

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**NEW YORK PROVIDED PROJECTS FOR
ASSISTANCE IN TRANSITION FROM
HOMELESSNESS GRANT SERVICES TO
INELIGIBLE INDIVIDUALS AND DID
NOT CONTRIBUTE ANY REQUIRED
NON-FEDERAL FUNDS**

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Office of Inspector General

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Report in Brief

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U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES
OFFICE OF INSPECTOR GENERAL



Why OIG Did This Audit

The Substance Abuse and Mental Health Services Administration (SAMHSA) awarded States \$62 million in grant funds for their Projects for Assistance in Transition From Homelessness (PATH) programs during the period September 2016 through August 2017 (grant period). PATH programs are funded to support outreach and other services to homeless individuals with serious mental illnesses (consumers). New York was awarded \$4.2 million in PATH grant funds, one of the largest grants awarded for the grant period. This is the first in a series of audits by OIG to ensure the integrity and proper stewardship of PATH grant funds aiming to reduce homelessness.

Our objective was to determine whether New York complied with PATH program requirements.

How OIG Did This Audit

Our audit covered \$4.2 million in PATH grant funds that New York received during the grant period. We selected a random sample of 50 consumers out of a sampling frame of 4,126 consumers and determined whether they were eligible for the PATH program. We also audited PATH program costs for all 20 providers funded under New York's PATH program.

New York Provided Projects for Assistance in Transition From Homelessness Grant Services to Ineligible Individuals and Did Not Contribute Any Required Non-Federal Funds

What OIG Found

New York did not always comply with PATH program requirements. Specifically, 7 of the 50 consumers we sampled lived in permanent housing settings and documentation in their case files did not indicate that they continued to need PATH services to prevent a recurrence of homelessness. In addition, New York did not meet its funding obligation for non-Federal contributions to its PATH program and did not have written agreements with PATH providers, as required. Also, New York inaccurately reported the number of consumers enrolled in its PATH program and did not timely file its financial report to SAMHSA. Finally, New York has not performed the financial closeout of its PATH program and did not verify that funds were appropriately used by providers or that unused funds were returned to the Federal Government.

On the basis of our sample results, we estimated that 578 consumers (14 percent) were ineligible to receive PATH program services. Also, New York did not meet its funding obligation for non-Federal contributions, which resulted in the entire grant amount of \$4.2 million being unallowable.

What OIG Recommends and New York Comments

We recommend that New York refund the entire grant amount, totaling \$4.2 million, to the Federal Government. We also made two procedural recommendations, including that New York ensure that PATH program services are only provided to eligible consumers.

In written comments on our draft report, New York disagreed with our monetary recommendation but agreed with our procedural recommendations and described steps it plans to take to implement them. New York also stated that six of the seven consumers we determined to be living in permanent housing settings were correctly determined eligible at the time they were admitted to the PATH program.

We maintain that our findings and recommendations are valid. SAMHSA indicated that it does not consider the non-Federal contributions requirement met if these funds were not used towards the PATH program. Also, we did not assess OMH's initial eligibility determinations for the six consumers. Rather, we determined if the consumers maintained eligibility for our grant period.

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INTRODUCTION

WHY WE DID THIS AUDIT

Between 2007 and 2019, the number of people experiencing homelessness in the United States increased in 13 States and the District of Columbia, with the largest increase taking place in New York.¹ To assist States with providing services to individuals with serious mental illness experiencing homelessness, the Substance Abuse and Mental Health Services Administration (SAMHSA) awarded States approximately \$62 million in grant funds for Federal fiscal year 2016 (grant period) under its Projects for Assistance in Transition From Homelessness (PATH) program.² New York was awarded one of the largest PATH grants for this period. This is the first in a series of audits by the Office of Inspector General (OIG) to ensure the integrity and proper stewardship of PATH grant funds aiming to reduce homelessness.

OBJECTIVE

Our objective was to determine whether the New York State Office of Mental Health (OMH) complied with PATH program requirements.

BACKGROUND

Projects for Assistance in Transition From Homelessness Program

The Stewart B. McKinney Homeless Assistance Amendments Act of 1990³ (Stewart B. McKinney Act) established the PATH program, which is administered at the Federal level by SAMHSA. SAMHSA awards PATH grants to States using a formula. States use the grants to fund local public and nonprofit organizations, known as PATH providers.

The PATH program supports outreach and other services to individuals with serious mental illnesses and substance use disorders who are homeless or at imminent risk of becoming homeless.⁴ To be eligible for PATH program services, individuals must be age 18 and older, suffering from serious mental illnesses, and homeless or at imminent risk of becoming

¹ U.S. Department of Housing and Urban Development, *2019 Annual Homeless Assessment Report to Congress*, <https://files.hudexchange.info/resources/documents/2019-AHAR-Part-1.pdf>. Accessed on November 12, 2020.

² The terms and conditions of the PATH grant award gave grantees 27 months from the beginning of the grant period to liquidate the grant funds. As a result, this was the most recent grant period we were able to review at the time we began our audit.

³ P.L. No. 101-645 (Nov. 29, 1990).

⁴ PATH services include substance use treatment, case management, and referrals for health, education, and housing services.

homeless.⁵ (We refer to these individuals as “consumers” throughout the report.) SAMHSA requires States, as part of their application for PATH funds, to develop their own operational definitions of the terms “homeless individual,” “imminent risk of becoming homeless,” and “serious mental illness.”

States awarded PATH funds must enter into formal written agreements with grant subrecipients that address PATH program requirements.⁶ Further, States must meet cost-sharing obligations for non-Federal contributions towards their PATH programs.⁷ Additionally, at the end of each grant period, grantees are required to submit to SAMHSA a *Statewide Annual PATH Report* that details their PATH program activities.⁸ Finally, States must complete a financial closeout of their PATH grants to determine if PATH program costs were allowable, properly allocated, or if any unused funds should have been returned to the Federal Government. As part of the financial closeout process, States must file a final Federal Financial Report (FFR) that details the amount of Federal and non-Federal costs incurred on their PATH grants (45 CFR § 75.381(a)).

New York’s Projects for Assistance in Transition From Homelessness Program

New York’s PATH program is administered at the State level by OMH. For the grant period we reviewed, SAMHSA awarded New York \$4.2 million in PATH grant funds, which OMH distributed to 8 counties.⁹ These 8 counties contracted with a total of 20 non-profit organizations and local governments to provide PATH services to 4,126 enrolled consumers.¹⁰ In addition to PATH grant funds, these providers received financial assistance from Federal, State, and local government agencies to fund their various programs. OMH requires counties and PATH providers to submit consolidated fiscal reports that include the costs and claiming

New York’s PATH Program Definitions

In its grant application for the grant period, OMH defined *homeless individuals* as individuals who were sleeping or about to sleep in places not fit for humans to live (e.g., on the street, in cars, parks) or in homeless shelters. Individuals were considered at *imminent risk of homelessness* if they were about to sleep in homeless shelters or places not fit for humans to live. Individuals were considered as having a *serious mental illness* if they were diagnosed with a mental illness and met one of the following requirements: (1) received Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI) due to their mental illness, (2) had extended functional impairment, or (3) relied on a psychiatric treatment.

⁵ The Stewart B. McKinney Act § 522(a).

⁶ The HHS *Grants Policy Statement*, page II-78.

⁷ The Stewart B. McKinney Act § 523(a).

⁸ The Stewart B. McKinney Act § 528(a).

⁹ For this report, we considered the five counties comprising New York City as one county.

¹⁰ Specifically, the counties contracted with 17 non-profit organizations and 3 local government agencies.

schedules for all OMH-administered programs they operate, including the PATH program.

HOW WE CONDUCTED THIS AUDIT

Our audit covered \$4.2 million that New York received for its PATH program for the grant period. We selected a simple random sample of 50 consumers out of a sampling frame of 4,126 consumers and determined whether they were eligible for the PATH program. We also audited PATH program costs for all 20 PATH providers.

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

Appendix A contains the details of our audit scope and methodology, Appendix B contains our statistical sampling methodology, and Appendix C contains our sample results and estimates.

FINDINGS

OMH did not always comply with PATH program requirements. Specifically, for 7 of the 50 sampled consumers, documentation indicated that the consumer was not homeless or at imminent risk of homelessness; therefore, they were not eligible for PATH program services. In addition, OMH did not meet its funding obligation for non-Federal contributions to the PATH program and did not have written agreements with PATH providers, as required. Also, OMH overstated the number of consumers enrolled in its PATH program and did not timely file its FFR to SAMHSA. Finally, as of September 2020, OMH had not completed the financial closeout of its PATH program and, therefore, had not verified that funds were appropriately used by providers or that unused funds were returned to the Federal Government.

These deficiencies occurred because OMH did not have policies and procedures in place to ensure that PATH providers stopped delivering services to consumers that lived in permanent housing (e.g., paid rental apartment) and were no longer homeless or at imminent risk of homelessness. In addition, OMH lacked adequate oversight over its distribution of non-Federal contributions to PATH providers and did not ensure that these contributions were allocated to the PATH program. Also, OMH's policies and procedures did not require formal written agreements with PATH providers because it relied on counties to have such agreements with PATH providers. However, contracts between counties and PATH providers did not distinguish compliance requirements for the PATH program but rather commingled them with provisions for other OMH-administered programs that had different compliance requirements. Further, OMH did not implement policies and procedures on how PATH providers should properly report the number of consumers served. Finally, some counties and PATH providers did not timely provide required financial reports to OMH, which delayed its submission of its final FFR to SAMHSA and its closing out of the grant.

On the basis of our sample results, we estimated that 578 of the 4,126 consumers enrolled in New York's PATH program were ineligible to receive PATH program services.¹¹ Also, New York did not meet its funding obligation for non-Federal contributions, which resulted in the entire grant amount (\$4,222,941) being unallowable.

NEW YORK DID NOT COMPLY WITH REQUIREMENTS FOR PROVIDING SERVICES

Services Were Provided to Consumers Who Were Not Homeless or at Imminent Risk of Homelessness

PATH services must be provided to eligible individuals who are homeless or at imminent risk of becoming homeless.¹² OMH defined *homeless individuals* as individuals who were sleeping or about to sleep in places not fit for humans to live (e.g., on the street, in cars, parks) or in homeless shelters. Individuals were considered at *imminent risk of homelessness* if they were about to sleep in homeless shelters or places not fit for humans to live.¹³ This included individuals that resided in shelters or other transitional settings, as well as if PATH providers determined that consumers in permanent housing settings continued to need PATH services to prevent a recurrence of homelessness.

PATH providers delivered services to consumers who were not homeless or at imminent risk of homelessness, as defined by OMH. Specifically, 7 of the 50 sampled consumers were, according to OMH's guidelines, considered at imminent risk of homelessness and received PATH services even though they lived in permanent housing settings. Further, documentation in their case files did not indicate that they continued to need PATH services to prevent a recurrence of homelessness.¹⁴ We noted that five of the seven sampled consumers had lived in permanent housing settings for an average of more than 2 years prior to the grant period.¹⁵ For example, one consumer was enrolled in the PATH program and received services during the grant period even though he had been living in the same permanent housing residence for more than 4 years. Further, the consumer lived in a community residence apartment building that provides on-site case management and clinical services explicitly for individuals with mental illnesses.

¹¹ The 90-percent confidence interval for the estimated ineligible consumers enrolled in New York's PATH program ranges from 281 to 1,016.

¹² The Stewart B. McKinney Act § 522(a)(1).

¹³ *Fiscal Year 2016 Projects for Assistance in Transition From Homelessness (PATH) Agreement* between OMH and SAMHSA.

¹⁴ These seven consumers were served by six different providers.

¹⁵ We could not obtain documentation that detailed the duration of their residency in permanent settings for the other two consumers prior to our grant period.

These deficiencies occurred because OMH's policies and procedures did not ensure that PATH providers appropriately determined that consumers were homeless or at imminent risk of homelessness to continue being eligible for PATH services. If proper policies and procedures were implemented to ensure that PATH services were provided only to eligible individuals, additional PATH services could have been provided to eligible consumers.

New York Did Not Contribute Non-Federal Funds Toward Its Program

States are required to contribute non-Federal funds equal to not less than \$1 for every \$3 of Federal funds awarded towards the costs of providing PATH program services. States may also be required to repay any PATH funding not expended in accordance with their grant agreement.¹⁶ In addition, SAMHSA's PATH Formula Grant Notice of Award (NoA) states that PATH funding is subject to adjustment if States do not meet their non-Federal contributions obligation. Further, it requires non-Federal contributions to be reported in grantees' FFRs.

OMH did not meet its cost-sharing obligation for non-Federal contributions towards its PATH program. Specifically, OMH did not contribute its required \$1.4 million in non-Federal contributions toward the \$4.2 million that was awarded in Federal funds for the PATH program.¹⁷ To support its compliance with this requirement, OMH provided us, after multiple revisions, a spreadsheet summarizing approximately \$72 million in non-Federal contributions and claimed that these were contributions made toward the PATH program. However, OMH could not provide support that these funds were used during the grant period for only PATH-allowable services to PATH-eligible consumers. Specifically, the spreadsheet provided by OMH indicated that non-Federal contributions were made to PATH providers for services equivalent to PATH-allowable services (e.g., crisis support services and outreach). However, the spreadsheet also indicated that these contributions were made on behalf of individuals receiving services through other OMH-administered programs. OMH did not have policies and procedures to track non-Federal contributions and ensure that these funds were used on its PATH program. Further, we found that OMH did not report any non-Federal contribution amount towards its PATH program in its final FFR submitted to SAMHSA for the grant period.

This occurred because OMH commingled PATH program funding with other OMH-administered homelessness services funding sources and did not ensure that appropriate non-Federal funds went toward meeting its cost-sharing obligation for the PATH program. Due to OMH's commingling of various funding sources during the grant period, OMH was unable to provide sufficient support that non-Federal contributions were appropriately used for PATH-allowable services to PATH-eligible consumers. Since OMH did not contribute any of the required \$1.4 million in non-Federal funds to comply with PATH grant requirements, the entire PATH grant amount of \$4,222,941 is considered unallowable. Had OMH ensured that the \$1.4 million

¹⁶ The Stewart B. McKinney Act §§ 523(a) and 531(a).

¹⁷ The \$1.4 million represents approximately one third of the total amount of Federal funds OMH withdrew for PATH program services ($\$4,222,941 \times 0.33 = \$1,407,647$).

in non-Federal funds was used toward the PATH program, it could have provided additional PATH program services to existing and potentially new consumers.

Office of Mental Health Did Not Have Written Agreements With Providers

States receiving HHS grant funds must enter into formal written agreements with subrecipients (e.g., county governments and non-profit organizations) that address the arrangements for meeting the programmatic, administrative, financial, and reporting requirements of the grant.¹⁸ In New York, OMH-issued *Federal Funds Guidelines* instructed PATH providers that, as a condition of receiving PATH funds, providers were required to annually complete Federal certifications attesting compliance with all applicable Federal requirements governing the PATH program.

OMH did not have written agreements with all PATH providers, as required. Specifically, OMH did not enter into written agreements with any of the 20 PATH providers that received PATH funds.¹⁹ Rather than entering into written agreements, OMH communicated PATH program requirements to counties via letters that included the total amount of PATH funds to distribute to providers and the PATH services covered by the funds. Written agreements should describe providers' associated roles and responsibilities for meeting PATH program goals. The letters only referred the counties to OMH guidelines for specific PATH program requirements.

In addition, although counties contracted with 17 of the 20 PATH providers, these contracts did not contain specific terms for compliance with PATH program requirements. Rather, each contract covered multiple OMH-administered programs and funding sources—not just the PATH program. In addition, 13 of the 20 PATH providers did not submit required certifications to OMH attesting that they would comply with applicable Federal requirements.

This deficiency occurred because OMH did not enter into written agreements directly with PATH providers, as required. Instead, OMH relied on counties to have such agreements with PATH providers and maintain required certifications. Further, the contracts between counties and PATH providers commingled provisions for other OMH-administered programs, many of which were not federally funded and entailed different compliance requirements. In addition, OMH's policies and procedures did not require it to have written agreements with PATH providers. As a result, PATH providers may not have been informed of PATH program requirements. If OMH's policies and procedures required it to have written agreements with PATH providers, the providers would have understood their associated roles and responsibilities for meeting PATH program goals, including how to appropriately use PATH funds and determine consumer eligibility.

¹⁸ The HHS *Grants Policy Statement*, page II-78.

¹⁹ Three of the 20 PATH providers were operated by counties and directly provided PATH services.

NEW YORK'S STATEWIDE ANNUAL PATH REPORT WAS INACCURATE

Payments must not be made to a State unless it provides an annual report that details the recipients of PATH funding to determine whether these payments were expended appropriately.²⁰ SAMHSA guidance states that all information in these reports should be based on consumers served through both PATH Federal and matching funds (*PATH Annual Report Manual*, page 10 (OMB Number 0930-0205)). The guidance also states that it is essential that PATH providers include accurate information on the number of persons receiving services.

New York's *Statewide Annual PATH Report* for 2016 included an inaccurate number of consumers enrolled in the PATH program.²¹ Specifically, the report stated that 6,023 unique consumers were enrolled in the PATH program during the grant period and included the associated totals for each of the 20 PATH providers in the State. However, the supporting documentation we obtained directly from PATH providers indicated that the total number of consumers enrolled in the PATH program was 4,126. The 1,897 difference between the counts was due to the following conditions among the 20 PATH providers:

- One PATH provider reported the number of times it contacted consumers instead of reporting the total unique number of consumers it served.²²
- One provider could not provide the number of consumers it served during the grant period.²³
- The remaining 18 PATH program providers provided enrollment data using reporting periods that did not align with OMH's fiscal year (i.e., July 2016 through June 2017)—the period OMH selected for New York's *Statewide Annual PATH Report*.²⁴

These conditions occurred because OMH did not appropriately implement policies and procedures on how to properly report the number of consumers served. Further, OMH did not require PATH providers to report consumers served according to its fiscal year period and to

²⁰ The Stewart B. McKinney Act, § 528(a).

²¹ We used SAMHSA's *PATH Annual Report Manual* to derive the number of consumers enrolled in New York's PATH program at any point during the grant period.

²² This provider reported the number of times it met with consumers (2,257 times) instead of reporting the unique number of consumers (326) it encountered, which resulted in 1,931 consumers being overstated in New York's *Statewide Annual PATH Report*.

²³ The provider was unable to calculate the number of consumers it served because of internal staffing issues; however, it reported serving 117 consumers to OMH for New York's *Statewide Annual PATH Report*.

²⁴ SAMHSA allows grantees to establish a reporting period for annual reports that differ from the grant period. This resulted in an understatement of 151 consumers in New York's *Statewide Annual PATH Report*.

use its electronic database to prevent duplicate counts of consumers served.²⁵ As a result, New York's *Statewide Annual PATH Report* did not accurately measure the performance of New York's PATH program. Nevertheless, SAMHSA relies on the data in the report to evaluate the PATH program on a national basis and for essential program planning purposes. Further, the report is also critical to maintain program accountability and assist in program monitoring.

NEW YORK DID NOT TIMELY COMPLETE THE FINANCIAL CLOSEOUT OF ITS GRANT AND FILE ITS FEDERAL FINANCIAL REPORT

A non-Federal entity must close out its Federal award timely.²⁶ To do this, States must have effective controls and safeguards in place to ensure accountability over funds. The NoA required that, as part of the financial closeout, the final FFR must be submitted via email to SAMHSA no later than 90 days after the 24-month period from the beginning date of the grant period.²⁷ Further, the NoA stated that, as part of the financial closeout, all grant funds must be liquidated within that same period.

OMH did not timely submit its final FFR with SAMHSA for the grant period and did not complete its financial closeout.²⁸ Specifically, OMH submitted its final FFR to SAMHSA in January 2019, exceeding the required timeframe to file the FFR by almost 2 months.²⁹ In addition, as of September 2020—more than 22 months after SAMHSA's deadline to liquidate PATH funds and complete the financial closeout of the grant—OMH had not completed the financial closeout of its PATH program for the grant period.³⁰

This occurred because some counties and PATH providers were required to provide OMH financial information related to all OMH-administered programs but did not timely submit these reports, causing delays in OMH's reconciliation process. OMH relied on reconciling counties' and providers' annual consolidated fiscal reports against its own records to complete and submit its final FFR and closeout the grant.

²⁵ The database, known as the Homeless Management Information System, is used to collect data on services provided to consumers experiencing homeless or are at risk of homelessness.

²⁶ 45 CFR § 75.381.

²⁷ 45 CFR § 75.381(b).

²⁸ As part of the financial closeout process, OMH reviews the counties' and providers' Consolidated Fiscal Reports to determine if PATH costs were accurate and if any unused PATH funds should be returned to the Federal government.

²⁹ The 2-year time period from the start of the grant period was September 1, 2018. The deadline to file the FFR with SAMHSA was November 30, 2018; however, OMH filed the FFR on January 24, 2019, which was 55 days past the deadline.

³⁰ The deadline to complete the financial closeout and liquidate all grant funds was November 30, 2018.

Without timely receiving providers' reports detailing the costs related to the PATH program, OMH could not reconcile PATH funds and determine whether providers' costs were allowable, allocable, or if any unused PATH funds should have been returned to the Federal Government. Further, since the financial closeout of the grant was not completed, the reported amounts on the final FFR might not have been accurate.

RECOMMENDATIONS

We recommend that the New York State Office of Mental Health:

- refund the entire PATH grant amount, totaling \$4,222,941, to the Federal Government;
- implement policies and procedures for the PATH program to:
 - ensure that non-Federal contributions related to PATH are used for the applicable grant period to provide PATH services to eligible consumers,
 - require written agreements for all PATH providers, and
- strengthen its policies and procedures to ensure that:
 - PATH program services are only provided to eligible consumers;
 - PATH providers submit certifications before distributing PATH funds,
 - PATH providers accurately report the number of consumers served, and
 - it timely completes the financial closeout of its PATH program for the grant period to confirm its final FFR is accurate.

OFFICE OF MENTAL HEALTH COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

In written comments on our draft report, OMH disagreed with our first recommendation but agreed with our remaining recommendations and described steps it plans to take to implement them. OMH stated that, during a 2018 site visit, SAMHSA did not indicate that OMH's methodology for administering PATH funds or meeting its non-Federal contribution requirement was unallowable or would result in a disallowance. According to OMH, it reasonably interpreted the report of the site visit to indicate that SAMHSA permitted OMH to commingle funds. OMH stated that it plans to revise how it administers PATH program funds to ensure that non-Federal contributions are traceable. OMH also stated that it will directly contract with PATH providers instead of relying on counties to maintain written agreements with the providers. Finally, OMH stated that it correctly determined PATH eligibility for six of

the seven consumers we identified as being ineligible for PATH program services.

We maintain that our findings and recommendations are valid. SAMHSA informed OIG that it does not consider the non-Federal contributions requirement met if these funds are not used for PATH program services and consumers. Further, SAMHSA stated that, if the non-Federal contributions requirement is not met, a proportionate amount should be returned to the Federal Government.³¹ Also, we did not assess OMH's initial eligibility determinations for the six consumers. Rather, we determined if the consumers had maintained eligibility for our grant period. Our detailed responses to OMH's comments are provided below. OMH's comments are included in the entirety as Appendix D.³²

NON-FEDERAL FUNDS CONTRIBUTED TO THE PATH PROGRAM

Office of Mental Health Comments

OMH strongly disagreed with our recommendation that it should refund the entire PATH grant amount and stated that the deficiency we identified in our draft report was inconsistent with a 2018 SAMHSA site visit report of New York's PATH program. OMH stated that the 2018 SAMHSA site visit report did not indicate that the methodology used by OMH to administer PATH funds or calculate its non-Federal contributions would lead to a disallowance. Further, OMH stated that SAMHSA did not provide any Federal guidance or notification that it improperly accounted for non-Federal contributions. The report stated that the PATH program is a "funding stream" in New York used to generally support PATH-eligible individuals through PATH-eligible services. OMH attests that SAMHSA permitted it to use funding streams from other OMH-administered programs to meet PATH Federal matching requirements as long as the funds were spent for activities that were consistent with the PATH statute. OMH also included a table describing over \$236 million in State aid grants made to other OMH-administered programs that provided PATH-eligible services to individuals that were homeless or at risk of homelessness.

Office of Inspector General Response

We note that the 2018 SAMHSA site visit report referenced by OMH is marked "draft" and did not cover our grant period. We discussed our preliminary findings with SAMHSA officials, who indicated that OMH did not meet its cost-sharing obligation for non-Federal contributions towards its PATH program and did not report any non-Federal contributions amount in its final FFR for our grant period. SAMHSA stated that it does not consider the non-Federal contribution

³¹ Since OMH did not contribute any non-Federal funds during our grant period, we recommended that a proportionate amount totaling \$4.2 million (the entire PATH grant amount) should be returned to the Federal Government. However, for example, if we determined that OMH had contributed \$700,000 in non-Federal funds (50 percent of its required contributions), then we would have recommended a proportionate amount totaling \$2.1 million (50 percent of the entire PATH grant amount) be returned to the Federal Government.

³² Under separate cover, OMH provided SAMHSA's 2018 site visit report on New York's PATH program.

requirement met if OMH provided contributions to PATH providers and those providers did not use the contributions for PATH program services made to consumers enrolled in the PATH program. SAMHSA also explained that it is concerned with the absence of non-Federal contributions reported on OMH's final FFR and plans to address this issue with OMH. Regarding OMH's table describing State aid grants, OMH did not provide documentation showing that these funds were incurred during the audit period and that PATH providers used them to provide allowable PATH services to PATH consumers.³³

INELIGIBLE CONSUMER DETERMINATIONS

Office of Mental Health Comments

OMH disagreed with our determinations for six of the seven sampled consumers that we identified as being ineligible for PATH program services. Specifically, OMH stated that its standard for determining eligibility to receive services under the PATH program was based on the consumers' homelessness status at time of admission. However, OMH acknowledged that PATH providers could improve their documentation of the ongoing need for consumers to receive PATH services in order to maintain permanent housing, and agreed to strengthen its policies for discharging these consumers from the PATH program after permanent housing had been established.

Office of Inspector General Response

The Stewart B. McKinney Act explicitly states that PATH program services must be provided to individuals who are homeless or at imminent risk of becoming homeless. Further, in its 2016 PATH agreement with SAMHSA, OMH defined homeless individuals as individuals who were sleeping in places not fit for humans to live or in homeless shelters. It also defined individuals at imminent risk of homelessness if they were about to sleep in homeless shelters or places not fit for humans to live. We did not assess whether sampled consumers were eligible at the time they were admitted into the PATH program because those determinations were made prior to our grant period, including one consumer that was admitted to the program 14 years before the beginning of our grant period. However, we determined there was no evidence of documentation in any of the six sampled consumers' associated case files that established the need for continuing PATH services during our grant period.

³³ OMH did not provide any support for the \$236.3 million in State aid grants. It previously submitted a spreadsheet detailing \$32 million awarded to 27 providers to meet its non-Federal contributions requirement; however, only 4 of the 27 providers were PATH providers. Further, these 4 PATH providers indicated that the portion of the \$32 million that they received were not spent on their respective PATH programs. After multiple attempts to support OMH's cost-sharing obligation, OMH submitted an additional spreadsheet describing \$72 million in non-Federal contributions made to PATH providers. However, we confirmed with OMH that this amount represented budgeted funds related to its non-Federal contributions towards the PATH program—not actual funds delivered to PATH providers.

APPENDIX A: AUDIT SCOPE AND METHODOLOGY

SCOPE

Our audit covered PATH program grant funds totaling \$4.2 million awarded to OMH for the period September 1, 2016, through August 31, 2017 (grant period). Our review of internal controls was limited to OMH's systems and procedures, along with SAMHSA's guidance to OMH to account for, report on, and monitor PATH program funding. To verify consumers' eligibility determinations, we reviewed a simple random sample of 50 consumers. We also reviewed PATH program costs for all 20 providers. We limited our review of OMH's internal controls to those applicable to its administration over the PATH program.

We performed our fieldwork at OMH's office in Albany, New York, three county offices, and five PATH provider offices throughout New York State.

METHODOLOGY

To accomplish our objective, we:

- reviewed applicable Federal and State requirements;
- reviewed OMH's grant award notice, PATH application, and reports filed with SAMHSA, and oversight reports conducted by an external organization contracted by OMH to review PATH providers;
- interviewed SAMHSA officials to gain an understanding of PATH program requirements;
- interviewed OMH officials to gain an understanding of OMH's oversight of New York's PATH program;
- reconciled the grant amount OMH received during the grant period against disbursements made to PATH providers;
- interviewed officials from 5 county agencies and all 20 PATH providers to determine their roles and responsibilities;
- obtained from PATH providers, if available, Excel files containing information on consumers served during the grant period;
- reconciled the number of consumers reported by the PATH providers to the number of consumers detailed in the *2016 PATH Statewide Annual Report*;

- created a sampling frame of 4,126 consumers obtained from PATH providers into an Excel file;
- for each sampled consumer, obtained and reviewed supporting documentation to determine whether the consumer was eligible for the PATH program;
- reviewed supporting financial documentation to determine whether PATH funds were spent in accordance with PATH program requirements;
- estimated the total number of consumers who were not eligible to receive PATH services;
- determined the portion of the grant that did not comply with PATH requirements;
- discussed our preliminary findings with SAMHSA officials; and
- discussed our findings with OMH officials.

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

APPENDIX B: STATISTICAL SAMPLING METHODOLOGY

SAMPLING FRAME

We directly obtained lists of consumers who received services through New York's PATH program during the period September 1, 2016, through August 31, 2017, from 19 of the 20 PATH providers.³⁴ We combined these lists into an Excel spreadsheet to create a sampling frame of 4,126 consumers.

SAMPLE UNIT

The sample unit was a consumer.

SAMPLE DESIGN AND SAMPLE SIZE

We used a simple random sample and selected a sample of 50 consumers.

SOURCE OF RANDOM NUMBERS

We used the OIG, Office of Audit Services (OIG/OAS), statistical software to generate the random numbers.

METHOD OF SELECTING SAMPLE ITEMS

We consecutively numbered the consumers in the sampling frame, generated random numbers in accordance with our sample design, and then selected the corresponding frame items.

ESTIMATION METHODOLOGY

We used the OIG/OAS statistical software to estimate the number of consumers who were not eligible for the PATH program. We calculated a point estimate and a two-sided 90-percent confidence interval.

³⁴ We excluded one provider because the provider could not determine the number of consumers who received services through its PATH program.

APPENDIX C: SAMPLE RESULTS AND ESTIMATES

Table 1: Sample Detail and Results

Number of Consumers in the Sampling Frame	Sample Size	Number of Ineligible Consumers
4,126	50	7

Table 2: Estimated Number and Percentage of Ineligible Consumers
(Limits Calculated for a 90-Percent Confidence Interval)

	Number of Ineligible Consumers	Percentage of Ineligible Consumers
Point estimate	578	14%
Lower limit	281	7%
Upper limit	1,016	25%

APPENDIX D: OFFICE OF MENTAL HEALTH COMMENTS



ANDREW M. CUOMO
Governor

ANN MARIE T. SULLIVAN, M.D.
Commissioner

CHRISTOPHER TAVELLA, Ph.D.
Executive Deputy Commissioner

October 30, 2020

Ms. Brenda M. Tierney
Regional Inspector General for Audit Services
Department of Health and Human Services, Office of Inspector General
Office of Audit Services, Region II
Jacob K. Javits Federal Building
26 Federal Plaza, Room 3900
New York, New York 12078

Dear Ms. Tierney:

Enclosed are the Office of Mental Health's comments on the Department of Health and Human Services, Office of Inspector General's draft audit report (A-02-19-02006) entitled "New York Provided Projects for Assistance in Transition From Homelessness Grant Services to Ineligible Individuals and Did Not Contribute Any Required Non-Federal Funds".

Thank you for the opportunity to comment.

Sincerely yours,

A handwritten signature in blue ink, appearing to read "Christopher Tavella".

Christopher Tavella, Ph.D.
Executive Deputy Commissioner

enclosure

**New York State Office of Mental Health
Comments on the
Department of Health and Human Services
Office of the Inspector General
Draft Audit Report A-02-19-02006 entitled,
“New York Provided Projects for Assistance in Transition From
Homelessness Grant Services to Ineligible Individuals and Did Not
Contribute Any Required Non-Federal Funds”**

The following are the Office of Mental Health's (OMH) comments in response to the Department of Health and Human Services Office of the Inspector General's (OIG) Draft Audit Report A-02-19-02006 entitled, "New York Provided Projects for Assistance in Transition From Homelessness Grant Services to Ineligible Individuals and Did Not Contribute Any Required Non-Federal Funds".

General Comment

While OMH concurs with some of the recommendations made in the draft audit report to improve administration of the grant, we disagree with most of OIG's assertions, including that New York: did not always comply with PATH program requirements; did not meet its funding obligation for non-Federal contributions to its PATH program; and provided funding to individuals who were not homeless. Moreover, OMH strongly disagrees with the first recommendation which would have the State return the entirety of the grant funding for the 2016-17 grant period. OMH provided evidence of over \$236 Million in non-federal match contributions towards PATH services for at-risk New Yorkers, most of whom were PATH-eligible consumers. This recommendation would penalize New York State not for the sufficiency of its non-federal contributions towards PATH services, but merely for the manner in which it administers such funding, which is a product of administrative infrastructure and consistency with New York State law which prioritizes funding to flow through local government units in order to best address local need throughout a large and diverse state.

Furthermore, OMH's nonconcurrence with the first recommendation and understanding of acceptable matching and tracking is rooted in conversations had by the State with the Substance Abuse and Mental Health Services Administration (SAMHSA), the agency that directly administers this funding, during a site visit from July 31 to August 2, 2018 in which SAMHSA Government Project Officers acknowledged the sufficiency of the State's non-federal contributions towards PATH-eligible services and accepted the appropriateness of the State's administrative funding mechanism for local services. OMH reasonably relied on SAMHSA's acknowledgements and recommendations to improve existing administrative processes and should therefore not be penalized in the manner prescribed in the first recommendation. Notwithstanding the foregoing, and as further described herein, OMH is committed to revising how it administers funds for PATH programs to ensure non-federal matching funds are more readily traceable by both providers and federal regulators. While there will be additional administrative costs associated with these changes, OMH concurs that doing so will also enable the State to meet close-out timeframes in the future. These planned, alternative corrective actions are sufficient to address the OIG's concerns.

Recommendation #1

Refund the entire PATH grant amount, totaling \$4,222,941, to the Federal Government.

Response #1

OMH strongly disagrees with this recommendation, which it finds grossly disproportionate and excessive relative to the deficiencies the OIG identified in the draft report and is inconsistent with prior guidance OMH received from SAMHSA during the 2018 site visit. SAMHSA is the federal agency that administers this grant. During the 2018 site visit on this grant, SAMHSA expressed no indication whatsoever that the methodology being used by OMH to administer the PATH funds or achieve the match was unallowable or would result in a disallowance of any kind. OMH provided non-federal contributions for PATH services for PATH-eligible recipients which far exceeded the \$1:3 match requirement. These funds, which total over \$236 Million annually, maximized the effectiveness of the federal government's contribution and vastly improved New York State's efforts to end homelessness among individuals with serious mental illness (SMI) or co-occurring SMI and substance use disorders, consistent with the program's authorizing statute.

While OMH acknowledges that multiple documents were provided to support the state-match requirement, it should be noted that in its initial response to the OIG's request for information regarding these expenditures, OMH provided information for a single state funding source, the Community Residence program. The Community Residence program, for which \$32M in state aid grant funding was expended for the 2016-17 PATH grant period, supports housing for individuals that are mentally ill and experiencing homelessness. Upon further exchanges on eligible match funds, the State provided documentation of an additional \$236.3M in other state aid grants that provide PATH-eligible services to homeless individuals and persons at risk of homelessness. Those programs include, but are not limited to, the following:

Program	2016 State Expenditures
NY/NY Homeless Housing Initiatives A State and New York City collaboration focused on serving the homeless population in NYC. The initiative works to place homeless mentally ill persons in appropriate residential and service settings. Both State and City agree to work together to ensure the availability of low-income housing and other residential development programs. In addition, a focus on the development and maintenance of appropriate community-based mental health services to homeless mentally ill individuals such as outreach, advocacy & support services and access to housing. To qualify for NY/NY funded initiatives, individuals must be chronically homeless and meet SMI criteria established by OMH. Similar to PATH eligibility standards, chronically homeless individuals are currently homeless and have been homeless (in shelter and/or on the streets) for either 365 days during the last two years or two out of the last four years. Individuals also qualify if they have been in the shelter system for 14 of the past 60 days.	\$121.8M
Advocacy and Support Services Advocacy/support services may be individual advocacy or systems advocacy (or a combination of both). Examples are warm lines, hot lines, teaching daily living skills, providing representative payee services, and training in any aspect of mental health services. Individual advocacy assists consumers in protecting and promoting	\$51.7M

Program	2016 State Expenditures
their rights, resolving complaints and grievances, and accessing services and supports of their choice.	
Case Management Case management services include face-to-face or telephonic consultation with other practitioners or resources within the provider agency, or in the community, to coordinate and strategize best practices to address the individual's needs, conduct service planning and provide referral and linkage to medically necessary Medicaid physical and/or behavioral health services or other necessary social support services to avoid more restrictive levels of treatment. Plans of service are provided to all persons diagnosed with serious mental illness (SMI) that may also be at-risk of becoming homeless or are already homeless.	\$2.7M
Outreach Outreach programs/services are intended to engage and/or assess individuals potentially in need of mental health services. Examples of applicable services include socialization, recreation, and provision of information about mental health and social services. Another type of service within this program code includes off-site, community-based assessment and screening services. These services can be provided at various sites including, but not limited to homeless shelters, and the streets.	\$11.1M
Single Point of Access (SPOA) A SPOA is a process, that helps Local Governmental Units achieve community-based mental health systems that are cohesive and well-coordinated in order to serve those individuals most in need of services. The SPOA process provides for the identification of individuals most in need of services (e.g. housing) and manages service access and utilization.	\$1.47M
Crisis Intervention Crisis intervention services, applicable to adults, children and adolescents, are intended to reduce acute symptoms, restore individuals to pre-crisis levels of functioning and to build and strengthen natural supports to maximize community tenure. Examples of where these services may be provided include emergency rooms and residential settings. Services may also be provided by a mobile treatment team, generally at a consumer's residence or other natural setting (not at an in-patient or licensed outpatient treatment setting).	\$47.5M
Expenditures for programs targeting homeless to be counted for PATH state-match	\$236.3M

Even if a technical match requirement is applied on a provider-by-provider basis, the State reviewed the allocations of the funding described above to all PATH providers and determined that these 22 providers received over \$71M in state funds.

Because its non-federal contributions were sufficient to substantially meet or exceed federal requirements, the State should not incur excessive penalties solely for the technical method used to track matching funds. Furthermore, OMH lacked any federal guidance to rely upon and actual or

constructive notice that its match funding mechanism was improper, as it was acknowledged as the State's funding mechanism by SAMHSA in its 2018 site visit report as well as prior site visit reports cited therein. To wit, SAMHSA Government Project Officers found:

"In New York's PATH application, it is clear that PATH is a funding stream in New York, used to support PATH-eligible people with PATH-eligible services. Enrollment into PATH is referenced synonymously with enrollment into the project receiving PATH funds. Funded activities in the state of New York range from Permanent Supportive Housing support services, to case management, to other related activities that don't neatly fit PATH HMIS service categories. All activities SAMSHA observed on-site appear consistent with PATH statute, but are not specifically allowed or disallowed in the law."¹

The OIG contends that the evidence OMH provided auditors was problematic because it indicated that its non-federal contributions were made on behalf of individuals receiving services through other OMH-administered programs and that OMH did not have policies and procedures to track non-federal contributions and ensure that these funds were used on its PATH program. Again, based on the results of SAMHSA's site visit, OMH lacked actual or constructive notice that its non-federal contributions were not permitted to be allocated to other OMH-administered programs which provide PATH-eligible services to PATH-eligible individuals. In its 2018 site visit report, SAMHSA clearly advised OMH that the State is not required to implement a distinct "PATH program," and may use PATH dollars to fund existing provider projects, as long as it funds activities that are consistent with the PATH statute.² SAMHSA's Government Project Officers also found the State was funding activities consistent with the PATH statute, even if they did not fit neatly into an HMIS service category.

OMH reasonably interpreted the site visit report findings to indicate that SAMHSA permitted the State to commingle its non-federal contributions to meet federal PATH matching requirements with other funding streams and to fund other OMH programs which provide PATH services to PATH-eligible individuals. Nevertheless, OMH is committed to revising how it administers funding for PATH programs to ensure non-federal matching funds are more readily traceable by both providers and federal regulators, including in appropriate systems, through direct contracting arrangements. These planned alternative corrective actions are sufficient to address the OIG's concerns.

Recommendation #2

Implement policies and procedures for the PATH program to:

- ensure that non-Federal contributions related to PATH are used for the applicable grant period to provide PATH services to eligible consumers; and
- require written agreements for all PATH providers.

Response #2

OMH agrees with this recommendation. As previously noted, non-federal contributions are being used to provide PATH services to PATH-eligible consumers; however, OMH will be transitioning the administration of current PATH grant funding recipients from county contracts to direct contracts with the NYS OMH in order to address concerns regarding written agreements. A direct contract will facilitate a clear audit trail of the Federal PATH funds and the State Match utilizing existing detailed

¹ "Projects for Assistance in Transition from Homelessness (PATH) New York State Site Visit July 31-August 2, 2018," Prepared by [REDACTED] pg. 4, 2nd bullet.

² "Projects for Assistance in Transition from Homelessness (PATH) New York State Site Visit July 31-August 2, 2018," Prepared by [REDACTED] pg. 4, 2nd bullet.

programmatic and expenditure tracking mechanisms. . Additionally, OMH will refine the current contract requirements and guidelines to further articulate the federal grant programmatic and financial reporting requirements for the PATH grant. The use of direct contracts will also enable the State to meet federal financial reporting timeframes. While OMH believes that the current pass-through County administered funding mechanism is allowable, OMH acknowledges the advantages of converting to direct contract administration for the PATH funding, notwithstanding the additional administrative expense this will require for the State.

Recommendation #3

Strengthen policies and procedures to ensure that:

- PATH program services are only provided to eligible consumers;
- PATH providers submit certifications before distributing PATH funds;
- PATH providers accurately report the number of consumers served; and
- OMH timely completes the financial closeout of its PATH program for the grant period to confirm its final FFR is accurate.

Response #3

OMH agrees with the recommendations and offers the following comments on overall policies and procedures that could be improved:

Eligible Consumers

While OMH acknowledges that PATH providers could benefit from increased technical assistance related to documentation of the ongoing need for supports to maintain housing stability and strengthened policies regarding parameters for discharge from PATH services when housing stability has been established, OMH disputes the finding for 6 of the 7 consumers identified as ineligible for PATH services.

- Five individuals (Consumer #2, 3, 4, 30, & 48) were enrolled in PATH for residential support services which, by definition, occurs when the individual has secured housing. For these five individuals, OMH provided evidence that the individual was homeless at the time of admission to PATH services, which is the standard for eligibility. However, OMH acknowledges there is an opportunity to refine this standard to reflect that individuals who are no longer at risk for homelessness should be discharged from PATH services. OMH will issue updated guidance to PATH-funded agencies who provide residential support services regarding documenting ongoing need for supports to maintain housing stability and parameters for discharge from PATH services when housing stability has been established. OMH will also provide training to these agencies on the updated guidance.
- Consumer #38 was also eligible as the State's approved 2016 PATH grant application contemplated the provision of PATH-funded services to clients residing in permanent housing developed under various State programs (NY/NY I, II, and III Homeless Housing) specifically intended to address homelessness.³ This individual resided in NY/NY I homeless housing at the time of his referral to PATH services. Based on the approved PATH application, this individual met the criteria to receive this service.

³ "FY 2016 Intended Use Plan: Client Information" for New York/New York Emergency Psychiatric Service, New York FY 2016 PATH Application approved March 28, 2016.

- OMH acknowledges there was inadequate documentation to establish eligibility for PATH services for consumer #21.

PATH - Certifications

OMH acknowledges that during the audit period (2016-2017), PATH funds were released prior to the counties receiving signed certifications from providers. In 2018, OMH strengthened its federal certification requirements and now requires counties to not only submit their signed certifications, but also the signed certifications from each of the PATH providers in their county before OMH releases federal funding. This strengthens the process to ensure that federal certifications have been signed, submitted and retained at every level as part of the records for PATH funding. As OMH will be shifting all PATH funding to OMH-administered direct contracts, providers will not receive any PATH dollars until their signed certifications are on file with OMH for the PATH grant period.

PATH Reporting - Programmatic

While OMH acknowledges the annual PATH report was inaccurate for the audit period reviewed, both issues identified (which involved a single PATH provider), have already been corrected.

With respect to the APR audit period, due to technological issues OMH was under the impression the auto-populated dates in the reporting system could not be modified; however, when we were informed this was not the case, OMH received technical assistance on how to change the dates. PATH providers then submitted partial APR data for 2018/19 to bring them in-line with the reporting period to ensure that full data is reported and to put OMH on the correct reporting schedule.

Issues with consistency in PATH reporting on individuals served and contacts made occurred nationwide prior to 2018. Recognizing this problem, SAMHSA required PATH providers to start using HMIS data to populate the APR. Providers were required to make software updates to allow for this change between April-October 2017. After that date, issues with the HMIS system occurred, but since then technological issues have been resolved. In late 2018/early 2019, all PATH providers received technical assistance from the Homeless Housing Resource Network. OMH is highly confident in the accuracy of the reporting by its PATH providers.

PATH Reporting - Fiscal

OMH concurs with the OIG that the FFR was filed 55 days late without completed close-outs. Although the FFR was submitted in January of 2019 without the financial reports and completed close-outs for every recipient, OMH has processes in place to ensure that the FFR is revised, if warranted, once close-outs are finalized. The Consolidated Fiscal Report (CFR) process sometimes makes it impossible for OMH to complete a final close-out of the expenditures for PATH within the required FFR reporting timeframes. The CFR is a single, standardized fiscal reporting document used by all organizations receiving state funding from four different NYS agencies. OMH requires counties and direct contract providers to file a CFR with OMH no later than 7 months after the conclusion of the fiscal period for the provider. CFRs are utilized to perform the financial close-out of expenditures reported by counties and direct contract providers and this data includes PATH expenditures. Providers can request extensions (similar to tax returns) and CFRs can be filed late by providers and are often amended after OMH and County desk reviews. Because of this, and as stated above, OMH re-examines FFRs that require amendments if a finalized close-out yields

underspending or unallowable expenditures. A refund of the PATH underspending would be forwarded to the Federal government as required.

As mentioned previously in this response, OMH will be funding all PATH grantees via direct contracts moving forward. This step will not only address the OIGs concern regarding written agreements but will also address the concern regarding timely filing of the FFR. Converting from a pass-through methodology (which was acknowledged by the SAMHSA Site Visit Report from July 31-August 2, 2018 with no recommendation that the pass-through be discontinued), to direct contracts, OMH will be able to review and close-out final expenditures with sufficient time to file final FFRs timely.