



New York State Office of the State Comptroller
Thomas P. DiNapoli

Division of State Government Accountability

Compliance With the Reimbursable Cost Manual

State Education Department Manual Therapy Center, Inc.



Executive Summary

Purpose

To determine whether the costs reported by Manual Therapy Center, Inc. (Manual Therapy) on its Consolidated Fiscal Reports (CFRs) were reasonable, necessary, directly related to the special education program, and sufficiently documented pursuant to the State Education Department's (SED) Reimbursable Cost Manual (RCM). The audit focused primarily on expenses claimed on Manual Therapy's CFR for the fiscal year ended June 30, 2014, and included certain expenses claimed on its CFRs for the two fiscal years ended June 30, 2013.

Background

Manual Therapy is a New York City-based for-profit organization authorized by SED to provide preschool Special Education Itinerant Teacher (SEIT) services to children with disabilities who are between the ages of three and five years. In addition to this cost-based program, Manual Therapy operated one other SED-approved preschool special education program: Related Services. However, payments for services under the Related Services program are based on fixed fees.

During the 2013-14 school year, Manual Therapy served about 313 students. The New York City Department of Education refers students to Manual Therapy and pays for its services using rates established by SED. The rates are based on the financial information that Manual Therapy reports to SED on its annual CFRs. For the three fiscal years ended June 30, 2014, Manual Therapy reported approximately \$15.6 million in reimbursable costs for the SEIT cost-based program.

Key Findings

For the three fiscal years ended June 30, 2014, we identified \$818,286 in reported costs that did not comply with the requirements in the RCM, as follows:

- \$179,312 in compensation costs that were not supported by time and attendance records;
- \$144,676 in a less-than-arm's-length lease transaction wherein the reimbursed costs exceeded the owner's actual cost;
- \$130,457 in excess compensation paid to two employees who were reported as working in positions that did not reflect their actual duties;
- \$111,425 in inadequately supported other than personal service (OTPS) expenses;
- \$96,224 in compensation costs that were incorrectly allocated to the SEIT cost-based program instead of the Related Services fixed-fee program;
- \$53,855 in OTPS expenses that were not related to the SEIT cost-based program;
- \$53,414 in depreciation expenses that were not adequately supported or incorrectly calculated;
- \$25,170 in insufficiently documented OTPS expenses; and
- \$23,753 in expenses that were not eligible for reimbursement, including \$16,477 in non-audit services, \$7,228 in incorrectly allocated compensation, and \$48 for a payroll tax overpayment.

Key Recommendations

To SED:

- Review the recommended disallowances resulting from our audit and make the appropriate adjustments to Manual Therapy's CFRs and tuition reimbursement rates, as warranted.
- Work with Manual Therapy officials to ensure their compliance with SED's reimbursement requirements.

To Manual Therapy:

- Ensure that all costs reported on future CFRs comply with the RCM's requirements.

Other Related Audits/Reports of Interest

[Volunteers of America – Greater New York, Inc.: Compliance With the Reimbursable Cost Manual \(2017-S-32\)](#)

[NYSARC, Inc. – NYC Chapter: Compliance With the Reimbursable Cost Manual \(2017-S-47\)](#)

State of New York
Office of the State Comptroller

Division of State Government Accountability

December 31, 2018

Ms. MaryEllen Elia
Commissioner
State Education Department
State Education Building - Room 125
89 Washington Avenue
Albany, NY 12234

Dr. Ahmed Abdelkader
Executive Director
Manual Therapy Center
431 Bay Ridge Parkway
Brooklyn, NY 11209

Dear Ms. Elia and Dr. Abdelkader:

The Office of the State Comptroller is committed to helping State agencies, public authorities, and local government agencies manage government resources efficiently and, by so doing, providing accountability for tax dollars spent to support government-funded services and operations. The Comptroller oversees the fiscal affairs of State agencies, public authorities, and local government agencies, as well as their compliance with relevant statutes and their observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations. Audits can also identify strategies for reducing costs and strengthening controls that are intended to safeguard assets.

Following is a report, entitled *Compliance With the Reimbursable Cost Manual*, of our audit of the expenses submitted by Manual Therapy Center, Inc. to the State Education Department for the purposes of establishing tuition reimbursement rates. The audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution; Article II, Section 8 of the State Finance Law; and Section 4410-c of the State Education Law.

This audit's results and recommendations are resources for you to use in effectively managing your operations and in meeting the expectations of taxpayers. If you have any questions about this report, please feel free to contact us.

Respectfully submitted,

Office of the State Comptroller
Division of State Government Accountability

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State Government Accountability Contact Information:

Audit Director: Kenrick Sifontes

Phone: (212) 417-5200

Email: StateGovernmentAccountability@osc.ny.gov

Address:

Office of the State Comptroller
Division of State Government Accountability
110 State Street, 11th Floor
Albany, NY 12236

This report is also available on our website at: www.osc.state.ny.us

Background

Manual Therapy Center, Inc. (Manual Therapy) is a New York City-based for-profit organization approved by the State Education Department (SED) to provide preschool Special Education Itinerant Teacher (SEIT) services to children with disabilities who are between the ages of three and five years. During the 2013-14 school year, Manual Therapy served about 313 students. In addition to the SEIT program, Manual Therapy operated one other SED-approved preschool special education program: Related Services. However, payments for services under the Related Services program are based on fixed fees, as opposed to the cost-based rates established through financial information reported on the annual Consolidated Fiscal Reports (CFRs) Manual Therapy files with SED.

The New York City Department of Education (DoE) refers students to Manual Therapy based on clinical evaluations and pays for its services using rates established by SED. These rates are based on the financial information Manual Therapy reports to SED on its annual CFRs. To qualify for reimbursement, Manual Therapy's expenses must comply with the criteria set forth in SED's Reimbursable Cost Manual (RCM) and the Consolidated Fiscal Reporting and Claiming Manual (CFR Manual), which provide guidance to special education providers on the eligibility of reimbursable costs, the documentation necessary to support these costs, and cost allocation requirements for expenses relating to multiple programs. The State reimburses DoE 59.5 percent of the statutory rate it pays to Manual Therapy.

Section 4410-c of the Education Law provides that the State Comptroller shall audit the expenses reported to SED by special education service providers for preschool children with disabilities. For the three fiscal years ended June 30, 2014, Manual Therapy reported approximately \$15.6 million in reimbursable costs for the SEIT cost-based program. This audit focused primarily on expenses claimed on Manual Therapy's CFR for the fiscal year ended June 30, 2014, and included certain expenses claimed on its CFRs for the two fiscal years ended June 30, 2013.

Audit Findings and Recommendations

According to the RCM, costs will be considered for reimbursement provided such costs are reasonable, necessary, directly related to the special education program, and sufficiently documented. For the three fiscal years ended June 30, 2014, we identified \$818,286 in reported costs that did not comply with SED's requirements for reimbursement. The ineligible costs included \$413,221 in personal service costs and \$405,065 in other than personal service (OTPS) costs (see Exhibit A at the end of the report).

Personal Service Costs

Personal service costs, which include all salaries and fringe benefits paid or accrued to employees on the agency's payroll, must be reported on the CFR as either direct care costs (e.g., teachers' salaries) or non-direct care costs (e.g., administrators' salaries). For the three fiscal years ended June 30, 2014, Manual Therapy reported approximately \$11.1 million in personal service costs for its cost-based program. We identified \$413,221 in personal service costs that did not comply with the RCM's guidelines for reimbursement. SED, pursuant to a desk review, previously disallowed some of these personal service costs.

Unsupported Personal Service Costs

According to the RCM, costs are considered for reimbursement provided such costs are reasonable, necessary, directly related to the special education program, and sufficiently documented. Moreover, compensation costs (salaries and fringe benefits) must be based on approved, documented payrolls and supported by employee time records.

For the three fiscal years ended June 30, 2014, Manual Therapy reported \$431,941 in compensation on its CFRs for four employees. We recommend that SED disallow \$179,312 (\$161,656 in salaries and \$17,656 in fringe benefits) of the \$431,941 because those costs were not supported by time and attendance records or other evidence of work effort, as required by the RCM.

Excess Compensation

According to the CFR Manual, entities are to report the position title code that best reflects the job responsibilities performed by an employee. For the two fiscal years ended June 30, 2013, Manual Therapy reported two employees as working in positions that did not reflect their actual duties who were reimbursed \$130,457 in excessive compensation, as follows:

- In fiscal year 2011-12, Manual Therapy reported \$111,047 (\$100,132 in salary and \$10,915 in fringe benefits) in compensation on its CFR for a Program Director. We interviewed the employee who was listed in this position and were told he had not functioned as a Program Director during the period. He asserted that he had performed administrative support services during this period and added that he was not familiar with the duties of a Program Director. Manual Therapy officials agreed that this employee's function was

miscoded on the CFR and he should have been reported as an Administrative Assistant. According to SED, the regional average salary for the Administrative Assistant position in fiscal year 2011-12 was \$45,822. Using that guidance, we determined that this employee's compensation was overstated on the CFR by \$60,230 (\$54,310 in salary and \$5,920 in fringe benefits).

- In fiscal year 2012-13, Manual Therapy reported \$170,452 (\$153,207 in salary and \$17,245 in fringe benefits) in compensation for two Individualized Education Program (IEP) Coordinators – one was listed as the Program Director in fiscal year 2011-12. We interviewed the two employees, who stated they had provided administrative support services during the period. In addition, neither employee had the required certification or license to function as IEP Coordinators. Manual Therapy officials agreed that these employees were miscoded and should have been reported as Administrative Assistants. According to SED, the regional average salary for the Administrative Assistant positions in fiscal year 2012-13 was \$45,202. Using that guidance, we determined that the employees' compensation was overstated on the CFR by \$70,227 (\$62,803 in salaries and \$7,424 in fringe benefits).

Consequently, we recommend that SED disallow \$130,457 (\$60,230 + \$70,227) in excess compensation costs.

Allocation of Employee Compensation

According to the RCM, compensation of employees who perform tasks for more than one program must be allocated among all programs for which they work. Moreover, entities must maintain appropriate documentation reflecting the hours used in this allocation. In addition, the allocation methods, as well as the statistical basis used to calculate allocation percentages, must be documented and retained for a minimum of seven years.

For the three fiscal years ended June 30, 2014, Manual Therapy over-allocated \$96,224 in compensation costs to the SEIT cost-based program, as follows:

- In fiscal year 2011-12, Manual Therapy reported \$113,724 in salary on its CFR for an Assistant Executive Director (AED). However, this employee's contract with Manual Therapy listed his position as a full-time equivalent (1.0 FTE) AED with a salary of \$113,000. That is, he was the AED responsible for all the programs listed on Manual Therapy's CFR. We noted that Manual Therapy billed DoE for physical therapy services (Related Services) performed by this employee during his Manual Therapy workday. Manual Therapy officials explained that because the AED was providing physical therapy services for the fixed-fee Related Services program, they reported him as a 0.71 FTE rather than 1.0 FTE on the CFR for the SEIT cost-based program. Therefore, Manual Therapy should have reported only \$80,230 (\$113,000 x 0.71) in salary on the CFR for the SEIT cost-based program. The remaining \$33,494 (\$113,724 - \$80,230) in salary should have been reported under the fixed-fee Related Services cost center on the CFR. We determined that \$31,999 of the \$33,494 in salary was incorrectly allocated to the SEIT cost-based program. In total, Manual Therapy over-allocated \$36,301 (\$31,999 in salary and \$4,302 in fringe benefits) in compensation

to the SEIT cost-based program.

- In fiscal year 2012-13, Manual Therapy reported \$158,494 (\$144,977 in salary and \$13,517 in fringe benefits) in compensation for the AED. According to DoE records, this individual also provided physical therapy services during his Manual Therapy workday. We compared the AED's Manual Therapy time sheets with his DoE service hours and found 676 hours of overlapping time. These hours and the associated salary should not have been reported under the AED position. In total, Manual Therapy over-allocated \$58,509 (\$53,519 in salary and \$4,990 in fringe benefits) to the SEIT cost-based program.
- In fiscal year 2013-14, Manual Therapy reported \$191,301 (\$176,250 in salary and \$15,051 in fringe benefits) in compensation for its Executive Director (ED) – this employee was listed on the CFR as the AED in the prior two fiscal years. According to DoE records, this individual also provided physical therapy services during his Manual Therapy workday. We compared the ED's Manual Therapy time sheets with his DoE service hours and found 13.5 hours of overlapping time. These hours and the associated salary should not have been reported under the ED position. In total, Manual Therapy over-allocated \$1,414 (\$1,303 in salary and \$111 in fringe benefits) to the SEIT cost-based program.

Consequently, we recommend that SED disallow \$96,224 (\$86,821 in salaries and \$9,403 in fringe benefits) in compensation over-allocated to the SEIT cost-based program.

Non-Program-Related Compensation

According to the RCM, costs will be considered for reimbursement if they are reasonable, necessary, directly related to the special education program, and sufficiently documented. For the three fiscal years ended June 30, 2014, we identified \$7,228 in non-program-related compensation allocated to the SEIT cost-based program, as follows:

- \$3,812 for an administrative office worker who informed us that she actually worked for Manual Therapy's owner's private physical therapy practice; and
- \$3,416 for an employee claimed as a SEIT teacher who actually provided Related Services. These costs should have been allocated to the fixed-fee Related Services program, rather than to the SEIT cost-based program.

Consequently, we recommend that SED disallow \$7,228 (\$6,557 in salaries and \$671 in fringe benefits) in compensation costs that were incorrectly allocated to the SEIT cost-based program and/or were non-program-related.

Other Than Personal Service Costs

According to the RCM, costs must be reasonable, necessary, directly related to the special education program, and sufficiently documented. For the three fiscal years ended June 30, 2014, Manual Therapy reported approximately \$4.5 million in OTPS expenses for its SEIT program. We identified \$405,065 of these costs that did not comply with SED's reimbursement requirements.

Less-Than-Arm's-Length Lease Agreement

Manual Therapy's main administrative office is in Brooklyn. It also leases office space on Staten Island. Because the three-floor Staten Island building is owned by Manual Therapy's owner, the lease for that location is a less-than-arm's-length transaction. Most Terrific Child Daycare occupies one of the building's three floors. Manual Therapy's owner also owns the day care center.

According to the RCM, costs incurred in a less-than-arm's-length lease of real property shall be reimbursed based on the owner's actual cost or fair market value, whichever is less. According to the CFR Manual, actual costs include depreciation, amortization, mortgage interest, property taxes, insurance, utilities, and repairs and maintenance. For the three fiscal years ended June 30, 2014, Manual Therapy reported \$186,756 (\$60,426 in 2011-12, \$63,080 in 2012-13, and \$63,250 in 2013-14) in rent expenses for its Staten Island location.

Manual Therapy occupied two floors (2,316 square feet) at the Staten Island location. Manual Therapy officials informed us that they determined the fair market rent for that location to be \$29 per square foot. Based on the square footage and the rent per square foot, we calculated the fair market rent to be \$67,164 per year, or \$201,492 for the three-year audit period. We also calculated the owner's actual cost for the two floors for the three fiscal years to be \$52,367 (\$14,990 in 2011-12, \$16,728 in 2012-13, and \$20,649 in 2013-14). Consequently, the owner's actual cost of \$52,367 is lower than the \$201,492 fair market value for the rented space on Staten Island, a difference of \$149,125. Therefore, we recommend that SED disallow \$134,389 (the difference between the \$186,756 in rental cost reported on the CFRs and the \$52,367 in owner's actual costs). In addition, because property taxes were included in the calculation of owner's actual cost, we recommend that SED disallow an additional \$10,287, which represents property taxes that were separately claimed on the CFRs for the Staten Island site.

We recommend that SED disallow \$144,676 (\$134,389 + \$10,287) in property costs because these costs did not comply with the requirements in the RCM.

Unsupported Expenses

According to the RCM, costs will be considered for reimbursement provided such costs are reasonable, necessary, directly related to the special education program, and sufficiently documented. Furthermore, expenses must be supported with invoices listing items purchased and indicating date of purchase and date of payment.

We identified \$111,425 in OTPS expenses for the three fiscal years ended June 30, 2014 for which Manual Therapy did not provide documentation. The unsupported expenses were reportedly for advertising, janitorial services, legal fees, office expenses and supplies, printing and publications, professional fees, security systems, staff development workshops and seminars, staff travel, telephone charges, accounting fees, utilities, and insurance expenses.

We independently contacted several vendors to obtain the missing invoices. Based on our review of the vendor-provided invoices, we identified several expenses that were not reasonable,

necessary, or directly related to the special education program, as some of the purchases appear to be related to the owner's day care center or private physical therapy practice. For example, the invoice from one vendor was for a sign, "Most Terrific Child Daycare" (see Exhibit B). This was for the daycare center owned by Manual Therapy's owner. Other vendors provided invoices for physical therapy equipment that was delivered to Manual Therapy's offices in Brooklyn and Staten Island. In addition, the unsupported transactions included numerous credit card charges for food and groceries, purchases at Macy's and Century 21 department stores around the December holidays, a Circle Line cruise, and meals at a restaurant next to the Circle Line cruise terminal in Manhattan.

Consequently, we recommend that SED disallow the \$111,425 because the expenses were insufficiently documented, unreasonable, unnecessary, and were not directly related to the special education program.

Non-Program-Related Expenses

The RCM states that costs must be reasonable, necessary, directly related to the special education program, and sufficiently documented. For the three fiscal years ended June 30, 2014, we identified \$53,855 reported on the CFR that was not directly related to the SEIT program, as follows:

- \$47,930 reported as administrative contracted personal services expenses that should have been reported as "Other Programs" expenses, not SEIT expenses.
- \$3,599 in security and trash collection expenses at the Staten Island location. These costs should have been paid by Most Terrific Child Daycare.
- \$1,153 for advertising on pens and pencils displaying a design for Most Terrific Child Daycare.
- \$1,143 for credit card charges for the recruitment of psychologists and social workers (which are not required for the SEIT program) and for examination table paper.
- \$30 for property taxes at the ED's residence.

We recommend that SED disallow the \$53,855 because these expenses were not related to Manual Therapy's SEIT program.

Depreciation Expenses

According to the CFR Manual, providers are required to maintain depreciation schedules that include information such as: asset description, acquisition date, acquisition cost, any State/Federal funding received for the item, salvage value, depreciation method, useful life used for depreciation purposes, annual depreciation amount, and accumulated depreciation. The useful life of depreciable assets should be the higher of the reported useful life or the useful life from the latest edition of the Estimated Useful Lives of Depreciable Hospital Assets produced by the American Hospital Association. In addition, the RCM requires that inventory records, including detailed invoices, be maintained for all purchases.

For the three fiscal years ended June 30, 2014, Manual Therapy officials did not maintain appropriate documentation to support depreciation expenses reported on their CFRs, as follows:

- \$37,942 for which Manual Therapy officials did not provide depreciation schedules, invoices, or any other supporting documentation for the depreciated assets;
- \$14,030 for which Manual Therapy provided the required depreciation schedules but not the corresponding invoices for the listed items; and
- \$1,442 for which Manual Therapy used an incorrect useful life when calculating the depreciation expense.

Consequently, we recommend that SED disallow the \$53,414 in deprecation expenses that did not comply with the RCM requirements.

Insufficiently Documented Expenses

As per the RCM, payments to consultants must be supported by itemized invoices indicating the specific services actually provided; and for each service, the date(s) of service, number of hours provided, the fee per hour, and the total amount charged.

For the three fiscal years ended June 30, 2014, we identified \$25,170 in OTPS expenses that were insufficiently documented by Manual Therapy. Invoices for accounting, janitorial, legal, staff development, and technical support services were not itemized per the RCM. Consequently, we recommend that SED disallow \$25,170 in insufficiently documented OTPS expenses.

Non-Audit Accounting Services

According to the RCM, costs associated with non-audit services provided by a registered public accounting firm or any person associated with that firm, during or within 365 days of required audit work (prior to the beginning of the fiscal period being audited or after the date of the audit report issued for the audit period), are not reimbursable. The RCM provides examples of non-audit services, which include bookkeeping, management functions or human resources, and legal services.

For the three fiscal years ended June 30, 2014, we identified \$16,477 in ineligible non-audit service expenses, as follows:

- \$8,519 for bookkeeping and other accounting services provided by an individual and a firm who were associated with the CPA who performed Manual Therapy's required audit work; and
- \$7,958 for tax services provided by a consulting firm whose partner is the same individual who Manual Therapy employed as its CPA to perform the required audit work.

Consequently, we recommend that SED disallow \$16,477 in non-audit services that were ineligible for reimbursement per the RCM.

Non-Allowable Payroll Taxes

According to the RCM, any cash receipts that reduce the cost of an item are to be applied against the item. During fiscal year 2011-12, Manual Therapy contracted with a related vendor to provide special education teacher services, reimbursed the vendor for those costs, and reported the vendor's teacher compensation costs as contracted services on its CFR. At the end of the payroll quarter, the contractor reported on its quarterly federal tax return (Form 941) that it had overpaid \$48 in payroll taxes and requested a refund. However, Manual Therapy included the refunded \$48 in its CFR costs. Consequently, we recommend SED disallow the \$48, as it did not comply with the requirements of the RCM.

Recommendations

To SED:

1. Review the recommended disallowances resulting from our audit and make the appropriate adjustments to Manual Therapy's CFRs and tuition reimbursement rates, as warranted.
2. Work with Manual Therapy officials to ensure their compliance with SED's reimbursement requirements.

To Manual Therapy:

3. Ensure that costs reported on future CFRs comply with SED's reimbursement requirements.

Audit Scope, Objective, and Methodology

We audited the costs reported on Manual Therapy's CFRs to determine whether they were reasonable, necessary, directly related to the SEIT program, and sufficiently documented, pursuant to SED guidelines. The audit focused primarily on expenses claimed on Manual Therapy's CFR for the fiscal year ended June 30, 2014, and included certain expenses claimed on its CFRs for the two fiscal years ended June 30, 2013.

To accomplish our objective, we reviewed the RCM, the CFR Manual, Manual Therapy's CFRs, and relevant financial and program records for the audited period. In addition, we evaluated the internal controls over the costs claimed on, and the schedules prepared in support of, the CFRs submitted to SED. We also interviewed Manual Therapy officials, staff, and Manual Therapy's independent auditor to obtain an understanding of its financial and business practices. We independently contacted certain vendors when invoices were missing. In addition, we selected a judgmental sample of reported costs to determine whether they were supported, program related, and reimbursable. Specifically, we reviewed costs that were considered high risk and reimbursable in limited circumstances, based on prior audit report findings, such as salaries and fringe benefit expenses, less-than-arm's-length lease transactions, and OTPS expenses. Our samples were based on the relative materiality of the various categories of costs reported and

their associated levels of risk. Our samples were not designed to be projected to the entire population of reported costs.

We conducted our performance audit in accordance with generally accepted government auditing standards. These 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 objective. We believe that the evidence obtained during our audit provides a reasonable basis for our findings and conclusions based on our audit objective.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions, and public authorities, some of whom have minority voting rights. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our opinion, these management functions do not affect our ability to conduct independent audits of program performance.

Authority

The audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution; Article II, Section 8 of the State Finance Law; and Section 4410-c of the Education Law.

Reporting Requirements

We provided draft copies of this report to SED and Manual Therapy officials for their review and formal comment. Their comments were considered in preparing this final report and are included at the end of it. In their response, SED officials agreed with our recommendations and indicated that they will take steps to address them. In Manual Therapy's response, officials agreed with some of our proposed disallowances, but disagreed with others. Our responses to certain Manual Therapy comments are embedded within their response.

Within 90 days of the final release of this report, as required by Section 170 of the Executive Law, the Commissioner of Education shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and if the recommendations were not implemented, the reasons why.

Contributors to This Report

Kenrick Sifontes, Audit Director
Gene Brenenson, CPA, Audit Manager
Nicholas Angel, Audit Supervisor
Marsha Paretzky, Examiner-in-Charge
Leanna Dillon, Senior Examiner
Artan Fejza, Senior Examiner
Nareen Jarrett, Senior Examiner

Division of State Government Accountability

Andrew A. SanFilippo, Executive Deputy Comptroller
518-474-4593, asanfilippo@osc.ny.gov

Tina Kim, Deputy Comptroller
518-473-3596, tkim@osc.ny.gov

Ken Shulman, Assistant Comptroller
518-473-0324, kshulman@osc.ny.gov

Vision

A team of accountability experts respected for providing information that decision makers value.

Mission

To improve government operations by conducting independent audits, reviews, and evaluations of New York State and New York City taxpayer-financed programs.

Exhibit A

Manual Therapy Center Summary of Submitted and Disallowed Program Costs for the 2011-12, 2012-13, and 2013-14 Fiscal Years

Program Costs	Amount per CFR	Amount Disallowed	Amount Remaining	Notes to Exhibit
Personal Services				
Direct Care	\$9,704,264	\$239,664*	\$9,464,600	A, E, F, J, M
Agency Administration	1,360,467	173,557	1,186,910	
Total Personal Services	\$11,064,731	\$413,221	\$10,651,510	
Other Than Personal Services				
Direct Care	\$3,933,725	\$112,026	\$3,821,699	A-D, G-I, K, L
Agency Administration	558,951	293,039	265,912	
Total Other Than Personal Services	\$4,492,676	\$405,065	\$4,087,611	
Total Program Costs	\$15,557,407	\$818,286*	\$14,739,121	

*SED, pursuant to a desk review, previously disallowed some of these costs.

Notes to Exhibit A

The following Notes refer to specific sections of SED's 2013-14 RCM (unless otherwise stated) and the CFR Manual used to develop our recommended disallowances. We summarized the applicable sections to explain the basis for each disallowance. We provided the details supporting our recommended disallowances to SED and Manual Therapy officials during the course of our audit.

- A. RCM Section II - Costs will be considered for reimbursement provided such costs are reasonable, necessary, directly related to the special education program, and sufficiently documented.
- B. RCM Section II(14)(F) - Costs associated with non-audit services provided by a registered public accounting firm or any person associated with that firm, during or within 365 days of required work (prior to the beginning of the fiscal period being audited or after the date of the audit report issued for the audit period), are not reimbursable.
- C. RCM Section II(41)(B)(4), RCM Section II(41)(B)(5) (July 2012 Edition), RCM Section II(42)(B)(5) (July 2011 Edition) - Costs incurred in less-than-arm's-length lease of real property transactions shall be reimbursed based on owner's actual cost or fair market value, whichever is less.
- D. RCM Section II(45)(A)(1) (July 2011 Edition) - Any cash receipts that reduce the cost of an item will be applied against the item, except gifts, donations, and earned interest from other-than-public funds.
- E. RCM Section III(1)(A) - Compensation costs must be based on approved, documented payrolls. Payroll must be supported by employee time records prepared during, not after, the time period for which the employee was paid. Employee time sheets must be signed by the employee and a supervisor and must be completed at least monthly.
- F. RCM Section III(1)(B) - Actual hours of service are the preferred statistical basis upon which to allocate salaries and fringe benefits for shared staff who work on multiple programs. Entities must maintain appropriate documentation reflecting the hours used in this allocation. Acceptable documentation may include payroll records or time studies. If hours of service cannot be calculated or a time study cannot be completed, then alternative methods that are equitable and conform to generally accepted accounting principles may be utilized. Documentation for all allocation methods (bases and percentages) must be retained for a minimum of seven years.
- G. RCM Section III(1)(C)(2) - Adequate documentation for consultant costs must include the consultant's resume, a written contract that includes the nature of the services to be provided, the charge per day, and service dates. In addition, all payments must be supported by itemized invoices that indicate the specific services actually provided; and for each service, the date(s), number of hours provided, the fee per hour, and the total amount charged.
- H. RCM Section III(1)(D) - All purchases must be supported with invoices listing items purchased and indicating date of purchase and date of payment, as well as canceled checks. Costs must be charged directly to specific programs whenever possible. The particular program(s) must be identified on invoices or associated documents.

- I. RCM Section III(1)(I) - Inventory records, including the invoice, must be kept for all items purchased by the entity or donated to the entity for the benefit of the approved programs. These records should list: the invoice number; a description of the item; the make, model, or serial number of the item; cost; date of purchase; date retired; if applicable, the program(s) using the asset; and the location.
- J. RCM Section III(1)(M)(1)(i) - Salaries of employees who perform tasks for more than one program and/or entity must be allocated among all programs and/or entities for which they work.
- K. CFR Manual Page 18.3 - The related organization's actual cost in operating the building used by the service provider may include depreciation, amortization, mortgage interest, property taxes, insurance, utilities, and repairs and maintenance.
- L. CFR Manual Appendix O - The CFR does not include schedules detailing depreciation expense on assets such as buildings, equipment, and vehicles. However, the service provider is required to maintain depreciation schedules that include the following minimum information: asset description, acquisition date, acquisition cost, State/federal funding for items, salvage value, depreciation method, useful life used for depreciation purposes, annual depreciation amount, and accumulated depreciation. The depreciable base is calculated by taking the total cost of the asset and subtracting the salvage value. The useful life of depreciable assets should be the higher of the reported useful life or the useful life from the latest edition of the Estimated Useful lives of Depreciable Hospital Assets produced by the American Hospital Association.
- M. CFR Manual Appendix R - Entities are to select the position title and code that reflects functions performed by the individual(s) and enter the appropriate title and code number on Schedule CFR-4.

Exhibit B

Image provided by vendor:



2' x 20' Pepsi Blue Aluminum Framed Sign
3/4" Sintra Letters Orange PMS 150C

Image on Google Maps from January 2013 at Manual Therapy's Staten Island location:



Agency Comments - State Education Department



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12234

DEPUTY COMMISSIONER
Office of Performance Improvement and Management Services
O: 518.473.4706
F: 518.474.5392

December 20, 2018

Mr. Kenrick Sifontes
Audit Director
Division of State Government Accountability
NYS Office of the State Comptroller
59 Maiden Lane, 21st Floor
New York, NY 10038

Dear Mr. Sifontes:

The following is the New York State Education Department's (SED) response to the draft audit report, 2016-S-38, Compliance with the Reimbursable Cost Manual: Manual Therapy Center, Inc. (Manual Therapy).


Recommendation 1: Review the recommended disallowances resulting from our audit and make the appropriate adjustments to Manual Therapy's CFRs and tuition reimbursement rates, as warranted.

We agree with this recommendation. SED will review the recommended disallowances as noted in the report and make adjustments to the reported costs to recover any overpayments, as appropriate, by recalculating tuition rates.

Recommendation 2: Work with Manual Therapy officials to ensure their compliance with SED's reimbursement requirements.

We agree with this recommendation. SED will continue to provide technical assistance whenever requested and will strongly recommend the Manual Therapy officials take advantage of our availability to help them better understand the standards for reimbursement as presented in Regulation and the Reimbursable Cost Manual (RCM). Furthermore, CFR training is available online on SED's webpage. SED recommends that all individuals signing the CFR certification statements, namely Executive Directors and Certified Public Accountants, complete this training. This training is a requirement for preschool special education providers upon approval and reapproval.

If you have any questions regarding this response, please contact James Kampf, Supervising Accountant at (518) 474-3227.

Yours truly,

Sharon Cates-Williams
Deputy Commissioner

c: Karla Ravida
Christopher Suriano
Suzanne Bolling
James Kampf
Harold Matott

Agency Comments - Manual Therapy Center, Inc. and State Comptroller's Comments



Pamela A. Madeiros
(518) 689-1412
madeirosp@gtlaw.com

December 13, 2018

VIA ELECTRONIC MAIL

Kenrick Sifontes
Audit Director
Office of the State Comptroller
Division of State Government Accountability
59 Maiden Lane, 21st Floor
New York, New York 10038

**Re: State Education Department
Compliance with the Reimbursable Cost Manual
Manual Therapy Center, Inc.
Draft Report 2016-S-38**

Dear Mr. Sifontes:

We have reviewed the above-referenced Draft Report concerning the costs and expenses reported by Manual Therapy Center, Inc. (Manual Therapy or the "Center") on its Consolidated Fiscal Reports (CFRs) for the fiscal year ending June 30, 2014 and certain expenses claimed on its CFRs for the two fiscal years ending June 30, 2013, and the auditors' determinations whether such costs and expenses were reasonable, necessary, directly related to the special education program, and sufficiently documented pursuant to the State Education Department's Reimbursable Cost Manual (RCM).

Personal Service Costs

Unsupported Personal Service Costs

Manual Therapy appreciates the auditors' thoughtful consideration of documentation in support of a specific individual's compensation as a SEIT instructor for FY 2013-14 (\$27,825.00). We recognize that the individual lacked the standard qualifications for the title/position of IEP Coordinator for FY 2011-12 and FY 2012-13, but had understood from RSU representatives that the individual was competent to assume that title/position in as much as they were on the path towards certification as a teacher (\$87,377.00).

State Comptroller's Comment - We did not recommend that the \$27,825 for fiscal year 2013-14 be disallowed. Rather, we recommended that \$87,377 for the two fiscal years 2011-12 and 2012-13 be disallowed because it was not supported by time and attendance records or other

Greenberg Traurig, LLP | Attorneys at Law
54 State Street | 6th Floor | Albany, NY 12207 | T +1 518.689.1400 | F +1 518.689.1499

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evidence of work effort.

We challenge the auditors' finding that the compensation of the Co-Executive Director was unsupported. To clarify, the CFR does not reflect 1519 hours of service for the 601 Position Code, but rather 1456. To further clarify, the Co-Executive Director in question served on a part-time basis for two of the three audit years (2011-12; 2012-13). Time reported on the CFR (1456) with correlating FTE's (.8) reflect the combined hours of both Co- Executive Directors, and should not be attributed to the single Co-Executive Director alone, as asserted by the auditors.

State Comptroller's Comment - SED made adjustments to the number of hours reported by Manual Therapy. These adjustments included revising the number of hours reported for the Executive Director (position title code 601) from 1,456 hours to 1,820 hours in 2011-12, thus increasing the full-time equivalent (FTE) percentage from 0.80 to 1.0.

As the time records reflect, the Co-Executive Director in question performed 1292 of the reported 1456 hours, with the correlating reduction in FTE attributed to him, personally. Time sheets provided to the auditors clearly reflect the claimed 1292 hours. Any disallowance must be calculated based on the Co-Executive Director's proportionate share of the reported combined .8 FTE and not as against the full .8 FTE.

State Comptroller's Comment - The disallowance remains. In 2011-12, Manual Therapy reported \$144,071 in salary expenses for the position of Executive Director. According to Manual Therapy records, one co-Executive Director was paid \$120,250 (\$144,071 multiplied by 83.5 percent). The other co-Executive Director was paid \$23,821 (\$144,071 multiplied by 16.5 percent). Using these percentages, we determined that one co-Executive Director's portion of the SED-adjusted hours was 1,519 hours (1,820 hours multiplied by 0.835). However, Manual Therapy provided time records to support just 1,161 hours, not the 1,292 hours stated in its response. The remaining 358 hours (1,519 minus 1,161) for this co-Executive Director were not supported by time and attendance records.

Similarly, the Co-Executive Director in question served on a part-time basis in 2012-13 and correctly reported 901 hours of service in that title/position – not the 1183 hours asserted by the auditors. His proportionate share of the hours served – 901 – was fully supported by the time sheets, as acknowledged by the auditors. Accordingly, no disallowance is appropriate where, as here, the compensation reported aligns with the FTE reported and is supported in its entirety by time sheets.

State Comptroller's Comment - The disallowance remains. In 2012-13, Manual Therapy reported 1,820 hours and \$183,480 in salary for the Executive Director position. According to the CFR, the co-Executive Director discussed in our report was paid \$120,000 as a 0.65 FTE. Based on the 1,820 hours reported for the position of Executive Director, a 0.65 FTE represents 1,183 hours. However, Manual Therapy provided time records to support just 901 hours for this

Kenrick Sifontes
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employee. Manual Therapy did not provide time and attendance records to support 282 hours (1,183 hours minus 901 hours).

In addition, as related to the proposed disallowance in 2013-14, the number of hours the Co-Executive Director in question served as an agency administrative staff member – .338 FTE – in fact correlates exactly with the supporting time sheet documentation of approximately 700 hours. Thus, no disallowance is warranted.

State Comptroller's Comment - In 2013-14, Manual Therapy reported this individual as an agency administrative staff employee (this individual was reported as a co-Executive Director in the two previous fiscal years). Moreover, Manual Therapy did not provide documentation to show how it determined he was a 0.338 FTE employee. Therefore, we divided the employee's salary by his pay rate reported in the payroll journal and determined that his salary was based on working 960 hours, rather than 700 hours. Manual Therapy did not provide time and attendance records to support the difference of 260 hours (960 hours minus 700 hours).

We had also shared with the auditors under separate cover, copies of invoices executed by certain janitorial staff persons which reflect dates and times and rates for janitorial services performed in 2013-14, in support of such reported expenses, and in substitution for time records which were unavailable. We challenge the auditors' assertion that this documentation lacks integrity because it is not contemporaneous with the services rendered and merely states the details of the original invoice where, as here, the service provider confirmed the validity of the details through their signature.

State Comptroller's Comment - The invoices, on Manual Therapy's letterhead, were for services purportedly performed in 2013-14. According to the RCM, payroll must be supported by employee time records prepared during, not after, the time period for which the employee was paid. In an August 2018 email, Manual Therapy's owner informed us that the invoices had been recently prepared and signed. Consequently, the documentation provided by Manual Therapy to support the reported cost did not comply with the requirements in the RCM.

Excess Compensation

Fiscal Year 2011-12

While we do not challenge the auditors' assertion that the services of a certain individual may have been miscoded by the accountant as that of a Program Director, we challenge the auditors' initial conclusion that the services provided were those of a program office worker and appreciate the auditors' acknowledgment that the individual performed tasks and engaged in activities well beyond a mere "office worker" position. We do not, then, challenge the auditors' finding of excess over the regional average salary for the 612 title/position code.

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Fiscal Year 2012-13

While we do not challenge the auditors' assertions that the services of certain individuals may have been misclassified by the accountant as that of IEP Coordinators, we challenge the auditors' initial conclusion that the services provided were those of a program office worker and not those of an Administrative Assistant (612) and appreciate the auditors' acknowledgment that both individuals engaged in activities and performed tasks consistent with the title/position code Administrative Assistant. We do not, then, challenge the auditors' finding of excess over the regional average salary for the 612 title/position code.

Fiscal Year 2013-14

For all the reasons cited above, we challenge the auditors' initial assertion that certain individuals reported as agency Administrative Assistants did not perform the duties of that title/position, but instead performed the duties of a program office worker. We appreciate the auditors' acknowledgment that the actual tasks performed supported classification under the 612 code. We do not, then, challenge the auditors' finding of excess over the regional average salary for the 612 title/position code.

State Comptroller's Comment - This finding was not included in our Draft Report.

We respectfully request that the auditors further acknowledge that the rate setting unit had made adjustments for these specific expenses during the rate setting process.

State Comptroller's Comment - We acknowledged in our Draft Report that SED had previously disallowed a portion of the ineligible personal service costs during its desk review.

Allocation of Employee Compensation

Manual Therapy appreciates the auditors' thoughtful consideration of our analysis around time reported on the CFR for the AED title/position.

We must reassert our challenge of the auditors' assertions that certain of the Assistant Executive Director's time for which Manual Therapy reported compensation in fact "overlapped" with hours in which he was engaged in activities other than those associated with the AED title/position.

Manual Therapy acknowledges that the standard time sheet form does not capture the totality of hours spent by the AED while engaged in service to Manual Therapy. While the standard form may capture the standard work week, Manual Therapy recognizes that errors were made in how the form was completed; more specifically, that the time spent on "other activities" was not specifically highlighted.

State Comptroller's Comment - Manual Therapy's standard time sheet does not restrict an

Kenrick Sifontes
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employee from entering all time worked. It allows an employee to enter time-in and time-out for the entire month. Moreover, as indicated by Manual Therapy in its response, the time spent on "other activities" was not specifically highlighted.

As the provided chart reflected, numerous hours of service for the exclusive benefit of Manual Therapy were expended by the AED on weekends and evenings – outside the standard work day or week. These hours were not captured by the standard time record form, but were nonetheless reimbursable and must be included within the auditors' analysis.

State Comptroller's Comment - Manual Therapy officials provided the referenced chart, which was not prepared contemporaneously, only after they became aware of the disallowance related to overlapping time. It lists additional hours worked on weekends and evenings, summarized by month. However, no documentation was provided to support the additional hours. Absent such documentation, we are unable to determine if the additional hours were actually worked.

Moreover, the 2011-12 CFR does not reflect a full FTE for the AED's title/position, but rather .71 FTE reflective of discounted hours, as the auditors acknowledge. RSU requested an explanation of what appeared to be "under-reporting" and accepted the explanation as provided by the Agency via email.

Accordingly, we appreciate the adjustments made, but request reconsideration of the proposed disallowance.

State Comptroller's Comment - The disallowance remains.

Non-Program Related Compensation

We do not challenge the auditors' finding that certain costs associated with a specific administrative office worker had been inadvertently included within the CFR reported program expenses.

Nor do we challenge the inadvertent misclassification of certain salary costs as SEIT program costs rather than related service program expenses by the Agency's accountant consultant.

Other Than Personal Service Costs

Less-Than-Arm's Lease Agreement

Manual Therapy does not challenge the auditors' determination that the rental payments for the Staten Island location reported on the CFR were above the owner's actual cost and should have been

Kenrick Sifontes
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reported as an unreimbursable expense.

Nor does Manual Therapy challenge the associated \$10,287 disallowance which represents the property taxes that were separately claimed on the CFRs for the same Staten Island location.

Unsupported Expenses

Manual Therapy provides the following challenges or explanations to the following auditors' findings:

Fiscal Year 2011-12

Manual Therapy concedes that we are unable to retrieve supporting documentation from our files for select expenses and appreciates OSC's success in obtaining invoices directly from several vendors which had proven less responsive to our requests.

Audit/Legal

Manual Therapy does not challenge that costs associated with building signage for day care services had been inadvertently reported as a Program cost (\$5,042.70). However, our records indicate that the Day Care entity subsequently reimbursed Manual Therapy to the benefit of the SEIT program for such costs.

State Comptroller's Comment - Regardless of whether the Day Care entity reimbursed Manual Therapy for the non-reimbursable sign, it was included on its CFR as an SEIT program expense and was reimbursed for this cost through its SED rate.

The Center was, unfortunately, unable to retrieve from our records an invoice supporting the reported \$2,388.38 in legal fees (\$2,388.38).

Office Supplies

The Center is, unfortunately, unable to retrieve from its records the receipts for many of the items listed as office supplies while able to provide \$1,755 of invoices as adjusted. Moreover, we recognize that some of the expenses identified by the auditors should, in fact, have been reported as allowable expenses under other non-program cost centers (\$10,998.85).

Staff Development

Unfortunately, the staff member who benefited from the identified staff development is no longer associated with the Center and we are unable to obtain the requisite agendas, certificates of completion, attendance sheets and materials requested by OSC in support of the workshop and seminar expenses (\$1,600.00) although the expenses were clearly Program related

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and otherwise allowable.

Staff Travel

The Center does not challenge the auditors' assertion that insufficient documentation is available to support the costs and expenses associated with staff and personnel travel to the Department of Education for IEP related meetings or between program sites (\$2,422.28).

Manual Therapy has strengthened its internal controls to assure compliance with the RCM travel documentation requirements.

Telephone

The Center is unable to provide the requisite fee invoice for telephone services for the 2011-12 year, although the allocated costs were appropriately incurred and otherwise allowable (\$1,708.48).

Utilities

Although the expenses were appropriately incurred and clearly reasonable, the Center is unable to provide the requested fee invoice for utility services for the 2011-12 year in the amount of \$120.00.

Other – Various

While the Center does not challenge select expenses identified by the auditors as lacking supporting documentation, Manual Therapy does challenge the following auditor's assertions:

- That printing expenses (\$1,647.98) were not obviously related to program administration, including business cards for contact information and outreach;
- That select janitorial expenses related to the total funding of \$13,185.80 were not appropriately incurred and invoiced merely because the substantiation provided was not contemporaneous with the costs when incurred; and
- That security system expenses (\$2,298.00) were not appropriately incurred and clearly program related.

State Comptroller's Comment - Manual Therapy could not provide sufficient and/or contemporaneous documentation to support its office supplies, staff development, staff travel, telephone, utilities, and various other expenses, as required by the RCM.

Credit Card Samples

The Center does not challenge the auditors' claim that a select number of credit card charges identified by the auditors lacked supporting invoices, however, we must clarify that most

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of the sampled charges reflect payments for teacher and staff appreciation items purchased at the holidays including Starbucks gift cards, Macy's gift cards and other items.

Manual Therapy recognizes, nonetheless, that however well intentioned, such demonstrations of appreciation are not reimbursable under the RCM and should have been reported on the CFR as "non-allowable costs".

Fiscal Year 2012-13

Audit/Legal

The Center continues to challenge the auditors' assessment that certain accounting fees lacked substantiation (\$3,975.55; \$496.94). It would appear that the auditors' disallowance is not based on lack of support, as asserted in the Draft Report, but rather that the services were non-audit in nature and provided by the same firm that conducted audit work, as prohibited by the RCM. We would request the basis of the disallowance be revised accordingly.

State Comptroller's Comment - We have revised our report to indicate that the recommended disallowance was for non-audit services. The RCM prohibits reimbursement for non-audit services that are provided by the same firm that conducted an entity's audit work.

Manual Therapy had provided substantiation of certain other accounting fees (\$993.89; \$9,441.94) from the accountant vendor. While we appreciate acknowledgement of \$9,442 in such costs, we do not believe the lack of service dates, as related to the \$993.89 invoice, is a fatal flaw especially where full substantiation was provided by the vendor.

State Comptroller's Comment - Our recommended disallowance was for expenses that were reported in an incorrect accounting period, rather than for lack of service dates. The RCM requires that providers use the accrual basis of accounting. This means that expenses must be reflected in the accounting period in which they were incurred. Including an April 2011 invoice for services related to 2009-10 on the CFR for 2011-12 is inconsistent with the accrual basis of accounting.

Insurance – General

The Center continues its efforts to obtain supporting invoices from the insurance vendor (\$2,351.54).

Office Supplies and Postage

While the Center does not challenge the auditors' assertion that certain office expenses lack supporting documentation, we must clarify that select expenses incurred were associated with items more generally reimbursed through standard "petty cash" protocols, including emergency snow-removal and plumbing expenses which were included in the auditors' total

Kenrick Sifontes
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finding of \$20,523.00 (to the extent of \$13,551.70).

Manual Therapy has strengthened its accounting policies to enhance compliance with the RCM supporting documentation requirements.

Credit Card Sample

The Center reiterates the legitimacy of the costs reimbursed through credit cards, as set out above (2011-12) while recognizing the costs should have been reported as "non-reimbursable" on the CFR.

Staff Development

The Center sets out again here, as set out related to 2011-12 expenses, our assertion that the continuing education/staff development costs incurred by certain teacher staff which were legitimate costs although lacking the requisite program materials, certificates of completion, etc. (\$900.00)

Staff Travel

Manual Therapy sets out again as set out related to 2011-12 expenses, its acknowledgment that we were unable to provide additional substantiation of 2012-13 staff travel expenses as we are unable to communicate with those staff members either as a result of termination or services, or non-responsiveness (\$2,672.00).

Utilities

The Center sets out again as set out related to 2011-12 expenses, its comments around substantiation of certain utility costs. While we were able to provide the auditors with service invoices for the more immediate audited years, the utility companies do not retain business records for the more remote audit years (\$590.00).

State Comptroller's Comment - Manual Therapy did not provide sufficient documentation to support its staff development, staff travel, and utilities expenses, as required by the RCM.

Janitorial Service

We again consider the auditors' challenge of the integrity of the invoices provided to be misplaced, as the providers of the service attested to the validity of the invoice statements through their signatures (\$19,236.61).

State Comptroller's Comment - Documentation to support these expenses, which were purportedly incurred in 2012-13, was prepared by Manual Therapy in August 2018. The documentation was then provided to the janitors for their review and signature. This is not consistent with the RCM documentation requirements.

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Fiscal Year 2013-14

Office Supplies and Postage

Manual Therapy is unfortunately unable to provide an itemized receipt for certain Home Depot charges (\$84.31) which were incurred for administrative office usage.

Staff Development

While Manual Therapy provided the auditors with the invoice associated with certain staff development costs (\$800.00), we are unable to share additional supporting documentation.

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We also respectfully request, however, that the summary narrative describing the above mentioned recommended disallowances around advertisements be revised to remove reference to Exhibit 2 consistent with assurances made during the exit conferences as the Exhibit is unnecessary and provocative, especially in light of our acceptance of the finding.

State Comptroller's Comment - Manual Therapy officials are mistaken. No assurances were made during the exit conference that Exhibit 2 (now titled Exhibit B) would be removed from our report.

Non-Program Related Expenses

Manual Therapy does not challenge the auditors' findings relating to the following expenses:

Fiscal Year 2011-12

- We do not challenge the auditors' assertion that \$47,390 in salary expenses for a clinician providing certain therapeutic services had been inadvertently reported as a program cost and should have been allocated to the "related service" cost center;

State Comptroller's Comment - The \$47,930 (reported as \$47,390 by Manual Therapy in its response) should have been reported on the CFR under "Other Programs," rather than Related Services. We have revised our report to reflect this change.

- We do not challenge the auditors' finding that \$1,153 in costs associated with pens and pencils displaying a logo had been misreported as an allowable program expense;
- We do not challenge the auditors' finding that only 2/3 of certain security system

Kenrick Sifontes
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expenses should have been allocated to program, consistent with shared use of space standards, resulting in a proposal disallowance of \$1,053; and

- We do not challenge the auditors' proposed disallowance of \$65 for examination table paper which had been misreported as a program expense.

Fiscal Year 2012-13

- As stated above, we do not challenge the auditors' finding regarding misallocation of certain security system expenses (\$1,666);
- Manual Therapy Center does not challenge the auditors' proposed disallowance of \$1,023 in costs associated with certain advertising costs for therapeutic professionals which should have been allocated to the related cost center;
- We do not challenge the proposed disallowance of \$61 associated with certain trash collection expenses which should have been allocated proportionate to use and benefit; and
- We do not challenge the proposed disallowance of \$30 which had been inadvertently reported as a program cost

Fiscal Year 2013-14

For all the reasons identified above, we do not challenge the auditors' findings that \$781 in security system expenses, \$55 in clinical service supply costs, and \$37 in trash collection expenses were erroneously reported as program costs and should have been allocated as reimbursable costs to other cost centers.

Manual Therapy Center has strengthened its internal controls and protocols to assure expenses are properly allocated consistent with the Reimbursable Cost Manual. It is worth noting, however, that reimbursement of SEIT program expenses has been revised since the audited years from cost-based to regional rates, further guarding against excessive reimbursement based upon misallocation of expenses.

Depreciation Expenses

Manual Therapy is unable to challenge the auditors' findings that certain depreciation expenses were not adequately documented or were incorrectly calculated as we have been unable to obtain a response from the Accountant vendor who had provided the depreciation expense information to be reported on the CFR. (\$19,308 (2011-12); \$18,634 (2012-13); \$14,090 (2013-14); \$1,442 (calculated error)).

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Insufficiently Documented Expenses

Fiscal Year 2011-12

Janitorial expenses

As set out above, we challenge the auditors' rejection of the restated invoices provided in support of the janitorial service costs, as the information required by the RCM was, in fact, restated on the document and the integrity of the details was confirmed by the individuals performing the services through their signatures (\$15,396).

State Comptroller's Comment - Manual Therapy provided invoices totaling \$1,974 out of the \$15,396. The provided documentation was for 2011-12; however, it was prepared by Manual Therapy in August 2018, and provided to the janitors for their review and signature.

Various Consulting Costs

The Center acknowledges again, that while we provided the auditors with appropriate invoices for certain staff workshop and seminar expenses (\$300.00; \$1,000.00) we are unable to provide the additional substantiating materials including seminar agendas, certificates of completion or attendance sign-in sheets.

The Center restates its position relating to certain accounting fees challenged by the auditors (\$2,407.48; \$1,480.79) that the invoice provided was sufficiently detailed to warrant allowance unless, as the auditors' assert, the services were not eligible for reimbursement as they were non-audit services provided by the auditor vendor.

State Comptroller's Comment – We have revised our report to move \$3,888 in recommended disallowances from “Insufficiently Supported Expenses” to “Non-Audit Accounting Services.” This does not affect the overall recommended disallowance.

The Center similarly asserts the sufficiency of detail provided in invoices relating to CFR preparation services; more specifically, the adequacy of the description of the project and fee for services rendered (\$6,687.45). We disagree with the auditors' assertion that the costs should have been accrued.

State Comptroller's Comment – The RCM requires that providers use the accrual basis of accounting. This means that expenses must be reflected in the accounting period for which they were incurred, regardless of when they are paid. Including an April 2011 invoice for services related to 2009-10 on the CFR for 2011-12 is not consistent with the accrual basis of accounting.

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Legal Costs

As relates to specific legal services provided (\$996.45), the Center had provided amplification of the original vendor invoice which has been prepared by the law offices in question and provided further detail as requested. Moreover, as the invoice reflects, these services required an expertise not held by management staff.

State Comptroller's Comment - The legal costs Manual Therapy refers to are for 2013-14, not 2011-12. RCM Section III(1)(C)(2) requires payments to be supported by itemized invoices that indicate the specific services actually provided, including the dates of service. The invoice provided by Manual Therapy does not include the dates services were provided.

Technical Services

The Center had also provided a detailed invoice in support of IT service costs (\$600.00) which reflected a significant portion of the RCM elements of substantiation, but for the dates of service. We believe taken as a whole, the invoice complies substantially with the RCM requirements.

State Comptroller's Comment - The IT/Technical Services referred to by Manual Therapy were for 2013-14, not 2011-12. RCM Section III(1)(C)(2) requires payments to be supported by itemized invoices that indicate the specific services actually provided, including the dates of service. The invoice provided does not include the dates services were provided.

Non-Audit Accounting Services

Manual Therapy does not challenge the auditors' finding that the RCM severely restricts the engagement of accounting consultants.

However, we believe this restriction to be overbroad and unnecessarily limits the work which may be performed in a sector with few experts, especially where, as here, there is an abundance of caution taken by the accounting firm to assure the integrity of the work performed. (\$8,117)

Manual Therapy has improved its fiscal protocols to assure these discrete services are provided by separate vendors.

Non-Allowable Payroll Taxes

We do not challenge the auditors' finding that \$48 in payroll tax refund was inadvertently included in the total payroll tax reported on the CFR.

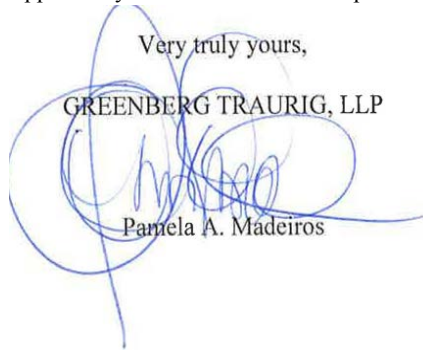
Kenrick Sifontes
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We appreciate this opportunity to review the Draft Report and to provide comment.

Very truly yours,

GREENBERG TRAURIG, LLP



Pamela A. Madeiros

PAM/erb
ALB 2165255v1

cc: Hal Mattot, NYSED
James Kampf, NYSED