

August 6, 2013

Executive Director
Preschool/ School-Age/Section 4201 Special Education Program Provider

Dear Executive Director:

Before the school year gets into full swing, New York City Department of Education Office of Auditor General and New York State Education Department Rate Setting Unit ("RSU") managers thought it would be useful to share information with you regarding two areas of concern to both agencies.

First, is the matter of providers that have entered into either a related-party or arm's-length relationship with a third party that charges the provider for "management" services that include, but are not limited to, administering the provider's operation, hiring staff, and paying bills. Both this office and the RSU agree that it is problematic where the arrangement does not yield cost efficiencies but, rather, results in charges for the services of an Executive Director and/or other administrator(s) whose duties appear to overlap in whole or in significant part with those provided by the third party. In those cases, several questions arise, including whether the costs associated with the engagement of the third party are reasonable, necessary, fairly allocated and based on actual costs (as opposed to flat fee and percentage-based charges) and, on the other side of the relationship, whether the administrators' salaries are excessive given the overlap of duties.

It is not our intention to direct any program with respect to its current relationships with third party managers. Nonetheless, we want to make the programs aware that such situations will be scrutinized and may lead to adjustments upon rate setting. Therefore, if similar relationships exist within your agency, it is in the agency's best interests to assess timely whether associated costs are within Reimbursable Cost Manual guidelines and, if applicable, meet the conditions of rules pertaining to less-than-arm's-length transactions.

The second matter pertains to section 4410 programs that provide Special Education Itinerant Teacher ("SEIT") services. We have encountered situations wherein SEIT program employees who, by title, appear to be providing programmatically appropriate services, but actually are engaged in identifying preschool-age children in daycare and other such settings who may be eligible for SEIT services, meeting with their parents, and/or attending Committees on Preschool Special Education meetings along with the parents. Clearly, these activities are outside the scope of the SEIT program and will not be treated

as costs that benefit the program. Therefore, Providers whose staff are engaged in these extra-programmatic activities are advised to adjust their practices accordingly.

Sincerely,



Marlene Malamy
Deputy Auditor General

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