



Final Report on Documents Issued

Poloncarz Administration refuses to allow Comptroller's office access records to complete full audit

(Buffalo) – The Office of Erie County Comptroller has issued a final report on the mishandling of highly confidential documents of residents that were haphazardly left in the trash for many years, a fact supported by Erie County Executive Mark Poloncarz:

"This has been going on for many years, perhaps during the Collins or even the Giambra Administrations."

Source: Honorable Mark Poloncarz, WIVB.com, "Confidential Records Left Out in Open," 5/20/13

In addition to the report that shows Erie County has known about this issue going back to at least the Spring of 2007, four Social Service employees stated there are no security measures or controls in place that would prevent county workers from making changes to case files for people who apply for Temporary Assistance.

According to the four Department of Social Services employees, there are no checks, balances, or safeguards in place to prevent workers from changing records and approvals or denials of people applying for Temporary Assistance.

"Everyone can make changes in the system. You can make changes in Medicaid."

Source: Interview with Social Services employee #93683, June 7th, 2013

"In 26 years nothing has been changed in the system. In WMS (the Welfare Management System, where files are stored) I have access at all levels."

Source: Interview with Social Services employee #25519, June 4th, 2013

"No one is checking the examiners' work and they are so far behind that they can just go in and put in whatever they want."

Source: Interview with Social Services employee #56281, March 12th, 2013

"It used to be that examiners obtained information and had little access to the system. When they eliminated data entry (workers), they gave all the control to the examiners. They now gather the data, input the data, and accounting is no longer checking for any missing documents. There are no longer any controls."

Source: Interview with Social Services employee #15934, March 4th, 2013

The Office of Erie County Comptroller attempted to test these concerning lack of controls to determine whether or not the system in place could be manipulated in order to change records without permission.

Numerous roadblocks were put in place by the Poloncarz administration to deny auditors access to records. The defiance and lack of cooperation was so bad at one point the Comptroller's Office was forced to issue subpoenas to conduct interviews with Department of Social Services employees.

If auditors are not given access to determine whether or not any Social Services employee can change records in the Welfare Management System, the Office of Comptroller could file a lawsuit for access or hire a forensic computer firm to test the reported lack of controls with the computer system.

In a letter dated June 7th, 2013, Director of the DSS Office of Legal Affairs Thomas Kubinieć informed the Comptroller's Office Audit Unit that they would not be provided any further access to confidential records. Since access to participant records was denied, the Office of Comptroller cannot perform the audit tests necessary to determine if eligibility requirements have been met.

"If the administration has nothing to hide they should welcome auditors to determine whether or not workers can manipulate welfare case files without permission. By dodging, denying, and deflecting it appears the Department of Social Services doesn't want to address this serious issue brought up by its own workers. The administration's continued pattern of secrecy is not how government should work. If they have nothing to hide then they should have no problem addressing the concerns of its own employees. Unfortunately for taxpayers this administration continues keeping the public in the dark about the people's business," said Erie County Comptroller Stefan I. Mychajliw.

As for the administration continued denial of access to records and employees, the Office of Comptroller has been met with persistent resistance from the Department of Social Services to determine whether or not workers have free reign to change welfare records without permission.

The Comptroller's Office audit was delayed one month between February 14th, 2013 and March 15th, 2013 while the Department of Social Services claimed they were determining whether or not access to records would be granted.

After auditors requested interviews with Department of Social Services Commissioner Carol Dankert sent employees an email stating their cooperation with auditors was voluntary:

"Any requests...from the Comptroller's Office that will take you away from your primary work responsibilities should be directed to your respective supervisors. To reiterate, I believe these interviews are voluntary. If you consent to their interview request, it must not interfere with your work."

Source: Social Services Commissioner Carol Dankert email to Social Services employees, May 7th, 2013

Signs were even placed throughout the Department of Social Services on bulletin boards reminding employees that cooperating with auditors were voluntary:

"Attn: Medicaid Workers Selected for interviews by the Comptroller's Office: Member participation in the investigation is voluntary. There should be no concern of insubordination for refusal to participate in the interviews....The member may discontinue the interview at any time without concern of insubordination."

Source: Bulletin board memo located on the 4th floor of the Rath Building, photographed on 5/7/13

Following these directives from the Commissioner of Social Services, out of 22 interviews requested by the Comptroller's Office, only two employees showed up, 20 declined or did not appear during scheduled times. Because of the lack of cooperation a total of 18 subpoenas were issued to Social Services employees. Only until subpoenas were issued did all 18 of those employees agree to be interviewed by auditors.

"The information provided in these interviews show workers are concerned about the lack of security measures and who can change case files. We may be forced to sue or hire a forensic computer specialist to test these controls. This would be costly to taxpayers, but the administration's lack of cooperation may leave us no other choice," added Comptroller Mychajliw.

Concerning the dumping of confidential documents in the trash and leaving them in unsecured boxes and totes, former DSS Assistant Commissioner and First Deputy Commissioner William Graham told auditors Erie County was aware of this issue in the Spring of 2007. That is when Mr. Graham told the Office of Comptroller that a member of the public approached him after finding confidential documents blowing in the wind outside the Rath Building.

Erie County was also aware of this issue in June of 2009 when the Department of Social Services issued a "High Importance" email notice to all employees regarding the disposal of confidential documents. This email, dated June 1st, 2009, stated that "totes will be locked at all times" until they will be securely picked up and disposed of by the recycling company.

The Comptroller's office walk-through to check policies and procedures shows the Department of Social Services was not complying with this email notification.

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**AUDIT OF ELIGIBILITY AND RECERTIFICATION
PROCESSES WITHIN THE TEMPORARY ASSISTANCE
UNIT OF THE DEPARTMENT OF SOCIAL SERVICES
FOR THE PERIOD JANUARY 1, 2011 – MARCH 31, 2013**



**STEFAN I. MYCHAJLIW
ERIE COUNTY COMPTROLLER**

**TERESA M. FRAAS
DEPUTY COMPTROLLER - AUDIT**

**HON. STEFAN I. MYCHAJLIW
ERIE COUNTY COMPTROLLER'S OFFICE
DIVISION OF AUDIT & CONTROL
95 FRANKLIN STREET
BUFFALO, NEW YORK 14202**



June 25, 2013

Honorable Members
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Dear Honorable Members:

The Erie County Comptroller's Office initiated a performance audit of the Eligibility and Recertification processes within the Temporary Assistance Unit of the Department of Social Services (DSS) for the period January 1, 2011 through March 31, 2013.

We conducted our audit in accordance with Generally Accepted Government Auditing Standards (GAGAS). Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions. Significant constraints have been imposed on our audit approach by information limitations and denial of access to records and we are therefore, concluding our audit.

Management of DSS is responsible for establishing and maintaining a system of internal control. The objectives of such a system are to provide management with reasonable, but not absolute, assurance that transactions are executed in accordance with management's authorization and are recorded properly. Because of inherent limitations in any system of internal control, errors or irregularities may nevertheless occur and not be detected.

Due to the scope limitation imposed on us by DSS we were unable to obtain appropriate evidence to determine the adequacy of internal controls presently in place. As a result of this limitation, we cannot express an opinion as to the adequacy of internal controls.

Our objectives were to:

1. Evaluate the WMS system application controls (e.g. input controls, data processing, interface controls, security administration, output controls, etc.) to determine compliance with policies
2. Determine if all persons that have been deemed eligible for benefits have met the eligibility and recertification requirements as prescribed by regulation and to determine if eligibility determination or recertification was completed timely.
3. Document, evaluate and test internal controls relating to the activities associated with: a.) the eligibility process from the time an application is received to the client notification of eligibility; b.) the recertification process and c.) the tracking, scanning, storage and disposal of original documentation to determine if the controls in place are sufficient to minimize risks.

Observations:

Objective 1: Evaluate the WMS system application controls

We were informed that DSS employees who determined eligibility had access to modules within the WMS system that would allow them to make unauthorized changes to data subsequent to initial entry or at anytime. If proper controls are not in place to prevent or detect this, then DSS employees would be able to change income or personal data to increase the amount of assistance received, give benefits to individuals that don't qualify or add and/or delete persons at will. However, we were unable to complete testing over system access.

We requested and received information regarding user access profiles and passwords that we were going to test. In order to perform testing to validate levels of access, we also requested access to transaction logs, user permission logs, audit logs and user access logs. We were informed that "the size of the request of raw systems data is of concern, the justification for producing such an extensive release of agency data (need, authorized purposes), the logistics related to producing it, and the security of these sensitive & confidential records is of significant concern. In addition, Audit log reports require both technical and Erie Co-specific program context to interpret, and the sheer volume provided would be impossible to mine in a meaningful way." Further, they were concerned over the release and storage of that data.

Since we have been unable to obtain access to the data needed to perform our tests, we are unable to obtain sufficient appropriate evidence to support an opinion of this objective. We cannot determine if irregularities have taken place. We recommend that DSS management report to the Legislature, with sufficient evidence to support their assertions, that DSS employees do not have unlimited access within the WMS system and that no unauthorized changes have taken place.

Objective 2 – Eligibility and Recertification requirements

Our Audit plan included selecting a sample of participant records to determine if eligibility or recertification requirements were met. In a letter dated June 7, 2013 from Thomas Kubiniec, Director of the DSS Office of Legal Affairs, to the Comptroller we were informed that the Audit Unit would not be provided any further access to confidential records. If we do not have access to participant records, we cannot perform the audit tests necessary to determine if eligibility requirements have been met.

Since we have been denied access to the data we need to perform our tests, we are unable to obtain sufficient appropriate evidence to support an opinion on this objective.

Objective 3 - Document, evaluate and test internal controls relating to the activities associated with the tracking, scanning, storage and disposal of original documentation.

1. Unsecured Documents

We documented the procedures for the initial eligibility and recertification determinations within the Temporary Assistance Unit as part of our evaluation of the controls over such processes. One of the final steps in processing applications includes the scanning of all case file documents, the temporary storage of those documents and their subsequent periodic disposal. During our information gathering, the DSS employees conducting our walkthrough informed us that the scanned documents are placed into cardboard boxes which are then moved to the DSS storage room located in the sub-basement of the Rath Building until they are disposed of or destroyed.

They proceeded to escort us to the subbasement. We entered the storage area through an unlocked door, and were shown that the boxes of documents were stored either on shelves or on pallets. We observed that, in front of the shelves were about seven unlocked blue totes some of which were empty and some of which contained paperwork. DSS accounting personnel proceeded to inform us that the contents of the cardboard boxes were periodically placed in these unlocked recycling totes for disposal/destruction. We were not informed of the destruction process after that point, nor did Audit have any knowledge of the disposal process at that time.

Subsequent to our initial walkthrough, we again entered the DSS storage area through the closed but unlocked door. We informed the individual at the desk that we were here to finalize information noted during on our walkthrough. Both the boxes and totes were as we had previously seen them and upon opening the lids on the unlocked totes we saw that five totes were empty and the two remaining totes contained confidential documents. Continuing with our validation process, we were able to verify that the confidential information that had been placed in the unlocked recycle totes remained in the unlocked totes when they were placed in the loading area for pick up by the recycling company. We were also able to verify that the unlocked totes were placed in the recycling truck.

Actions Taken by Management of DSS in concert with the County Executive's Office

Management of DSS, in concert with the County Executive's Office, claim to have taken steps to correct this situation.

1. The door to the storage area is now locked at all times. Upon entrance to this area, all visitors have to sign-in and state the reason for their visit. All the totes now are locked and boxes containing documents for disposal/recycling are emptied into these containers.
2. Two memoranda have been issued by DSS:
 - a. June 6, 2013—Secure Record Retention and Disposal of Documents.
 - b. June 10, 2013—Staff Expectations for Maintaining Confidentiality and Proper Disposal of Records.

Although we have not performed any testing of these directives, it appears that if followed, these procedures are adequate to ensure the secure storage and disposal of documents as well as to maintain the confidentiality and information security over personal client information. If not yet included in the new policies and procedures, we recommend that sufficient monitoring activities be included to detect if this situation arises again.

2. Non-compliance with Departmental Policy

On June 1, 2009, DSS issued a 'High' importance email notice to all employees regarding County recycling. The email informed the DSS staff that effective June 1st, "Metro Waste Paper Recovery USA Inc. will be the new recycling contractor for Erie County. As part of the contract, Metro Waste will be providing Department of Social Services 'locked' recycling totes.

The locked totes were an important and necessary element of the new contract required to ensure the confidentiality of all documents generated by our department. Totes will be **locked at all times** until which point they are picked up and returned to Metro Waste's recycling plant." The email went on to say that maintaining customer confidentiality is of the highest priority and all customer documents created, generated, copied, produced or received by the department are considered confidential.

Our walkthrough disclosed that DSS was not complying with their email notification of June 1, 2009. The process utilized by DSS as described to us in our walkthrough did not mirror the intent of the June 1, 2009 email directive.

Management Action Taken

In addition to the June 6, 2013 memorandum noted above, DSS in their departmental newsletter, ECDSS Blast, dated June 14, 2013 provided guidelines regarding the confidentiality of records expectations. In addition, a notification was provided concerning an on line training class required for all staff to take annually about "Information Security Awareness".

We have not tested compliance with this guideline. However, it appears that management is concerned about confidentiality and information security and intends to provide reasonable assurance that staff is reminded of their responsibilities in this matter on an annual basis.

We recommend that DSS management continue to keep their staff abreast of changes in both departmental policies and laws governing document safeguarding through similar annual training opportunities.

3. Non compliance with Federal, State and County Privacy Regulations

There are numerous Federal, State and Local Laws that address the disclosure of both PHI and personal information. Accordingly, because of the systemic breakdown in the storage and disposal of confidential documentation by DSS staff, the County was not in compliance with these laws. Confidential information was inappropriately disclosed. We are unable to quantify how many taxpayers may have been effected and to what extent. The County Executive has stated that he reported this inappropriate disclosure to the Federal authorities and we will work in conjunction with the Executive Branch to implement any corrective action measures that might be imposed on the County by the Federal authorities.

ERIE COUNTY COMPTROLLER'S OFFICE

cc: Hon. Mark C. Poloncarz, County Executive
Carol. M. Dankert-Maurer, Commissioner of Social Services
Robert W. Keating, Director, Budget and Management
Erie County Fiscal Stability Authority

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Posted to CSEH

Bulletin Board on 4th floor

(Received phone call from someone
person telling me to go see it)

5/7/13

Attn: Medicaid Workers selected for interviews by the Comptroller's office

Member participation in the investigation is voluntary.

There should be no concern of insubordination for refusal to participate in the interviews.

If a member chooses to participate in the interview then the member may request that a union rep is present.

The member may discontinue the interview at any time without concern of insubordination.

From:
Sent:
To:

Dankert-Maurer, Carol
Tuesday, May 07, 2013 11:28 AM
Hughes, Shaun; Lindstrom, Heather; Acevedo, Francis; Aquino, Shekinah; Bald, Jacqueline; Ball, Bryan; Barthelemy, Roseann; Bartolotta, Anthony; Barton, Eric; Calak, Stephen; Carr, Daniel; Chavez, Edithanne; Colucci, Marc; Daniels, Marlene; Dickey, John; Foster, Felicia; Fronczak, Kathleen; George, Andrea; Heft, Ashley; Hicks, Willie; Kelly, Jessica; Kovach, Martha; Long, Tammy; Lutman, Daniel; Moyer, Jennifer; Piotrowski, Karen; Reif, Jill; Rogers, Jennifer; Tumpalova, Ekaterina; Wagner, Harold; Zaccaria, Dominic; Aungst, Edward; Blatner, Marissa; Calcador, Nayda; Connors, Kevin; Cook, Brandon; DeCarlo, Daniel; Dirr, Michele; Donovan, Jamie; Emminger, Mark; Heard, Taneka; Hodgson, Shannon; Johnson, Susan; Jumper, Donald; Kuntz, Tracy; Kurtz, Jean; LaPaglia, Ann Marie; Lipp, David; Loschiavo, Brett; Maldonado, Rosa; McCormick, Anna-Marie; Mosack, Ellen; Nogle, Mike; Pieniazek, Kathleen; Pilat, Jenice; Rodriguez, Angel; Travieso, Rosangel; Watson, Douglas; Weaver, Michele; Wojcik, David; Wyzykowski, Tricia; Wagner, Albert; Graham, Theresa; Durlak, Robert; Penski, Beverly; Champagne, Cheryl; Wrobel, Dorothy; Kulinski, David; Strauss, Patricia; Holingbaugh, Renee; Milton, Patricia; DeCarlo, Frank; Clawson, Marlene; Forsyth, Debora; Lomot, Mary; Nogle, Mike; Scharf, Peter; Szczitka, William; Thiel, Pamela
Subject: RE: interview request



It has come to my attention that you are receiving meeting invitations via email from Teresa Fraas, Deputy Comptroller-Audit in which she (and maybe others in the Comptroller's Office) desire to interview each of you regarding Medicaid recertification and an "investigation" which the Comptroller is pursuing.

As you are aware, we process over 3,000 applications per month and carry a caseload of over 67,000 cases. As such, you all have time sensitive case processing assignments that need to be managed and are a clear priority for providing customer service.

DSS Administration is making every effort to cooperate with any reasonable request from the Comptroller's Office.

Any requests from Ms. Fraas or the Comptroller's Office that will take you away from your primary work responsibilities should be directed to your respective supervisors. To reiterate, I believe these interviews are voluntary. If you consent to their interview request, it must not interfere with your work. You are reminded of your right to representation by the union or your own attorney if you elect to proceed. At no time, should you discuss any case-specific information with the interviewers due to State confidentiality requirements.

Any questions or concerns should be directed to Bob Durlak or Lou Menza. Thank you.