fiscal follows up with provider agencies if there is a spike in the number of denied claims. According to DOHMH officials, if there is variance of more than 10 percent in the level of rejected claims from one month to another, EI Fiscal will follow up with the respective provider agency to determine the reason for the variance. However, no evidence was provided to support this assertion. EI Fiscal also interacts with provider agencies regarding clarifying issues to clear rejected claims. Further, EI Fiscal meets with Audit Services and BEI officials on a biweekly basis and communicates as needed regarding concerns and issues related to certain provider agencies.

While these controls and processes seem reasonable and adequate to reject incomplete or questionable claims, because DOHMH (as discussed below) did not require an independent control report of CSC's operating environment and general controls covering the audit scope period, we were only able to obtain limited assurance about those monitoring controls.

Lack of Service Organization Control Review

When a City agency outsources information processing to a third-party service provider organization, such as DOHMH has with CSC for the processing and payment of EI provider agencies claims for services rendered, reasonable assurance must be obtained about the service provider's operating environment and general controls. Higher levels of assurance may be necessary given the nature and sensitivity of the data processed by the service organization.

¹⁰ NYEIS is a centralized, web-based computer system, provided and controlled by NYSDOH to handle EI case management statewide. It electronically manages EI Program administrative tasks and provides for information exchanges. It is used by municipal and State EI offices to capture eligible children's relevant history, record and authorize EI services, and record and authorize changes to EI services. NYEIS was fully integrated as of July 2011 and replaced NYSDOH's former Kid Integrated Data System (KIDS) for processing new and prospective provider claims. However, for cases started in KIDS prior to July 2011, data is maintained therein.

Comptroller's Directive #18 "Protection & Control of Agency Information" states: "The protection and control of data and information processing resources is an important element of the agency's overall internal control environment." Agency heads are responsible for securing and protecting the agency's assets, including data and information processing, from fraud, waste, abuse, error, and corruption.

At the start of the audit, we requested from DOHMH a copy of a Service Organization Control (SOC) report¹¹ (or similar report) detailing the results of a review of CSC's general controls and operating environment performed by an independent CPA firm. We learned that for Fiscal Years 2008 – 2010, DOHMH had not required CSC to provide such a report nor had DOHMH included the provision of such a report in its contract with CSC.

Consequently, later in the audit, officials told us that with the renewal of DOHMH's contract with CSC (effective December 11, 2011), a provision had been included requiring that CSC provide an SSAE 16 SOC 1 or SOC 2 report, if so requested by DOHMH. Our review of the renewal contract affirmed this new requirement.

Despite this new requirement, it was not until the end of audit fieldwork that DOHMH, in response to a follow-up request, provided us with a copy of a SOC 1 report, for the period July 1, 2010 – June 30, 2011, rendered by Ernst & Young, CPA. The report indicated that Ernst & Young's examination was limited to CSC's information technology (IT) general controls for the Kansas Data Center as described by CSC management. Accordingly, the independent auditor opined that in all material respects:

- CSC's written description fairly presented the system of IT infrastructure services for its data center that were designed and implemented throughout Fiscal Year 2011;
- Controls were suitably designed to provide reasonable assurance that the established control objectives would be achieved if the controls operated effectively throughout the Fiscal Year 2011; and
- CSC's control objectives were achieved and operated effectively throughout Fiscal Year 2011.

Because the review was a SOC 1 level engagement, the independent auditor did not express an opinion on the operating effectiveness of any aspects of CSC's application processing and application controls, individually or in the aggregate.

Given the amount of public money handled by CSC, the regulatory requirements governing confidentiality and privacy, and the mere volume of transactions processed by CSC systems for the DOHMH EI program, a SOC 1 does not provide sufficient assurance. Instead, a SOC 2 level of review would provide DOHMH a higher level of assurance about the CSC's operating environment and the effectiveness of controls employed by CSC—particularly those associated with data security, availability, processing, integrity, confidentiality, and/or privacy.

¹¹ Service Organization Control (SOC) reports are internal control reports on the services provided by a service organization providing valuable information that users need to assess and address the risks associated with an outsourced service, and are performed by an independent CPA firm in accordance with Statement on Standards for Attestation Engagements (SSAE) 16, issued by the American Institute of Certified Public Accountants (AICPA). An SOC 1 is a report on controls at a service organization relevant to a user entity's internal controls over financial reporting. A SOC 2 reports on controls at a service organization relevant to security, availability, processing, integrity, confidentiality, and/or privacy.

Lack of CSC Disaster Recovery Plan Tests

We found that in accordance with its contract, CSC prepared and submitted to DOHMH a Disaster Recovery Plan (DRP), dated December 5, 2007 (version 1.0). On February 25, 2013, DOHMH provided us with a copy of CSC Disaster Recovery Plan (version 2-revised plan), dated January 25, 2012, apparently in accordance with the contract renewal in December 2011. However, DOHMH did not provide the audit team with any further CSC documentation detailing the results of all scheduled DRP tests and drills within 14 days subsequent to them being performed as required under the contract. Therefore, we had no assurance that such drills and tests were conducted.

As to the updating and testing of a DRP, Directive #18 "Protection & Control of Agency Information," states: "Periodic reviews and updates are necessary to insure that the business continuation plan remains current. A comprehensive test should be conducted annually." The primary goals of all DRP exercises and drills are to validate and improve an organization's continuity plans and strategies. They can provide a means to effectively communicate matters to response team members and introduce some people who would have never participated in a DRP exercise to the process.

Recommendations

DOHMH should:

1. Develop a monitoring cycle (e.g., three- or four-year cycle) during which, regardless of risk, each provider agency will be assigned for a monitoring visit at least once each cycle. However, larger programs should continue to be visited more frequently.

DOHMH Response: "We agree with the auditors and have already implemented this recommendation. DOHMH's Bureau of Early Intervention (BEI) has already re-engineered programmatic monitoring and has implemented a monitoring cycle, during which all early intervention providers, regardless of risks, will receive monitoring visits on an annual basis. The re-engineered monitoring process was effective January 1, 2012."

2. Require program evaluators to obtain verification or confirmation of provider service delivery from parents or caregivers and/or observe the performance of services while at a facility-based provider agency to obtain greater assurance that service sessions for which DOHMH was paying were actually provided.

DOHMH Response: "We agree with the auditors and will explore possible means of doing such verification (for example, parent surveys). Accordingly, BEI will develop a plan and implement it during the 2014 annual cycle of programmatic monitoring."

3. Once implemented, ensure that the central repository program is utilized as part of ongoing monitoring efforts.

DOHMH Response: "DOHMH concurs with the auditors and has implemented a system for centralizing documents from multiple sources. This system will be further refined into a SharePoint site by the fourth quarter of 2013 and will be used to share information by Provider Oversight, Audit Services, EI Finance and others."

4. Require that CSC provide reports detailing the results of all DRP tests and drills subsequent to them being performed as required under the contract.

DOHMH Response: “DOHMH agrees with the auditors’ recommendation and requested CSC to provide the results of prior DRP tests and drills.”

5. Retain program evaluators’ original monitoring forms in the provider agency files as part of related monitoring documentation already retained by DOHMH.

DOHMH Response: “DOHMH agrees with the auditors and has implemented this recommendation as part of the re-engineered programmatic monitoring. Effective January 1, 2012, BEI implemented organizational systems that include retention of program evaluators’ original forms for each monitoring visit.”

Auditor Comment:

6. Require a SSAE 16 SOC 2 level of assurance from CSC given the regulatory requirements concerning privacy and security and the significant volume and dollar value of provider agency claims and payments thereof.

DOHMH Response: “We agree with the notion of requiring Service Organization Control review (Type I or Type II) and will assess the feasibility of including this requirement in future contracts.”

DETAILED SCOPE AND METHODOLOGY

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 that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. This audit was conducted in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the New York City Charter.

The audit scope covered Fiscal Year 2009 through 2011. However, to allow for the comparison of DOHMH monitoring activities over time and to assess more recent procedural information, we later expanded the scope to include Fiscal Years 2008 and 2012 (through December 31, 2011). To accomplish our objective, we carried out the procedures detailed below.

To familiarize ourselves with DOHMH's roles and responsibilities and the requirements of EI provider agencies, we reviewed the New York City Charter, the Mayor's Management Report, and other relevant information obtained from the DOHMH and NYSDOH websites and other sources.

To gain an understanding of and evaluate relevant processes and controls involved in DOHMH's monitoring of contracted EI provider agencies, we interviewed key officials and staff from BEI, Audit Services, and EI Fiscal. For each unit, we obtained an overview of its role and responsibilities, conducted walk-throughs, and reviewed documentation relevant to the activities employed by each unit for monitoring EI provider agencies. We also conducted a walk-through of the Manhattan Regional office to understand referral, evaluation, and case management activities. Further, we reviewed the DOHMH self-assessment of its internal controls covering Calendar Years 2010 and 2011 performed in compliance with Comptroller's Directive #1, which DOHMH submitted to our office.

To identify applicable regulatory and other applicable standards, we reviewed:

- Title 2-A of Article 25 of the New York State Public Health Law, "Early Intervention Program for Infants and Toddlers With Disabilities and Their Families"
- Title 10 of the Compilation of the Rules and Regulations of the State of New York (NYCRR) Subpart 69-4 "Early Intervention Program" (NYSDOH regulations)
- Comptroller's Directive #1, "Principles of Internal Control"
- Comptroller's Directive #5, "Audits of Agency Programs & Operations"
- Comptroller's Directive #18, "Protection & Control of Agency Information"
- Procurement Policy Board (PPB) rules, Chapter 1, "General Provisions" and Chapter 4, "Contract Administration"
- Institute of Internal Auditors' (IIA) Global Technology Audit Guide (GTAG) 7, Information Technology Outsourcing

We used these regulations, directives, and guides as audit criteria in conjunction with applicable DOHMH policies and procedures and EI provider agency contract provisions. To ascertain the adequacy of DOHMH's policies and procedures, where applicable, we compared them to regulatory and contract requirements. We also determined whether there was adequate segregation of duties and supervisory oversight.

DOHMH provided us with a list of all provider agencies for which claims for services rendered were paid in Fiscal Years 2009 through 2011. (Reliability testing of the information included in this list was incorporated into our testing of Audit Services' and BEI's monitoring activities.) Using Fiscal Year 2011, the most recent fiscal year ended at the initiation of the audit, we identified a population 144 provider agencies that were paid \$437.5 million. From this population, we judgmentally selected two separate samples, consisting of 20 provider agencies with paid claims totaling \$190.3 million in Fiscal Year 2011 (sample 1) to test Audit Services' monitoring efforts and 20 provider agencies with paid claims totaling \$166.2 million in the same year (sample 2) to test BEI's monitoring efforts. (Seven of the agencies in sample 2 also appeared in sample 1). To select the agencies, we sorted them to identify those that had been audited (group 1) and/or received a monitoring visit (group 2) and those that had not been audited (group 3) and/or received a monitoring visit (group 4) in Fiscal Year 2011. We selected the 10 agencies in each of the four groups with the highest dollar value of paid claims in Fiscal Year 2011.

To assess Audit Services' monitoring activities, we evaluated the risk-based criteria used to select contracted EI provider agencies for audit and the development of its annual audit plan. We also evaluated the reasonableness of its selection criteria and determined whether it was consistently applied.

We obtained the names of the CPA firms under contract with DOHMH to perform audits of EI provider agencies for Fiscal Years 2008–2010 and confirmed whether those firms were included in the Comptroller's list of pre-qualified CPA firms. To ascertain the scope of work and procedures applied during the CPA audits of EI provider agencies, we reviewed the provisions of the contract between DOHMH and the CPA firms.

To obtain assurance about the information provided by DOHMH and determine whether Audit Services' monitoring activities were carried out as represented, we obtained and reviewed the CPA audit reports, Audit Services' reports, audit selection criteria, and other related materials for the 20 sampled provider agencies for Fiscal Years 2009-2011 (the CPA audit scope period covered Fiscal Years 2008-2010, respectively). We read the reports and noted any findings therein. We also determined whether the CPA firms followed and applied the contracted audit procedures in their audits of EI provider agencies. Further, we determined whether questioned payments identified by the CPA fiscal audits were recouped by DOHMH. We also calculated the time it took for the CPA firms to complete audit fieldwork and issue reports to DOHMH and subsequently the time it took for DOHMH to issue the final report to the provider agencies.

To assess BEI's monitoring activities we requested documentation detailing the criteria it used for selecting provider agencies for monitoring visits during Fiscal Years 2009-2011. We also requested and reviewed the monitoring form used during monitoring visits to evaluate provider agencies. Further, we reviewed program monitoring reports and corrective action plans for the sampled provider agencies for the same years. We read the reports, identified issues cited, and determined whether deficient conditions had appropriately been followed up.

We ascertained whether provider agencies submitted audited financial reports or financial statements to DOHMH in accordance with their contracts and assessed how these reports were used in DOHMH's monitoring of EI provider agencies. Further, we reviewed the ratings for all 40 sampled provider agencies reflected in the City's Vendor Exchange (Vendex) system for Fiscal Year 2011.

EI Fiscal works directly with CSC and is responsible for monitoring its ongoing performance. Accordingly, to understand CSC's role in DOHMH's monitoring activities, we reviewed DOHMH's contract with CSC. We also familiarized ourselves with the automated processing and controls

involved in the processing of provider agencies' claims for reimbursement for services rendered and payment thereof by reviewing CSC "Claims Processing and Adjudication Overview" and DOHMH "EI Fiscal Unit's Business Process Documentation." To obtain reasonable assurance about CSC's operating environment and the protection of data processed therein, we requested from DOHMH a copy of any reports of independent reviews of CSC's operating environment performed by an independent CPA. We also requested and reviewed copies of CSC's Disaster Recovery planning documents.

We assessed the various purposes and uses of reports generated by CSC and used by EI Fiscal in monitoring provider agency claims and payments. We reviewed samples of these reports and gained an understanding of how they were used directly and/or indirectly in monitoring DOHMH's contracted EI provider agencies. We obtained and evaluated the list of rejection codes and reviewed relevant reports of the frequency and value of claims associated with such rejection codes. We further evaluated the frequency and value of provider billings for which override codes were used. We also reviewed agendas from bi-weekly meetings between Audit Services, BEI, and EI Fiscal for bi-weekly meetings that took place from September 7, 2011 – October 20, 2011, to assess matters discussed regarding issues concerning performance of contracted EI provider agencies. We did not conduct an onsite review at CSC's offices and data center, which are located in the Midwest, because these procedures were considered to be beyond the audit scope.

The results of tests involving sampled EI provider agencies, although not projectable to the population of EI agencies, provided sufficient, appropriate evidence to support our findings and conclusions regarding the adequacy of DOHMH's monitoring of its contracted EI provider agencies.



NEW YORK CITY DEPARTMENT OF
HEALTH AND MENTAL HYGIENE
Thomas Farley, MD MPH
Commissioner

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May 22, 2013

Ms. H. Tina Kim
Deputy Comptroller for Audit
Office of the New York City Comptroller
1 Centre Street, Room 1100
New York, NY 10007-2341

Re: Audit Report on the Department
of Health and Mental Hygiene's
Monitoring of Early Intervention
Contractors
Audit Number MJ12-090A

Dear Deputy Comptroller Kim:

We have received and reviewed your draft audit report on the Department of Health and Mental Hygiene (DOHMH)'s monitoring of Early Intervention (EI) Contractors.

The auditors acknowledge that DOHMH has procedures and mechanisms in place to actively monitor EI provider agencies' performance, fiscal management, and compliance with regulatory and contract requirements. The auditors also found that DOHMH's monitoring activities are aligned with the New York State's EI program requirements and DOHMH complied with its monitoring activities.

The auditors made six recommendations to ensure that (i) monitoring visits are performed for all provider agencies, (ii) parents' or caregivers' confirmation of provider service delivery is obtained, (iii) complete documents to support programmatic monitoring reports are maintained, (iv) a central repository for tracking provider agency issues is maintained, (v) an independent control assessment of the fiscal agent (CSC)'s general and application controls is obtained, and (vi) results of CSC's scheduled disaster recovery tests are obtained.

DOHMH agrees with the auditors' recommendations and has already implemented three of the six recommendations. The attached report details DOHMH's response to the findings and recommendations.

We appreciate the courtesy and professionalism of your staff in the performance of this audit. If you have any questions or need further information, please contact Sara Packman, Assistant Commissioner, Audit Services, at (347) 396-6679.

Sincerely,

A handwritten signature in blue ink that reads "Thomas Farley". The signature is fluid and cursive, with the first name "Thomas" and last name "Farley" clearly legible.

Thomas Farley, MD, MPH
Commissioner

cc: Patsy Yang, DrPH
Assunta Rozza
Sara Packman
Adam Karpati

**RESPONSE TO THE NEW YORK CITY COMPTROLLER'S AUDIT OF
THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE'S MONITORING OF EARLY
INTERVENTION CONTRACTORS
MJ12-090A**

The Department of Health and Mental Hygiene (DOHMH) reviewed the draft audit report on the DOHMH's monitoring of Early Intervention (EI) contractors and thanks the auditors for the opportunity to respond. The objective of the audit was to determine the adequacy of DOHMH's monitoring of contracted EI provider agencies' provision of services, fiscal management, and compliance with EI Program regulations. The scope of this audit covered Fiscal Year (FY) 2009 through 2011 and was later expanded to include FY 2012 (through December 31, 2011).

The auditors acknowledge that DOHMH has procedures and mechanisms in place to actively monitor EI provider agencies' performance, fiscal management, and compliance with regulatory and contract requirements. These procedures include monitoring visits and related follow-up carried out by DOHMH's Provider Oversight and, independent audits of provider agencies performed by CPA firms that are contracted with DOHMH Audit Services. The auditors also acknowledge that (i) DOHMH's monitoring activities are aligned with New York State's EI program requirement, (ii) for the period under audit, DOHMH complied with its monitoring procedures and, (iii) the fiscal agent's automated claims adjudication in tandem with DOHMH's EI Fiscal oversight are effectively designed to provide adequate monitoring over EI provider claims and payment.

The auditors found weaknesses in programmatic monitoring such as monitoring visits were not conducted for all provider agencies, a procedure to ensure that all provider agencies were visited at some point over a period of time was not available and the specific criteria that was used to select provider agencies for monitoring visits was not documented. The auditors also reported that DOHMH had not required its fiscal agent, CSC, to hire an independent CPA firm to review and attest to the design and/or effectiveness of its operating environment and general controls.

DOHMH appreciated the auditors' work and agrees with their findings and recommendations. The following details DOHMH's response.

Issue 1: Monitoring Visits Not Performed for All Provider Agencies

The auditors found that during FY 2009 through 2011, monitoring visits were not conducted for all provider agencies, a procedure to ensure that all provider agencies were visited at some point over a period of time was not available and the specific criteria that was used to select provider agencies for monitoring visits was not documented. We concur with this finding and have already re-engineered programmatic monitoring.

The auditors also noted that the program evaluators do not obtain verification or confirmation of service delivery from parents/caregivers and/or observe the performance of services while at a facility-based provider agency. We concur with this finding and are exploring possible means of obtaining verification from parents/caregivers for services provided.

Footnote #7 of the draft audit report states that *...the monitoring unit did not monitor two EI respite providers that are under contract with DOHMH...* Subsequent to the release of the draft audit report,

the auditors were notified that respite providers were monitored during the audit period and were provided with supporting documentation at the auditors' request. Therefore, we request that the footnote be revised to state that respite providers were monitored by BEI's Provider Oversight during the audit period.

Recommendation #1

Develop a monitoring cycle (e.g., three- or four-year cycle) during which, regardless of risk, each provider agency will be assigned for a monitoring visit at least once each cycle. However, larger programs should continue to be visited more frequently.

DOHMH Response:

We agree with the auditors and have already implemented this recommendation. DOHMH' Bureau of Early Intervention (BEI) has already re-engineered programmatic monitoring and has implemented a monitoring cycle, during which all early intervention providers, regardless of risks, will receive monitoring visits on an annual basis. The re-engineered monitoring process was effective January 1, 2012.

Recommendation #2

Require program evaluators to obtain verification or confirmation of provider service delivery from parents or caregivers and/or observe the performance of services while at a facility-based provider agency to obtain greater assurance that service sessions for which DOHMH is paying were actually provided.

DOHMH Response:

We agree with the auditors and will explore possible means of doing such verification (for example, parent surveys). Accordingly, BEI will develop a plan and implement it during the 2014 annual cycle of programmatic monitoring.

Issue 2: Program Monitoring Documents Not Maintained

The auditors found that program evaluators did not retain the actual forms they had completed during their monitoring visits performed during the period FY 2009 - 2011. The completed monitoring forms are the source documentation that supports the findings in monitoring reports issued to provider agencies. We concur with this finding and have already implemented a system to retain the actual monitoring documentation.

Recommendation #5

Retain program evaluators' original monitoring forms in the provider agency files as part of related monitoring documentation already retained by DOHMH.

DOHMH Response:

DOHMH agrees with the auditors and has implemented this recommendation as part of the re-engineered programmatic monitoring. Effective January 1, 2012, BEI implemented organizational systems that include retention of program evaluators' original forms for each monitoring visit.

Issue 3: Lack of Central File of Issues and Concerns

The auditors found that DOHMH did not have a central repository where various internal stakeholders could easily record and track problems or issues for each provider agency. Instead, each unit maintained its own record of issues for any given agency. We concur with this finding and, as noted in this report, have implemented a system for centralizing documents from multiple sources.

Recommendation #3

Once implemented, ensure that the central repository program is utilized as part of ongoing monitoring efforts.

DOHMH Response:

As stated above, DOHMH concurs with the auditors and has implemented a system for centralizing documents from multiple sources. This system will be further refined into a SharePoint site by the fourth quarter of 2013 and will be used to share information by Provider Oversight, Audit Services, EI Finance and others.

Issue 4: Lack of Service Organization Control Review

The auditors found that DOHMH had not required its fiscal agent, CSC, to hire an independent CPA firm to review and attest to CSC's design and/or effectiveness of (i) general controls for Fiscal Years 2008 through 2010 and (ii) operating effectiveness of CSC's applications processing and controls. We concur with this finding and incorporated the requirement in the renewal contract. With respect to future contracts, DOHMH will assess the feasibility of requiring a Service Organization Control (SOC) review (Type I or Type II) and include it in the contract.

Recommendation #6

Require a SSAE 16 SOC 2 level of assurance from CSC given the regulatory requirements concerning privacy and security and the significant volume and dollar value of provider agency claims and payments thereof.

DOHMH Response:

We agree with the notion of requiring Service Organization Control review (Type I or Type II) and will assess the feasibility of including this requirement in future contracts.

With regard to the CSC, as the auditors stated in footnote #4 of the draft audit report, the contract was renewed in December 2011 extending the contract period through June 30, 2014. DOHMH will not extend or renew the contract with CSC after June 30, 2014. Due to New York State's redesign of the Early Intervention Program and the relevant legislative changes, the contractual agreements with all early intervention service providers terminated effective March 31, 2013. As such, effective April 1, 2013, CSC no longer adjudicates claims and only pays providers for Respite and Transportation adjudicated claims. This process is expected to end by December 2013 when DOHMH will bring the function in-house. In May 2013, DOHMH commenced a closeout discussion with CSC and a closeout plan will be developed and followed.

Recognizing that FY 2014 will be the last year of contract, DOHMH will evaluate the feasibility and cost/benefit associated with a SOC Type II review. In addition, DOHMH plans to have an independent consulting or CPA firm perform an assessment of contract closeout in FY 2014.

Issue 5: Lack of CSC Disaster Recovery Plan Tests

The auditors stated that (i) DOHMH did not provide the audit team with CSC documentation, detailing the results of all scheduled Disaster Recovery Plan (DRP) test and (ii) there was no assurance that such drills and tests were conducted. We concur with this finding and have requested CSC to provide documentation, detailing the results of all scheduled DRP tests and drills within 14 days after the completion of such tests and drills.

Recommendation #4

Require that CSC provide reports detailing the results of all DRP tests and drills subsequent to them being performed as required under the contract.

DOHMH Response:

DOHMH agrees with the auditors' recommendation and requested CSC to provide the results of prior DRP tests and drills.