



Paul R. LePage, Governor

Mary C. Mayhew, Commissioner

Department of Health and Human Services
Financial Services - Audit
11 State House Station
Augusta, Maine 04333-0011
Tel. (207) 287-2403
Fax (207) 287-2601; TTY (800) 606-0215

Appeal Decision

August 2, 2013

Laurie Trenholm, Executive Director
Alzheimer's Association – Maine Chapter
383 U.S. Route One, Suite 2C
Scarborough, Maine 04074

Re: Alzheimer's Association – Maine Chapter FY 2011 and 2012

Dear Ms. Trenholm:

We are in receipt of your letter dated February 18, 2013 in which you appeal the Department Report of Alzheimer's Association – Maine Chapter for the fiscal years ended June 30, 2011 and 2012 dated December 24, 2012.

Your agency is appealing Findings 1, 2, 3 and 6 and the balance due to the Department in the amount of \$9,088. Below are the agency's and Division of Audit's (Division) positions specific to the areas of dispute.

1. Agency Position Finding 1:

You state for agreement OES-11-809 delays in the scheduling of the pilot resulted in the inability to complete the work by the end of the grant period. You were told there would be an amendment that would allow your agency to be paid for the work completed in September, October and November of 2011. You are requesting that your agency be paid for the work completed in September, October and November of 2011.

Division of Audit Position:

We disagree with your position. The Division does not have the authority to amend contracts. The Division can only settle the contract as it is written. According to the contract and Department records, your agency was paid \$15,000 for costs incurred during the agreement period of December 1, 2010 through August 31, 2011. Your agency's expenses incurred during the same period were \$12,439, resulting in a balance due to the Department of \$2,561. Your agency made a payment in the amount of \$3,230.50.

2. Agency Position Finding 2:

You state that your agency has requested the Department to send an invoice on several occasions for the trainings that your agency was not able to perform as part of the agreement OES-11-808.

Division of Audit Position:

We disagree with your position. Your agency did not complete part of the trainings required by agreement OES-11-808; as a result the Department had to engage with another provider to perform those trainings. Those trainings cost the Department \$4,500. The Department informed you that your agency owed them \$4,500 on two separate occasions. The first notification was a letter dated August 7, 2012 and the second was in the Division of Audit's Examination Report dated December 24, 2012.

3. Agency Position Finding 3:

You state that for agreement OES-11-808 you were not asked to do a budget revision regarding the use of consultants and that it was your understanding that the use of a contract trainer would be acceptable. You also cited an email dated February 8, 2011 as support of using a consultant.

Division of Audit Position:

It is the agency's responsibility to know when a revision is required and it is their responsibility to initiate a revision. Also the email cited states "they would have to submit a revised budget or they would have findings by audit."

4. Agency Position Finding 6:

You state that you are not aware of any outstanding compliance issues related to the request, nor the need for a corrective action plan.

Division of Audit Position:

The Division's Examination Report for your fiscal year ended June 30, 2009, identified a finding. The Examination Report required that your agency submit a corrective action plan. Your agency did not and has not submitted a corrective action plan. This is the reason for Finding number 6 in our latest Examination Report.

As a result of the appeal there remains a balance due to the Department in the amount of \$9,088.

Department Appeals, Resolutions and Sanctions:

Upon receipt of this appeal decision your agency has sixty (60) days to accept or continue your appeal. To continue at step b you must submit a written request to James D. Bivens, Director, Office of Administrative Hearings, Marquardt Building, 11 State House Station, Augusta, Maine 04333, identifying which decision(s) from the Appeal Decision you wish to continue to appeal. For complete appeal rights see *Notice of Appeal Rights of Community Agencies*.

If your Agency accepts this appeal decision, please make prompt payment of any balances due.

Please send your check for \$9,088, payable to the Treasurer, State of Maine, to Betty Farr, Management Analyst, DHHS Service Center, Department of Administrative and Financial Services, 221 State Street, 11 State House Station, Augusta, Maine 04333.

If you have any questions, please do not hesitate to contact Anthony Madden, Audit Manager at 287-2834. Thank you.

Sincerely,



Herbert F. Downs
Director

cc:

Patricia Wall, DPS, DHHS
DHHS Receivables, DHHS Service Center, DAFS

NOTICE OF APPEAL RIGHTS OF COMMUNITY AGENCIES

MAAP SECTION .04 C. as amended December 7, 2006.

1. Appeals Procedures

Step a - Director of Audit

A Community Agency may appeal, in writing, the findings of an IPA audit or a Department examination within sixty (60) days after receiving the report from the Department. The appeal letter must identify the issues being appealed and include the specific supporting documentation. It must be addressed to the Director of the Office of Audit.

The Director or the Director's designee will initiate a review of the audit appeal and will, as needed, consult with program management responsible for the affected agreements, Agreement Administrators, and other applicable and appropriate staff. If, upon initial review, the Director, and any other parties involved, agree with the position of the Community Agency, the Director may proceed to issue a decision.

If the appeal is not resolved after the initial review, the Director or the Director's designee will convene an informal review meeting. The informal review meeting will involve the Office of Audit, the Community Agency, program management responsible for the affected agreements, Agreement Administrators, and other applicable and appropriate staff.

The Director or the Director's designee will issue a written decision on the appeal and the full basis of the decision to the Community Agency no later than sixty (60) days following the receipt of the appeal letter, unless both parties agree to a timed extension. The letter may be co-signed by other DHHS staff as applicable.

Step b - Office of Administrative Hearings

If the Community Agency wishes to proceed further in its appeal, it may appeal to the Office of Administrative Hearings within sixty (60) days of receiving the decision from the Director of the Office of Audit. The issue(s) on appeal will be limited to what was raised at the Step a appeal. The hearing will be a de novo Order of Reference appeal hearing. The Hearing Officer will issue a Recommended Decision with the Commissioner issuing a Final Decision.

Step c - Judicial appeal

The Commissioner's decision is the final Department appeals action. Any further appeal is to the Maine Superior Court pursuant to Maine Rules of Civil Procedure, Rule 80C and 5 M.R.S.A. §11001.