COUNTY OF ERIE

MARK C. POLONCARZ
COUNTY EXECUTIVE

May 9, 2013

Honorable Stefan I. Mychajliw
Erie County Comptroller
95 Franklin Street, 11th Floor
Buffalo, New York 14202

Re: Comptroller Subpoenas on Medicaid Recertification Process

Dear Comptroller Mychajliw:

Yesterday, at approximately 2:10 pm, a letter addressed to you was hand-delivered to your office from the undersigned informing you that the Department of Social Services ("DSS") would continue to cooperate with your new investigation into the Medicaid recertification process and that DSS would make its employees available to your audit staff for interviews on said process.

As you may be aware, your office originally sought to interview six (6) DSS employees, including Commissioner Carol Dankert-Maurer, who were identified as "targets" of the investigation. Then this past Friday your office abruptly and unilaterally contacted eighty (80) DSS employees by electronic mail demanding they make themselves available for interviews by the Comptroller's Office (a copy of the email is enclosed herein). Following the receipt of said electronic mail, DSS Commissioner Carol Dankert-Maurer contacted Deputy Comptroller-Audit Teresa Fraas by electronic mail, copying you, about your office's drastic change in position and how best to cooperate with this request with minimal disruption to ongoing operations and recertifications (a copy of this email is enclosed herein). Ms. Fraas then agreed via electronic mail to schedule all such interviews through management (a copy of this email is enclosed herein).

Finally, in another dramatic development, shortly after receiving my May 8th letter reiterating DSS's cooperation with your investigation, members of your staff subsequently delivered eighteen (18) subpoenas to DSS demanding that 18 employees in that department contact you personally to schedule interviews.

I am surprised as to why you have abruptly issued subpoenas when DSS has been very cooperative with your office on two separate audits regarding DSS you are currently engaged in (although it appears you have apparently postponed the Medicaid audit for unknown reasons). As you know, DSS agreed last week, and I reiterated in my letter yesterday, staff would be available for interviews. Given the level of cooperation displayed by DSS so far, it is disappointing that you have chosen to take such a drastic measure that, clearly, was not necessary.

However, by issuing these subpoenas you have initiated a legal process that you now must respect. All DSS employees that were (or will be) subpoenaed retain the right to legal counsel and/or representation by CSEA Local 815 representatives at any interviews. Whether DSS employees chose to exercise those rights is up to them individually. DSS requests that official transcripts of all interviews be provided to the DSS Office of Legal Counsel for compliance and regulatory purposes to ensure that no State or County regulations or policies governing Medicaid customers are violated. Should you choose not to hire a court reporter to provide such transcription services, at minimum, we expect the ability for multiple recording devices to be present during all interviews.

This administration has, and will continue to cooperate with your investigation so long as it is a legitimate inquiry. However, I note once again that your recent actions and inconsistent behavior on this matter is troubling, especially considering we have already provided you and your office proof the County is in compliance with the New York State Department of Health's policies and guidelines regarding recertifying individuals for Medicaid.

I welcome the opportunity to speak with about this issue as I have yet to receive a single response from you to-date about your audit and investigation.

Respectfully yours,

Mark C. Poloncarz, Esq.
Erie County Executive

MCP/mt
Enclosures

cc: Erie County Attorney Michael Siragusa (w/encl.)
Carol Dankert-Maurer, Commissioner of Social Services (w/encl.)
Erie County Legislature (w/encl.)
Erie County Fiscal Stability Authority (w/encl.)
New York State Department of Health (w/encl.)

Callan, Timothy

From: Dankert-Maurer, Carol
Sent: Friday, May 03, 2013 5:27 PM
To: Fraas, Teresa
Cc: Callan, Timothy; Hibit, Jennifer; Poloncarz, Mark; Siragusa, Michael
Subject: FW: interview request

Ms. Fraas,

Although I know you did not take notes in your meeting with me, Tim Callan and Judy Shanley, this is in fact what was agreed to:

1) You would send a letter to me outlining the investigation.
2) You would send a letter to me that would explain the interview scope and process for the 6 previously identified staff in the April 10, 2013 e-mail from Dave Kinda to Frank DeCarlo.
3) That all auditors participating in the interviews would sign the confidentiality agreement, including Comptroller Mychajliw.

At no time did we agree that you would send an e-mail directly to 80 DSS staff requesting an interview. I request that you immediately correct your error and honor the agreement made in our meeting of May 3rd, 2013.

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Carol Dankert-Maurer | Commissioner Of Social Services
Erie County | Department of Social Services
95 Franklin St., Room 811 | Buffalo, NY 14202
P:(716) 858-7511 | F:(716) 858-8812
Carol.Dankert@erie.gov | http://www.erie.gov

From: Fraas, Teresa
Sent: Friday, May 03, 2013 3:52 PM
To: 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; Dankert-Maurer, Carol; DeCarlo, Frank; Clawson, Marlene; Forsyth, Debora; Lomot, Mary; Nogle, Mike; Scharf, Peter; Szczitka, William; Thiel, Pamela
Cc: Kinda, David
Subject: interview request

Good Afternoon,

The Comptroller's Office is conducting an investigation into the auto-certification project that was conducted by the Medicaid Unit within the Department of Social Services in January, February and March of this year under the direction of Shaun Hughes. Our investigation to date has raised a number of questions that we would like to discuss with each of you. I have discussed this with Commissioner Dankert-Mauer and she requested that I personally contact each of you to set up an interview. The interviews will be scheduled over the next couple of weeks and will be held in my office, Room 1125 of the Rath Building. I don't anticipate that the interview will take longer than 15 minutes. You will be sent a meeting request via your email that you can accept or, if you are not available at the time scheduled please

propose a new time and /or date or , contact me at x8430 to reschedule. Thank you for your co-operation in this matter.

Sincerely,

Terry

Teresa M. Fraas
Erie County Comptroller's Office
Deputy Comptroller - Audit and Control
95 Franklin Street, Room 1125
Buffalo, New York 14202
716-858-8430

Dankert-Maurer, Carol

From: Fraas, Teresa
Sent: Tuesday, May 07, 2013 12:53 PM
To: Dankert-Maurer, Carol
Subject: RE: For Fraas and CC to Stefan

Dear Carol,

Thank you for your timely response. I was not aware that my actions circumvented any appropriate management channels and please be assured that we understand the value of all employees' time. To comply with your request to contact supervisors to arrange interviews, we would need an organizational chart listing all your staff and the respective supervisors to contact. As an alternative to save time and resources for both of our areas, let me propose that Dave Kinda contact Frank DeCarlo or another designated employee of your choice to assist in scheduling these interviews at mutually convenient times.

Sincerely,

Terry

From: Dankert-Maurer, Carol
Sent: Tuesday, May 07, 2013 11:14 AM
To: Fraas, Teresa
Cc: Mychajliw, Stefan
Subject: FW: For Fraas and CC to Stefan

Ms. Fraas,

It has come to my attention that, instead of going through the appropriate management channel, you have contacted approximately 80 DSS Medicaid (MA) employees and you are asking them to meet with you (and perhaps others in the Comptroller's Office) at a specific time, as early as today.

Perhaps you are not aware that our MA staff process over 3,000 applications per month and carry a caseload of over 67,000 cases. As such, MA employees always have time-sensitive case processing assignments that need to be managed and are a clear priority.

Any requests that will take staff away from their primary responsibilities should be directed to their supervisors in DSS prior to attempting to schedule any meetings.

Thank you in advance for your anticipated cooperation.

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