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Executive Deputy Commissioner

August 6, 2024

Heather Pratt, CFE
Audit Director
Office of the State Comptroller
Division of State Government Accountability
110 State Street – 11th Floor
Albany, NY 12236-0001

Dear Heather Pratt:

In accordance with Executive Law § 170, the following are the responses from the Office of Mental Health (OMH) to the Office of the State Comptroller's (OSC's) final audit report entitled, "*Oversight of Kendra's Law*" (2022-S-43). OMH generally agrees with OSC's findings, and, in addition to the changes outlined below in response to each of the recommendations, OMH has created and updated policies, guidance documents, and reporting procedures to improve oversight and clarify roles related to Assisted Outpatient Treatment (AOT).

OMH has created two new guidance documents¹ and updated three others² to improve data collection, reflect changes to procedures, outline OMH's increased expectations for Local Government Units (LGUs), and to assist in the implementation of the recommendations made by OSC, which are currently under review. OMH also launched three new electronic reports on August 1, 2024, to enhance the collection of data for the "Timely Investigation Report," "County Monthly Data," and "DCS Determination of Non-Renewal." Additionally, OMH is updating the "New York State AOT Service Verification" procedure to ensure that timely investigation reports are reviewed during the service verification process and that explicit communication and documentation regarding non-renewal discussions is maintained. The service verifications for the fourth quarter (beginning on October 1, 2024) will include more detail including identifying the number of days the investigation takes, specific calculations for the timing of delivery of the first service, and reviews of a sample of non-renewal determinations at the county-level.

OMH is also working on a new "Significant Event Report" procedure for persons under AOT orders, to improve significant event reporting for AOT recipients. This updated procedure will also provide for a uniform process used statewide. Lastly, a new transfer form is being developed that we anticipate will expedite communication when an individual with an active AOT order transitions from one county to another. This updated procedure will improve reporting accuracy and information flow of significant events reporting and follow-up.

OMH's responses to the recommendations are as follows:

¹ "New York State Assisted Outpatient Treatment (AOT) Timely Investigation Policy" and "Director of Community Services (DCS) Review and Determination of AOT Non-Renewal Guidance"

² "Guidelines for Initial Reporting for LGU's", "AOT Guidance for Program Operation", and "Care Coordination Assignment of persons with AOT"

OSC Recommendation 1: Develop guidance to define “timely” that LGUs and Field Offices can use as a benchmark for completing investigations and ensure that LGUs establish procedures to investigate AOT referrals in a timely manner, as required under the Law.

OMH 180-Day Response: OMH met with the Conference of Local Mental Hygiene Directors (CLMHD) on February 9, 2024. During this meeting, all counties agreed that six months is a reasonable timeframe for completing investigations, and that this should be used as a benchmark to define “timely”. As a result, OMH updated the “New York State Assisted Outpatient Treatment (AOT) Timely Investigation Policy,” to include the agreed-upon definition of timely. This document is currently under review and is expected to be released in calendar year 2024.

Additionally, OMH developed an electronic reporting mechanism for counties to report investigation data, including whether subpoenas were used to gather clinical information on persons referred to the county for AOT. This new reporting mechanism was implemented on August 1, 2024, and will be used by all counties by the end of 2024. Field office staff will regularly review timely investigation data and will discuss barriers and issues impacting investigations that exceed the six-month benchmark with LGUs as needed. Ongoing issues related to timely investigations will be reported to OMH central office for appropriate action.

Lastly, to ensure that LGUs establish procedures to investigate AOT referrals timely, OMH will request copies of updated County AOT plans or policies and procedures to indicate that they have updated their processes accordingly.

OSC Recommendation 2: Improve assurance that Field Offices obtain and compile the required investigation data from LGUs and provide timely investigation reports to OMH’s Central Office.

OMH 180-Day Response: OMH has made significant progress in streamlining the collection of timely investigation data. AOT program staff have been meeting with ITS and our internal medical informatics group to develop an electronic survey-formatted report for LGUs to electronically submit investigation reports with all the required parameters. This information will be maintained electronically and allow OMH central and field office staff to review the data as needed. OMH is also working to create a dashboard for OMH AOT staff for ease of access and tracking. OMH has developed a guidance document that will instruct LGUs to use this new electronic report to report investigation data. The guidance is currently under review, and it is expected that this new process will be implemented by the end of 2024.

Additionally, timely investigation data will continue to be reviewed during service verification visits. In instances where timely investigation data are not received as required, a deficiency will be cited during the service verification. Continued non-compliance could result in the county’s having to submit a plan of corrective action or escalation to the OMH Commissioner.

OSC Recommendation 3: Evaluate the feasibility of collecting data about the time to connect AOT recipients with their initial services and – if found to be feasible – collect and use the data for decision making.

OMH 180-Day Response: OMH has met with CLMHD and county stakeholders and determined that there is not currently a feasible way to collect real-time data about the time to connect recipients with their initial services. However, beginning in October 2024, OMH will gather this information during the service verification process. Specifically, OMH is updating the service verification process, including the supporting guidance documents, to include a comparison of progress notes and dates of service delivery with respect to the order start date. This information will be gathered and used for decision making, training, and outreach as it is compiled.

OSC Recommendation 4: Review and – where considered necessary – clarify existing guidance about significant event reporting to improve:

- The ability to capture and appropriately share the desired information; and
- The completeness, accuracy, and comparability of the information reported.

OMH 180-Day Response: OMH has held meetings with the Director of Clinical Risk Management within the Office of Quality Improvement with the goal of developing a new AOT significant event reporting mechanism. There are two possible avenues OMH is considering, but we are first working to identify clinically relevant thresholds for reporting at both levels of oversight: the LGU and the OMH field offices. OMH has also reviewed frequency of significant event report types over the course of one year to determine utilization rates for each. OMH is planning to have either a completely new reporting tool, similar to other improved electronic procedures discussed for other recommendations, or an addendum to an existing OMH reporting system for other types of incidents tracked, in calendar year 2025.

OSC Recommendation 5: Improve assurance that LGUs take appropriate action to ensure that AOT orders that are due to expire and should be renewed continue without lapses in treatment and monitoring.

OMH 180-Day Response: OMH has provided training on this topic and will be implementing a new electronic reporting process for non-renewal decisions in the fall of 2024. This updated process will reduce reporting errors, make data submission and monitoring easier for county staff, and will assist the field offices in monitoring expiring AOT orders. Specifically, OMH central and field office staff will review the data monthly and follow-up with LGUs as appropriate on AOT orders that are near or past expiration. Additionally, we hope that the training will address specific concerns raised by the audit around procedural missteps and appropriate use of reporting variables.

As of June 1, 2024, OMH AOT program staff had reviewed and discussed the reasons for non-renewal for each region with field office staff to gain a better understanding of how counties are interpreting the use of the non-renewal form. Additionally, all regional meetings with AOT county coordinators included a review and discussion of their local data and specific reporting issues that we have seen consistently across the state.

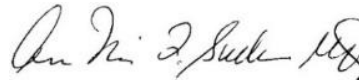
In anticipation of the release of the new electronic reporting procedure, OMH offered virtual Webex meetings on July 22nd and 25th to provide guidance and discuss procedural provisions that should greatly reduce issues with the processes locally. The Webex meetings were recorded and will be maintained on the AOT website for future reference for county staff.

OSC Recommendation 6: Provide guidance to LGUs about how to appropriately report reasons for AOT non-renewal.

OMH 180-Day Response: OMH has created a guidance document entitled, “Director of Community Services (DCS) Review and Determination of AOT Non-Renewal Guidance” which outlines how to appropriately report reasons for AOT non-renewal. This document is currently under review and is expected to be released by the end of 2024. Additionally, AOT program staff provided training to the counties on this topic on July 22nd and 25th which was recorded and will be maintained on the NYS AOT website for continued access.

Please let us know if you have any questions or require additional information concerning the above.

Sincerely,



Ann Marie T. Sullivan, M.D.
Commissioner

cc. Honorable Kathy Hochul, Governor of the State of New York
Honorable Thomas P. DiNapoli, State Comptroller
Honorable Andrea Stewart-Cousins, Senate Majority Leader and President Pro Tempore
Honorable Robert G. Ort, Senate Minority Leader
Honorable Carl E. Heastie, Assembly Speaker
Honorable Crystal D. Peoples-Stokes, Assembly Majority Leader
Honorable William A. Barclay, Assembly Minority Leader
Honorable Liz Krueger, Chairperson, Senate Finance Committee
Honorable Thomas F. O'Mara, Ranking Minority Member, Senate Finance Committee
Honorable Helene E. Weinstein, Chairman, Assembly Ways and Means Committee
Honorable Edward P. Ra, Ranking Minority Member, Assembly Ways and Means Committee
Blake G. Washington, Budget Director, Division of the Budget