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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

March 22, 2010

Dr. Michael F. Hogan, Ph.D.
Commissioner
Office of Mental Health
44 Holland Avenue
Albany, NY 12229

Re: Report 2009-F-16

Dear Dr. Hogan:

Pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution; and Article II, Section 8 of the State Finance Law, we have followed up on the actions taken by officials of the Office of Mental Health (OMH), to implement the recommendations contained in our audit report, *High Overtime Payments to Individuals at Hudson River Psychiatric Center* (Report 2006-S-81).

Background, Scope and Objective

The Office of Mental Health operates psychiatric centers across the State, providing various inpatient and outpatient programs. The Hudson River Psychiatric Center (Center) serves seriously and persistently mentally ill adults in New York's Dutchess, Putnam and Ulster counties through the provision of inpatient care to approximately 130 adults. The Center operates eight facilities (four community residences, one crisis residence, and three client centers) in addition to its main inpatient psychiatric center in Poughkeepsie, New York. The employees providing the bulk of direct care services for the Center's direct-care clients are Mental Health Therapy Aides, Secure Care Treatment Aides, and Licensed Practical Nurses. The Center's total overtime cost in calendar year 2009 was $1.2 million for almost 39,000 hours of overtime.

Our initial audit report, which was issued on June 26, 2007, covering the period January 1, 2005 through November 2, 2006, determined whether the overtime hours paid by the Center were necessary, and if the Center made efforts to effectively distribute these hours among its employees. Additionally, we determined whether overtime hours paid to employees were actually worked. We concluded that overtime hours paid to Center employees were worked, and the hours were necessary for the Center's operations. However, Center officials did not make sufficient effort to effectively distribute the overtime hours among its employees. As a result, some employees worked extensive overtime hours. We recommended Center officials actively monitor individual employees' overtime hours and determine whether overtime hours could be distributed more effectively among the employees. The objective of our follow-up was to assess the extent of implementation as of December 31, 2009, of the four recommendations included in our initial report.

Summary Conclusions and Status of Audit Recommendations

We found that Center officials have implemented the four recommendations contained in our initial report.

Follow-up Observations

Recommendation 1

Review current overtime practices and determine if other schedules or overtime distribution methods can be used that will alleviate/reduce instances of Center direct-care staff regularly working many consecutive hours, as well as long stretches of time without a day of rest.

Status - Implemented

Agency Action - The Center has reviewed its work schedules, and revised them to reduce the number of direct care work shifts from five to three, an action that has resulted in an increased pool of staff available to work overtime. The Center has also increased its pool of overtime-eligible employees by inviting those persons who are qualified to work out-of-title overtime to sign up to be called for voluntary overtime. The Center has also developed new rules designed to prevent staff from working long stretches without proper rest. Staff is not to work more than eight hours following two consecutive 16-hour workdays, they are expected to have at least one pass day each week, and individual overtime is capped at a maximum of 40 hours per week.

Recommendation 2

Develop a proactive method for monitoring individual overtime earners' hours.

Status - Implemented

Agency Action - The Center now requires its supervisors to verify that employees who have been authorized to work overtime are eligible by monitoring individual overtime earner’s hours against the new overtime eligibility rules described above. The Center has also instituted new overtime work rules designed to prevent staff from working long stretches of time without proper rest. In addition, the Nursing Unit now tracks overtime hours worked by each of its staff and uses these records to monitor compliance with the new overtime work rules. The Nursing Unit pays particular attention to ensuring that staff who have historically worked the most overtime hours comply. We note that our prior audit found 13 employees worked 1,000 or more hours of overtime during calendar year 2005, compared with only one employee who worked more than 1,000 hours of overtime during calendar year 2009.

Recommendation 3

Establish a process to assess individuals for continuing fitness for duty at selected points in time. Document such assessments.

Status - Implemented

Agency Action - The Center has developed criteria for supervisors to use when assessing individuals fitness for duty, and they have been instructed on how to record any observed instances of employees not being fit for duty. The supervisors are expected to perform these assessments prior to the start of each shift using an overtime observation checklist that identifies the criteria for determining employee fitness for duty, and which has been placed on the wall adjacent to where the overtime book is kept. In September 2007 the Center trained supervisors on these expectations and followed up with a refresher in May 2009. The Center has also incorporated a reminder of this responsibility in the book used to track overtime hours worked each day.

Recommendation 4

Periodically perform and maintain written support for a risk assessment of overtime.

Status - Implemented

Agency Action - The Center has prepared annual written risk assessments of overtime since our prior audit. These assessments contain the rationale for the strategies that have been used by the Center to manage overtime since that audit. The Center also looked into the frequency with which injuries occurred to persons who worked overtime.

Major contributors to this report were Stuart Dolgon, Abe Fish, and John Lang.

We thank the management and staff of the Office of Mental Health and Hudson River Psychiatric Center for the courtesies and cooperation extended to our auditor during this process**.**

Very truly yours,

Michael Solomon
Audit Manager

cc. Ms. Carol Stevens, Executive Director of Hudson River Psychiatric Center
Mr. Ken Lawrence, Director of OMH Internal Audit
Mr. James Russo, OMH Internal Audit
Mr. Tom Lukacs, Division of the Budget