AUDIT REPORT

CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
BUREAU OF FINANCIAL AUDIT
WILLIAM C. THOMPSON, JR., COMPTROLLER

Audit Report on the Financial and Operating Practices of the Local 721 Licensed Practical Nurses Welfare Fund

FL04-093A

June 30, 2004

THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
1 CENTRE STREET
NEW YORK, N.Y. 10007-2341
- - - - - - - - - - - - -
WILLIAM C. THOMPSON, JR.
COMPTROLLER

To the Citizens of the City of New York

Ladies and Gentlemen:

In accordance with the responsibilities of the Comptroller contained in Chapter 5, § 93, of the New York City Charter, my office has examined the financial and operating practices of the Local 721 Licensed Practical Nurses Welfare Fund (the Fund) for the period January 1, 2002, through December 31, 2002. Under the terms of its agreement with the City, the Fund provides health and welfare benefits to full-time and part-time Licensed Practical Nurses and their dependents.

The results of our audit, which are presented in this report, have been discussed with the Fund officials, and their comments have been considered in preparing this report.

Audits such as this provide a means of ensuring that benefit funds are spending moneys in the best interest of their members and are complying with applicable procedures and reporting requirements, as set forth in Comptroller's Internal Control and Accountability Directive 12, Employee Benefit Funds—Uniform Reporting and Auditing Requirements.

I trust that this report contains information that is of interest to you. If you have any questions concerning this report, please contact my audit bureau at 212-669-3747 or e-mail us at audit@Comptroller.nyc.gov.

Very truly yours,

William C. Thompson

William C. Thompson, Jr.

WCT/gr

Report: **FL04-093A**
Filed: **June 30, 2004**

Table of Contents

The City of New York
Office of the Comptroller
Bureau of Financial Audit

Audit Report on the Financial and Operating Practices of the Local 721 Licensed Practical Nurses Welfare Fund

FL04-093A

AUDIT REPORT IN BRIEF

The Comptroller's Office performed an audit on the financial and operating practices of the Local 721 Licensed Practical Nurses Welfare Fund (the Fund). The Fund was established on February 19, 1968, under the provisions of a Fund Agreement between the City of New York and the Licensed Practical Nurses of New York, Inc., (the Union) and a Declaration of Trust. The Fund provides health and welfare benefits to full-time and part-time Licensed Practical Nurses and their dependents. The Fund is required to conform to Comptroller's Directive 12, which sets forth accounting, auditing and financial guidelines for funds and their boards of trustees. As of December 31, 2002, the Fund reported total revenue of $1,790,829 and net assets of $4,100,841.

Audit Findings and Conclusions

The Fund generally complied with the procedures and reporting requirements of Directive 12 and had adequate and proper benefit processing and accounting procedures. Furthermore, the Fund's expenses were accurately recorded and adequate supporting documentation was maintained for most expenses paid. However, there were some weaknesses in the Fund's financial and operating practices. Specifically, the Fund:

- Made improper benefit payments of $30,559.
- Entered into a contract with a law firm for services that were already available and covred under an existing agreement with another firm.
- Paid claims for dependents whose eligibility was not documented.
- Does not maintain records for tracking accrual and use of vacation and sick leave for its employees.

In addition, we found that the Union overcharged the Fund $9,457 for its share of rent.

Audit Recommendations

To address these issues, we recommend that the Fund should:

- Ensure that it pays for benefits for eligible individuals only and make payments in accordance with its guidelines.
- Ensure that benefits are provided only to eligible members and their dependents.
- Ensure that rent charges are properly allocated based on the percentage of dedicated space used by the Fund and the Union.
- Request that the Union reimburse it for the $9,457 in excess rent paid for calendar year 2002.
- Determine whether it paid excess rent for previous years, and, if appropriate, request reimbursement from the Union.
- Ensure that it does not enter into contracts for services already covered under existing agreements.
- Maintain copies of all documentation in members' permanent files to substantiate eligibility of dependents.
- Maintain records of accrual and use of vacation and sick leave for its employees.

INTRODUCTION

Background

The Local 721 Licensed Practical Nurses Welfare Fund (the Fund) was established on February 19, 1968, under the provisions of a Fund Agreement between the City of New York and Licensed Practical Nurses of New York, Inc., (the Union) and a Declaration of Trust. The Fund provides health and welfare benefits to full-time and part-time Licensed Practical Nurses. The Fund also provides benefits to members' spouses and dependents.

Table I shows the benefits that were available and the amounts paid for these benefits for the Fund's 1,107[1] members during our audit period—January 1, 2002, through December 31, 2002.

[1] According to the Trustees' Management Letter, the Fund had 1,107 members during calendar year 2002.

TABLE I
Fund Benefits and Amounts Paid, Calendar Year 2002

Benefit	Amount	Coverage
Prescription Drugs	$723,164	Full-time members and their eligible dependents are entitled to a maximum benefit of $3,000 per family per year, and part-time members and their eligible dependents are entitled to a maximum benefit of $1,500 per family per year. Prescriptions at participating pharmacies are filled at no charge. If members use a non-participating pharmacy, they are reimbursed according to the Fund fee schedule.
Dental	$249,700	Each member selects either an insured or self-insured plan.[2] If the member selects the insured plan, J.V. Lane Professional Corp. bills the Fund $25 per month per member to provide benefits to the members and dependents based on a schedule of benefits. If the member selects the self-insured plan, the member is reimbursed by the Fund's third party administrator, American Medical & Life Insurance, based on a schedule of allowances. Members and eligible dependents of full-time members are entitled to a maximum benefit of $1,500 per member or $3,000 per family each calendar year.
Short Term Disability	$188,338	Full-time members are entitled to receive $225 per week for up to 26 weeks if they are disabled due to an accidental injury or sickness.
Life Insurance	$163,868	Beneficiaries receive $25,000 for the death of a full-time member. Full-time members receive $8,000 for the death of a spouse, and $4,000 for the death of a dependent. Beneficiaries receive $12,500 for the death of a part-time member. Part-time members receive $4,000 for the death of a spouse, and $2,000 for the death of a dependent.
Legal	$89,650	Members and eligible dependants of full-time members are entitled to consultation and preparation of a Last Will and Testament as well as representation in certain criminal and civil proceedings.
Optical	$56,315	Members and eligible dependents of full-time members are entitled to an eye exam and one pair of prescription eyeglasses every two years from a participating optical provider. If a non-participating provider is used, members and eligible dependents of full-time members are entitled to a maximum reimbursement of $70 per year per covered individual.

[2] For insured benefits, the Fund pays a premium to an insurance company to provide covered benefits to members. For self-insured benefits, the Fund directly provides covered benefits through a third-party administrator rather than through an insurance company.

Benefit	Amount	Coverage
Long Term Disability	$750	Full-time members are entitled to 50% of usual compensation not to exceed $250 per month. This benefit starts when the Short Term Disability benefit has expired and continues for up to 18 months. Medical documentation must be sent to the Fund on a monthly basis.
Hearing Aid	$500	Full-time members and their eligible dependents are entitled to a maximum reimbursement of $1,000 for hearing aid purchases and repair every four years.
	$1,472,285	

During the audit period, the Fund provided benefits through contracts with Express Scripts (for prescription drugs), J.V. Lane Professional Corp. and American Medical & Life Insurance Company (for dental), First Reliance Standard Life Insurance Company (for life and short term disability insurance), General Vision Service (for optical), General Hearing Service (for hearing aids), and Mitchel B. Craner, Esq.(for legal services).

As of December 31, 2002, the Fund reported net assets of $4,100,841. Table II, below, summarizes the Fund's audited financial data, as reported by the Fund, for the years ending December 31, 2001, and December 31, 2002.

TABLE II

Summary of the Fund's Reported
Revenues and Expenses

	2001	% of Total Revenue	2002	% of Total Revenue
Employer's Contributions	$1,669,843	88.10%	$1,405,254	78.47%
COBRA	3,912	0.21%	4,593	0.26%
Investment or Other Income	221,613	11.69%	380,982	21.27%
Total Revenue	$1,895,368	100.00%	$1,790,829	100.00%
Benefit Expenses	$1,439,134	75.93%	$1,468,421	82.00%
Administrative Expenses	263,746	13.92%	239,763	13.39%
Total Expenses	$1,702,880	89.85%	$1,708,184	95.39%
Excess (Deficiency) of Revenue	$192,488		$82,645	
Fund Balance (Beginning of Year)	$3,825,708		$4,018,196	
Fund Balance (End of Year)	$4,018,196		$4,100,841	

Objective

Our audit objective was to determine whether the Fund: complied with applicable procedures and reporting requirements, set forth in Comptroller's Directive 12; complied with its benefit processing and accounting procedures and whether those procedures were adequate and proper; and paid administrative expenses that were appropriate and reasonable. With regard to the Fund's benefit processing and accounting procedures, we determined the adequacy and effectiveness of the Fund's internal controls related to the processing and reporting of contributions received and benefit and administrative expenses paid; and we assessed the Fund's adherence to its benefit payment guidelines.

Scope and Methodology

To achieve our audit objectives, we reviewed the Fund's financial and operating practices for the period January 1, 2002, through December 31, 2002—the period covered by the latest Directive 12 filing available when we began the audit. We obtained the Fund's Directive 12 filings with the Comptroller's Office, which included its financial statement, federal tax return, and other required schedules. Directive 12 establishes uniform reporting and auditing requirements for City-funded employee benefit plans. To determine whether the Fund complied with the significant terms and conditions of Directive 12, we determined whether the Fund filed:

- an annual CPA report prepared on the accrual basis of accounting, and
- Internal Revenue Service Form 990.

We interviewed various Fund officials and reviewed the Fund's Trust Agreement. We prepared a flowchart and memorandum outlining the Fund's contribution and benefit processing procedures to document our understanding of these procedures and the internal controls in place. In addition, we reconciled the Fund's certified financial statements with its general ledgers, trial balance, and records of adjusting entries, cash receipts and disbursements journals, and other related documentation to determine whether all revenues and expenses were properly recorded.

Specifically, we traced revenue amounts for the audit period from the New York City Health and Hospital Corporation (HHC) payment vouchers and copies of canceled checks to the Fund's cash receipts journal and bank deposit slips to ascertain whether the Fund accurately reported and deposited contributions received.

We also traced all administrative expenses ($239,763) from the cash disbursements journal to supporting documentation, which included vendor invoices, expense allocation reports, and payroll records, to determine whether these expenditures were properly recorded, reasonable, and appropriate.

To determine whether all eligible employees were included on the Fund's membership records, we sampled the records of 100 of the approximate 1,100 employees listed on contribution reports received from the Health and Hospitals Corporation (HHC). We compared the employment information contained in these records to the Fund's membership records.

In addition, we performed the following tests of the Fund's benefit payments to determine whether only eligible members and their dependents received benefits from the Fund:

- Prescription Drugs Benefit: We traced all 1,322 claims listed on Utilization Reports for May 2002 from Express Scripts (the Fund's third party administrator) to the Fund's membership cards and HHC contribution report. For instances in which a member's spouse or child received benefits, we determined whether a marriage certificate, child's birth certificate, or other proof of dependency was on file.

- Dental Benefits: For self-insured dental benefits, we traced all 122 claims from Activity Reports (which list members who received benefits) for November 2002 from the American Medical & Life Insurance Company to the Fund's membership cards and HHC contribution report to confirm member eligibility. For instances in which a member's spouse or child received benefits, we determined whether a marriage certificate, child's birth certificate, or other proof of dependency was on file. We also determined whether the reimbursements were correct and did not exceed the amounts specified in the Fund fee schedule. For insured dental benefits, we traced all individuals listed on the January 2002 premium statement (from J.V. Lane Professional Corp.) to the HHC contribution report to determine whether these individuals were eligible for this benefit.

- Optical Benefits: For members using a participating optical provider, we reviewed all 118 optical vouchers processed by General Vision Service for the months of January, March, and June 2002. For members using a non-participating optical provider, we reviewed all 23 self-insured claims processed during the audit period. Specifically, we traced the members listed on the vouchers and claim forms to the Fund membership cards and HHC contribution report to check the eligibility of members and dependents. We also determined whether the reimbursements were calculated correctly, supported with proper documentation, and did not exceed the amounts specified in the Fund's fee schedule. For instances in which a member's spouse or child received benefits, we determined whether a marriage certificate, child's birth certificate, or other proof of dependency was on file.

- Life Insurance: To determine whether premium payments made to First Reliance Standard Life Insurance Company were for the correct number of members and dependents, we compared the number of members reported on the premium invoices from First Reliance to the number of members listed on the Fund's contribution report from HHC for the entire audit period.

- Short Term Disability: To determine whether premium payments made to First Reliance Standard Life Insurance Company were for the correct number of individuals, we compared the number of members reported on the company's premium invoices to the number of members listed on the Fund's contribution report from HHC for the entire audit period.

- Long Term Disability: We traced the members listed on all three claims processed during 2002 to the Fund's membership cards and HHC contribution reports to check eligibility.

We then traced the payments made to the three members to the cash disbursement journal, bank statements, and canceled checks.

- Hearing Aid Benefits: We traced the member listed on the one claim processed during 2002 to the Fund's membership card and HHC contribution report to check eligibility. We then traced the payment made to the member to the cash disbursement journal, bank statements, and canceled check.

- Legal Benefit: We traced the members listed on the utilization report prepared by Mitchel B. Craner, Esq. (the Fund's legal benefit provider) to HHC contribution reports and payroll records, as well as the Fund's membership cards to confirm eligibility. For each instance in which a full-time member's spouse or child received benefits, we determined whether a marriage certificate, child's birth certificate, or other proof of dependency was on file.

This audit was conducted in accordance with generally accepted government auditing standards (GAGAS) and included tests of records and other auditing procedures considered necessary. The audit was performed in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, § 93, of the New York City Charter.

Discussion of Audit Results

The matters covered in this report were discussed with Fund officials during and at the conclusion of this audit. A preliminary draft report was sent to Fund officials and discussed at an exit conference held on May 5, 2004. On May 21, 2004, we submitted a draft report to officials of the Fund with a request for comments. We received a written response from the Fund Administrator on June 7, 2004, in which the Fund agreed with six of the audit's eight recommendations. The Fund took exception with the audit findings and corresponding recommendations pertaining to payment of benefits for ineligible employees and the absence of records for tracking employee vacation and sick leave balances. The full text of the Fund's comments is included as an addendum to this report.

FINDINGS

Overall, the Fund generally complied with the procedures and reporting requirements of Directive 12. In addition, the Fund generally complied with its benefit processing and accounting procedures, and those procedures were adequate and proper. Furthermore, the Fund's administrative expenses were generally appropriate and reasonable. All HHC contributions were accounted for and deposited in the Fund's bank account in a timely manner. Also, the Fund's expenses were accurately recorded in the its trial balance and cash disbursements journal, and adequate supporting documentation was maintained for most expenses paid.

However, there were some weaknesses in the Fund's financial and operating practices, as follows:

- *The Fund made improper benefit payments.* Of $486,252 in benefit payments reviewed, $30,559 was not paid in accordance with Fund guidelines.

- *Rent charges for office space shared by the Union and the Fund were not properly allocated*. For calendar year 2002, the Fund paid $9,457 in rent that should have paid for by the Union.

- *The Fund entered into a contract with a law firm for services that were already available and covered under an existing agreement with another firm*. We question why the Fund entered into the second agreement, which cost the Fund $30,000 for calendar years 2001 and 2002.

- *The Fund paid claims for dependents whose eligibility was not documented*. The Fund requires members to submit birth certificates and marriage licenses to support dependants' eligibility when initially enrolling or when adding or deleting dependents, but such documentation was not evident in the files for 90 percent of the claims reviewed.

- *The Fund does not maintain records for tracking accrual and use of vacation and sick leave for its employees.* Leave accrual and use records are important to determine whether Fund employees are using leave time they are entitled to and for calculating payments to employees upon termination of employment.

These issues are discussed in detail in the following sections of this report.

Improper Benefit Payments

The Fund made improper benefit payments totaling $30,559. Specifically, of the $486,252 in benefit payments reviewed, $30,559 was not paid in accordance with Fund guidelines. Specifically, the Fund:

- Overpaid $18,765 in premiums for short-term disability insurance and life insurance. The Fund paid insurance premiums based on monthly headcounts that exceeded the number of people listed on the HHC contribution reports. In addition, the Fund paid

short term disability insurance premiums for 40 part-time employees who were not eligible for this benefit.

- Paid $7,419 for 121 claims on behalf of ineligible individuals. Specifically, the benefits were paid for individuals who were not listed on the HHC contribution reports or who were not eligible dependents based on Fund guidelines.

- Paid $3,875 in dental premium payments for 155 individuals who were not listed on the HHC contribution reports.

- Paid $500 for two Long Term Disability claims for which no claim forms were on file.

It should be noted that the benefit-use report provided by Mitchel B. Craner, Esq. (the Fund's legal benefit provider) listed seven individuals who were not members of the Fund. Although these services did not increase the Fund's legal benefit costs (since the legal provider is paid a fixed fee), we question the provision of this benefit to these individuals.

Recommendations

The Fund should ensure that:

1. It pays for benefits for eligible individuals only and makes payments in accordance with its guidelines.

2. Benefits are provided only to eligible members and their dependents.

Fund Response: "I want to start with the discrepancy that we are using a list that differs from the HHC contribution listing. I have provided . . . the active listing that comes from HHC that is used to determine eligibility. This listing comes in every two weeks outlining who is actively working. If there is a discrepancy between these two entities then it lays at the door of HHC. Therefore, I dispute the findings that we wrongly paid out $30,059 in benefits."

Auditors Comment: While we are uncertain as to the meaning of the Fund Administrator's response, we do know that the Fund Administrator did not provide any documentation showing that the individuals cited in the report were entitled to the benefits they received. Therefore, we reiterate our recommendations.

The Fund Pays a Disproportionate Share of Rent Expense

Rent charges for office space shared by the Union and the Fund were not properly allocated. On May 6, 1993, the Union entered into a lease agreement with the Greater New York Musicians Club Corporation to rent the northern portion of the sixth floor at 322 West 48th Street, New York, N.Y. According to the lease agreement, the rented space includes 2,616

square feet of space—1,702 square feet within the office suite (including 748 square feet of hallway, reception area, and bathroom space) and 914 square feet of common building space.

Although the Union occupies 629 square feet (66%) and the Fund occupies 325 (34%) of the 954 square feet of dedicated space within the suite, the Fund paid 50 percent of the rent charges. Consequently, for calendar year 2002, the Fund paid $9,457 in rent that should have paid for by the Union.

Recommendations

The Fund should:

3. Ensure that rent charges are properly allocated, based on the percentage of dedicated space used by the Fund and the Union.

4. Request that the Union reimburse it for the $9,457 in excess rent paid for calendar year 2002.

5. Determine whether it paid excess rent for previous years, and, if appropriate, request reimbursement from the Union.

Fund Response: The Fund agreed with these recommendations.

Questionable Payment for Legal Services

On September 1, 2000, the Fund entered into a two-year agreement with the law firm of Mitchel B. Craner, Esq. to provide the following services: attend Trustee meetings; advise the Trustees on matters pertaining to the operation of the Fund; assist the Fund's Trustees to comply with regulations promulgated by the Comptroller's Office; and advise the Trustees on matters of member eligibility, as well as all legal matters pertaining to the operation of the Fund.

Four months after the agreement with Mitchel B. Craner, Esq. was executed, the Fund entered into an agreement with Kennedy, Schwartz, and Cure, P.C. to provide the same services. According to Fund officials, Kennedy, Schwartz, and Cure, P.C. delivered no services to the Fund. Therefore, we question why the Fund entered into the agreement with Kennedy, Schwartz and Cure, P.C., which cost the Fund $30,000 for calendar years 2001 and 2002.

Recommendation

6. The Fund should ensure that it does not enter into contracts for services already covered under existing agreements.

Fund Response: The Fund agreed with this recommendation.

Claims Paid for Dependents Whose Eligibility Was Not Documented

Of the 1,730 claims reviewed, 531 were for services provided to individuals who were listed as dependents of eligible members. The Fund, however, did not have documentation in its files (i.e., birth certificates, marriage licenses) showing that the individuals were in fact eligible dependents for 480 (90%) of the 531 claims.

According to the Fund's Benefit Plan booklet, members are required to submit all necessary documents to prove eligibility of their dependents when members initially enroll or when they want to add or delete dependents. Requiring such documentation from its members would help the Fund to ensure that they provide benefits only to eligible dependents.

Recommendation

7. The Fund should maintain copies of all documentation in members' permanent files to substantiate eligibility of dependents.

Fund Response: The Fund agreed with this recommendation.

No Records of Time and Leave Balances For Employees

The Fund does not maintain records for tracking accrual and use of vacation and sick leave for its employees. Such records are important to determine whether Fund employees are using leave time they are entitled to and for calculating payments to employees upon termination of employment.

Recommendation

8. The Fund should maintain records of accrual and use of vacation and sick leave for its employees.

Fund Response: "Each employee must punch a time clock each day that they come to work. Anytime that they are not at work, they must either be officially on vacation, or have called in the morning that they are going to be out sick. The Chairperson of the Welfare Fund keeps those records."

Auditor Comment: The daily time in/time out records referred to by the Fund Administrator do not show accruals and use of employees' annual and sick leave. Thus, these records cannot be used to track employee leave balances, and for calculating payments to individuals upon termination of employment. We, therefore, reiterate our recommendation.

Licensed
Practical Nurses
Welfare Fund

322 West 48th Street, 6th Floor, New York, NY 10036-1308 Tel:(212) 247-7270 Fax:(212) 757-6841

June 4, 2004

Greg Brooks
The City of New York
Office of the Comptroller
Bureau of Audit
1 Center Street, 13th Floor
New York, NY 10007-2341

Re: Audit Report on the Financial and Operating Practices of the Local 721 Licensed Practical Nurses Welfare Fund FL04-093A

Dear Mr. Brooks,

After reviewing the Report on our Audit, I have to disagree with a couple of findings.

First, I want to start with the discrepancy that we are using a list that differs from the HHC contribution listing. I have provided [redacted] with the active listing that comes from HHC that is used to determine eligibility. This listing comes in every two weeks outlining who is actively working. If there is a discrepancy between these two entities then it lays at the door of HHC. Therefore, I dispute the findings that we wrongly paid out $30,059 in benefits.

Secondly, each employee must punch a time clock each day that they come to work. Anytime that they are not at work, they must either be officially on vacation, or have called in the morning that they are going to be out sick. The Chairperson of the Welfare Fund keeps those records.

Mr. Brooks, I accept all other recommendations that you outlined in your draft.

In Solidarity,

Claudette M. McIntosh
Welfare Fund Administrator