

TO: THE COMMON COUNCIL

DATE: December 30, 2009

FROM: THE DEPARTMENT OF  
AUDIT & CONTROL

SUBJECT: Audit Report – Division of  
Compensation and Benefits – Medical, Dental and  
Case Management Processing and Payments

The Division of Compensation and Benefits is part of the Department of Human Resources. The Director of Compensation and Benefits is appointed by the Commissioner of Human Resources and is a Deputy to the Commissioner. The Division is responsible under the City Charter for the administration and coordination of all employee benefit and wellness programs, and for the establishment of salary surveys and merit pay programs consistent with the City's performance appraisal system including, where possible, incentive pay programs designed to provide competitive pay in order to attract highly qualified persons. (Article 11, Section 11-12 of the City Charter).

The scope of our audit was an examination of the efficiency of the Division in the processing and payment of medical, dental and Injured-on-Duty case management invoices for the period of July 1, 2006 through and including December 31, 2008. We expanded the time of our original audit period to observe any changes the Division made in the processing functions, and timeliness of payments. Some improvements were made, but with the further intervention by the Department of Audit and Control, much work still needs to be done.

While examining the various payments we became aware of a larger problem. As explained in the audit, there were major problems with the accuracy of the payments made to both the medical and dental insurers. The payments made for case management were accurate, but consistently late. There would seem to be a fundamental lack of proficiency within the operation of the department. Better use of technology and available resources would improve performance considerably.

The department's response to the audit was perplexing in that it lacks any sense of responsibility for the current state of the department. We will address the response in a separate filing.

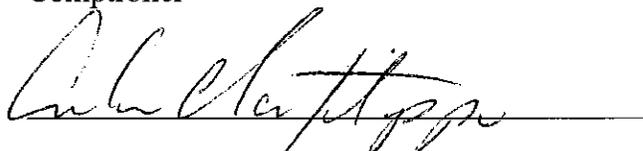
If you have any further questions on this matter, please feel free to contact the Department of Audit and Control.

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DEPARTMENT HEAD: Andrew A. SanFilippo

TITLE: Comptroller

SIGNATURE:

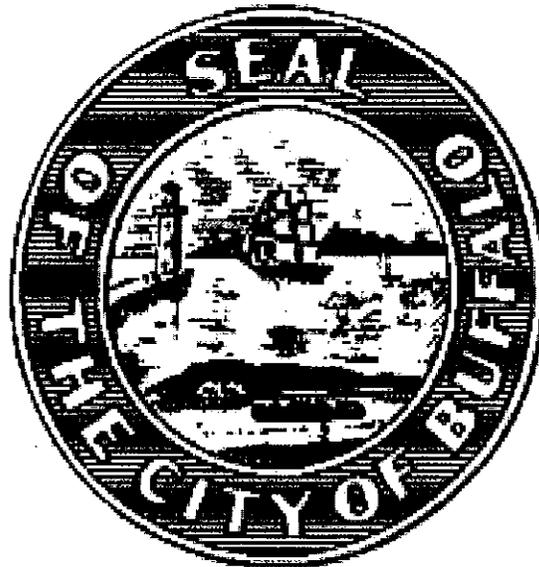


CITY OF BUFFALO  
DEPARTMENT OF AUDIT & CONTROL

AUDIT REPORT ON  
THE DIVISION OF COMPENSATION & BENEFITS  
MEDICAL, DENTAL and CASE MANAGEMENT  
PROCESSING and PAYMENTS

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**ANDREW A. SANFILIPPO**  
**COMPTROLLER**



FOR THE PERIOD JULY 2006 – DECEMBER 2008

**DARRYL McPHERSON**  
**CITY AUDITOR**

DECEMBER 2009

## **GENERAL OVERVIEW**

The Division of Compensation and Benefits is part of the Department of Human Resources. The Director of Compensation and Benefits is appointed by the Commissioner of Human Resources and is a Deputy to the Commissioner.

The Division is responsible under the City Charter for the administration and coordination of all employee benefit and wellness programs, and for the establishment of salary surveys and merit pay programs consistent with the City's performance appraisal system including, where possible, incentive pay programs designed to provide competitive pay in order to attract highly qualified persons. (Article 11, Section 11-12 of the City Charter).

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While examining the various payments we became aware of a larger problem. As we shall explain, there were major problems with the accuracy of the payments made to both the Medical and Dental insurers. The payments made for case management were accurate but consistently late.

### **HEALTH NOW (BLUE CROSS/BLUE SHIELD) - MEDICAL**

Originally we intended to examine and test six (6) months in our audit, but as it became apparent during our testing that there were significant problems in this area, we expanded it to 24 months.

At some point before our audit period the Division of Compensation and Benefits decided they no longer would reconcile their records with the bills provided by Health Now. In interviews with Health Now and the Director of Compensation and Benefits, we were told that the City informed Health Now they no longer wanted the bills from the insurer. This was confirmed by the Director of Compensation and Benefits.

According to the Division Director, the City was self-billing, making changes, sending them to the insurer and making payments based on data runs provided by the Department of Management Information Systems (MIS).

No reconciliation was being made between the data on the City system with that of the insurer. There appears to have been no coordination with or verification of changes between Health Now's records and those on the City payroll system. Basically, if an employee wanted to change any information, address, etc., it had to be made in both places. It does not appear that all

timekeepers or employees were aware of this requirement by the Division of Compensation and Benefits.

During the period of the audit, the Audit Division's Accounts Payable section discovered that former employees and deceased employees were still being carried on the City records, and many employees were being carried in the active file when, in fact, they were retired. Combined, these caused overpayments and rendered any valid analysis of costs impossible. Originally discovered in September 2006, these were adjusted in November 2006, but it should be noted the adjustments were made using an adjustment program containing flaws which we will describe in later comments. Despite this discovery, the Division continued to make payments without a monthly reconciliation of neither the insurer's bills nor, it appears, with the City's own payroll records.

The Division of Compensation and Benefits "double-paid" the bills for employees covered under the Enterprise Fund for the months of May, June, and July of 2008. The amount of the overpayment was \$526,309.57. A letter was sent to the Commissioner of Human Resources by the Division of Audit on April 1, 2009 informing her of the overpayment and asking her to request a refund from Health Now. To date, we do not believe this has occurred.

The Division of Compensation and Benefits utilizes a program supplied by the Department of Management Information Systems to enter changes and calculate adjustments for their self-billing. In discussions with an MIS analyst, we were informed that the program is only a guide. It is only as good as the information entered, and timeliness in entry is a factor. It does not break out rates for adjustments over different periods. It uses only one rate, so any adjustment for more than one rate period will be incorrect, and must be adjusted manually. According to MIS, the Division of Compensation and Benefits was informed of these limitations and the need to verify adjustments. It does not appear that there was any consistent effort made to effectuate corrections.

There was no effort made to allocate accurate costs to the various funds responsible for medical costs, with all adjustments being charged to the General Fund, resulting in improper allocation of expenses. In some months all adjustments were charged to active General Fund employees, despite a clear breakout between active and retirees on the MIS program.

#### **GHI - DENTAL**

Effective March of 2008, the City changed the way Dental coverage is provided to its employees. Prior to this time the City paid a flat fee to the insurer for each employee which varied depending on the coverage provided by the group or which classification an employee belonged. Since March 2008, the City pays GHI an administrative fee for each covered employee, and pays the claims as they occur.

Many of the same problems encountered with the Medical bills were also evident in our examination of the Dental bills.

We saw months where no adjustments were made, where the amount from the previous month was repeated as payment, where the GHI bill was used for reconciliation and months where it was not.

As with the Medical adjustments, the same problems existed. The problem once again was incorrect rates for many of the adjustments, with multiple period adjustments causing the greatest problem, but also with the wrong rates for single years.

During June 2008, it appears that an effort to reconcile the GHI bill, the Human Resources database and the City payroll was made. There were numerous adjustments made but almost exclusively, the corrections were only made for the three month period when the City shifted to a self-insured system with an administrative fee. Adjustments that should have been made for periods beyond the three months were not done. These monthly payments were much higher than the original three taken, as the City paid a flat fixed rate for employees at that time which was significantly higher than the thirteen dollar administrative fee.

#### **RATES PAID FOR MEDICAL AND DENTAL INSURANCE**

The City pays various amounts for medical insurance based on negotiated rates for various employee groups based on coverage and other options and factors. These differ for different groups such as various unions and for exempt employees. A yearly charge is determined through negotiation by the City and Blue Cross and GHI for Dental coverage, which is then paid on a monthly invoice.

Brown and Brown of New York Insurance have been representing the City in these negotiations. After conducting a search of the City Accounts Payable system, we could find no payment for this service. Upon discussion with the Director of the Division of Compensation and Benefits, we were informed that they are paid by the Insurer.

Obviously, this raises concerns regarding as to which entity Brown and Brown is accountable. According to the Director this practice was started by a former Commissioner and has carried forward.

#### **CASE MANAGEMENT – INJURED ON DUTY**

The City currently contracts with Coventry Health Care Workers Compensation, Inc. to fulfill its responsibilities as service provider of disability benefits for Police and Fire workers injured in the performance of their duty pursuant to Section 207-a and Section 207- c of the General Municipal Law of the State of New York, as stated in paragraph 2 of the Coventry contract.

We examined and tested three hundred and thirty nine invoices (339) from eighty-four (84) service orders dated for the period covered by our audit (July 1, 2006 – December 31, 2008).

We found no errors in the amount due and the amount paid. The payments however, were all late. The causes of the late payments appear to be the result of actions by both the department and the vendor. On the one hand the vendor failed to provide required documents in a timely manner. Conversely, the department made errors in identifying funding sources, the amount needed, and the amounts available; apparently misunderstood the contract processing procedures required by both the City and the Buffalo Fiscal Stability Authority; and lacked any sense of urgency in payment processing. All these delays and misunderstandings assured that payments would not and could not be paid in a timely manner.

### COMMENTS AND RECOMMENDATIONS

- Many of the problems encountered with the medical and dental payments appear to have resulted from the loss of the employee previously responsible for the processing of these payments. We feel this emphasizes the importance of instituting a rotation of duties among the various Division employees. Other than the Director most of the employees share the same title and required qualifications. Proper cross-training in the duties required for the various functions of the Division will result in improved efficiency and flexibility.
- Our analysis of the medical and dental adjustments shows that there are numerous errors in the rates used, due to limitations in the program used to calculate the amounts. The adjustments must be manually calculated, especially when the period of adjustment is over more than one rate period. It also requires verification with what was entered for the adjustment time period. If information is entered by Division personnel incorrectly, it can be reviewed as part of the reconciliation process. If it is not properly reconciled, the errors go undetected.

While our audit period started in July 2006, we believe the problem predates this. There are numerous rates depending on the year and employee pay group (union, exempt, and survivor) involved. If bills and adjustments are verified and reconciled monthly, when bills are received, this process is simple and straightforward. When they are not addressed in a timely manner, reconciliation becomes complicated and time-consuming. **We recommend** that the Division meet with the data processing departments for both the City and the health insurance vendors to facilitate the processing of invoices and allow for easier review and reconciliation.

Determining the proper payments for the audit period requires an exhaustive analysis far beyond the scope of this audit. It will require a determination of the validity of not only the proper rates for the various periods for the applicable union, exempt, and survivors groups, but also verification of the data entered by the Division's employees against the information on the City's payroll database, and the records maintained by Health Now and GHI. There are also timing issues regarding notification of loss of benefits and COBRA availability, as to when the City could cease providing benefits. As confirmed by the Director, the City has a 30 day post-termination notice period. It appears that the failure of the Division to give such notice caused payments for periods when the City should not have been responsible.

- In June 2008, the Division did a reconciliation of the GHI bills. They found numerous adjustments, but adjustments were only done for a maximum of three months. This coincides with the time frame when the City switched from paying a flat fee to paying per claim with an administrative fee. As an example we will follow the procedure used in the case of a white collar employee for whom the City incorrectly paid for dental coverage for one year.

The Division took an adjustment in June 2008 for three months (March, April and May). The adjustment amounted to \$39.00 which is equal to the administrative fee for 3 months (\$13.00 x 3 months). Prior to these three months the City paid GHI \$57.12 a month, the flat fee rate that was in effect at that time. This amount totaled 514.08 (\$57.12 x 9 months). In this case the City paid \$514.08 for this employee for insurance the employee was not entitled to and the City should not have been responsible for. By not taking the full adjustment the City received only a \$39.00 adjustment on a \$553.08 overpayment. There were numerous adjustments of this type for periods longer than the three months in the June 2008 payment.

- The City also offers employees the option of receiving payments "in-lieu" of insurance as an incentive to save the City the full cost of insurance for employees who do not need this benefit. We found employees listed as coming from in-lieu onto the City insurance program who received checks for the time period they were being adjusted for, and others who were listed as going to in-lieu but received no check.

There should be a full review of procedures to follow in order to do a thorough reconciliation. Attention to rates and verification of status dates should be done with the City's database. Verification of in-lieu payments should be obtained from the City payroll and compared to those receiving medical and dental benefits yearly when the various groups receive payment.

- As far as those payments made on behalf of employees who were not notified on a timely basis of their COBRA rights, research should be done on those who chose not to exercise

these rights and did not use the insurance during this period. Refunds from Health Now and GHI for prior payments made should be requested.

- **We are recommending** that the Division discuss with the medical and dental vendors a time frame that is practicable and agreeable to all parties to review the changes in coverage and to perform a full reconciliation of City records with those of the Vendors. **We are also recommending** that prior to this, and on a regular basis going forward, the Division confirms any status change such as retirement or death with the City's payroll records, the New York State Retirement System, and the Social Security Death Master File. Yearly confirmations should be sent to retirees requiring notarized confirmation of current address and coverage.

As an ongoing practice, the Division should request any life status changes (marriage, births) for employees entitled to benefits from the Department of Management Information Systems on a regular schedule to help insure that the status of employees is accurate and complete.

- There was an attempt by Health Now to reconcile their records with those of the City. The Director was not able to supply details, other than that the City disputed the results. It appears that the reconciliation included the period up to March 2007. There is no record of any follow-up action taken by either party as a result of this.
- As of the date of this report, there has been very little movement towards any reform in the practices of the Division in regards to improving the efficiency of their processing of payments made for the services reviewed in our audit.

Despite knowledge of the limitations of the calculation function of the MIS program, medical payments are being submitted for payment without verification of amounts. Numerous errors are being found by the Comptroller's Accounts Payable personnel, which indicate a lack of understanding of the Division's responsibility in the processing of these payments.

There was at least one instance when the threat of possible denials of service or imposition of interest charges on late payments was discussed in an email by the representative of Brown and Brown regarding payments owed to GHI. While no such action was taken, bills still continue to be late. There has been an employee assigned to the processing of the GHI bill, and while there are improvements in some areas, the backlog needs to be cleared up. As of the last week of August 2009, GHI is paid only through November 2008 for administrative fees, and through June 2009 for claims. Our understanding is an employee has been assigned to this since January 2009, so the delay in processing is problematic and needs to be addressed.

- Payments for Health Now Medical are being received on a more regular basis, but continue to be presented without reconciliation or verification of adjustment and rate

accuracy by the Division before submission to Accounts Payable for payment. As an example the Health Now June 2009 was submitted to Accounts Payable for payment despite having some errors. There were misclassifications, one over a year old; there were former employees on the bill, one a former exempt director from Human Resources who resigned January 1, 2009, and a former active employee who died in April 2009. When informed of these, the Director noted that three of the above were not yet informed of the rights under Federal Cobra law and had to be paid until these former employees received thirty (30) days notice. The Director informed Accounts Payable that she did not make changes in June because she did not have time. As this is a major cost center in the City budget and a responsibility of this Division, this explanation requires further examination.

- The lack of timely notification of Cobra rights during the period audited appears to have caused significant payment of benefits for which the City should not have been responsible.
- The payment for benefits to former employees, or employees on extended leave awaiting possible approval for New York State disability pensions was cited as being done according to City policy. We were not given any proof of this policy or agreements made with individuals or unions. When asked we were told that it is a case by case situation, but when pressed were told it is allowed for all in this situation. We were not able to verify this.
- In some months support data for individual group listings presented with monthly payments did not match accompanying summary sheets. We found that in these instances, summary sheet data appeared to be compiled on a date different than that of the support sheets. This should not happen as verification of payment accuracy is best achieved with data obtained from the same time period.
- We also note the lack of a contract renewal and payment for IOD case management services, which should have been achieved. The Coventry contract expired in June 2009. Though there are funds available in the account, as of the last week of August 2009, no payments for these services have been processed for the current fiscal year. As a result, it can be expected that the City will fall behind in making timely payments for these matters.
- There needs to be a change in the sense of urgency and prioritization of functions within the Division. The Director is currently processing the medical payments which, when combined with other duties, are not receiving the appropriate level of attention. This is a function which should be done by the staff. As stated earlier, the process when performed properly and in a timely manner should be routine.

- The use of Brown and Brown as an agent for the City is problematic, and presents an obvious conflict. Any consultant used to negotiate on the City's behalf should be employed and compensated by the City. It is not normal practice to be represented in negotiations by an agent employed by those with whom the agent is negotiating. This practice has to cease immediately. This change will eliminate any doubt as to the allegiance of the consultant and to the fairness of any rates negotiated.
- On the positive side, analysis of the move to self-insurance with independent administration of dental, although in effect for a short time, shows promise in reducing the monthly costs of these benefits.

### CONCLUSION

The manner of processing payments by this Division must change. Employees need to be proficient in various functions, so the loss or absence of one employee does not cause a backlog in the workload. There needs to be more attention to detail, and effective use of resources available such as reports generated by MIS reflecting personnel changes that have been submitted to payroll. These are readily available and should be used.

There should be a system of checks and balances, one person enters changes and another reviews for accuracy and validity. Invoices from vendors should be requested and all changes submitted for the previous month should be reviewed and their inclusion on the vendor's invoice verified. In short, monthly reconciliations should be performed. All departments need to be made aware of the procedures necessary to inform Human Resources of any life changes.

There is a Human Resource module on the City's operating system (MUNIS) that currently is not being utilized. The Director or Commissioner should meet with the MIS Department and explore the possible uses of this program. Perhaps this would facilitate successful integration of all employee life data within the City's operating system for all applicable uses. Increased communication between the City's MIS Department and the insurers' information technology personnel is also called for.

The problem with case management late payments can be resolved with a better understanding of the contract approval process which should have been attained after the previous year's ordeal. Experience on the past two contracts regarding required information and documents should allow for an efficient processing of future contracts. However, to date there has been no improvement in this area.

The Director should delegate more of the day-to-day functions she is currently attempting to perform to the staff to prevent delays created by her managerial functions from interfering with the timely and efficient processing of payments. To date there has been much discussion on improvements, but no verifiable progress as of this date.

## AFTERWORD

On December 22, 2009, an exit conference was conducted with the Commissioner of Human Resources and two of her deputies. They were previously provided with a copy of this audit for comment. Prior to the conference, the Commissioner had prepared a written response to the audit, which is attached to this report. She felt the audit was helpful to her in identifying problems within her department and she did not refute any of the facts contained within the audit. The written response attributes many of the issues to the lack of proper staff with an accounting background. Given the depth of the response, the issues raised will be addressed in a separate communication to the Council.



**CITY OF BUFFALO**  
**DEPARTMENT OF HUMAN RESOURCES**



BYRON W. BROWN  
MAYOR

December 14, 2009

KARLA L. THOMAS  
COMMISSIONER

Mr. Darryl McPherson  
City Auditor  
Department of Audit and Control  
Comptroller's Office  
1230 City Hall  
Buffalo, New York 14202

Dear Mr. McPherson,

Attached, please find my response to your correspondence dated November 10, 2009. My Staff and I have reviewed the findings of the audit and worked painstakingly to identify their accuracy, origin and resolution.

First, I would like to thank the Comptroller's office for conducting this audit. It has given me a chance as a new Commissioner to take an in-depth look at the operation of the Division of Compensation and Benefits. While some issues revealed in the audit bear explanation and culpability outside of the Compensation and Benefits department, mutual collaboration on their remedy will yield solutions that will ensure smoother, more accountable operation of this department.

I am respectfully requesting you contact my confidential secretary, Jacqueline White, at ext. 9624 to schedule an exit conference to discuss your findings and my response at your earliest convenience.

Looking forward to meeting with you in the near future I remain,

Sincerely,

Karla L. Thomas, Commissioner  
City of Buffalo Human Resources

Cc: Andrew San Filippo, Comptroller  
Darby R. Fishkin, CPA

Encl.

DEPARTMENT OF HUMAN RESOURCES

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## I. General Overview

Pursuant to §7-7 of the City Charter and Code, the Department of Human Resources, Division of Compensation and Benefits offers the following response to the November 2009 “Audit Report on the Division of Compensation and Benefits: Medical, Dental and Case Management Processing and Payments.” As §7-7 of the Charter prescribes, the Department will identify each of the issues or criticisms raised in the Audit Report and respond by expressing its agreement or disagreement with the City Auditor’s Findings and a plan for implementing the solutions to the identified problems together with a time table for doing so where appropriate. The Department trusts that the Comptroller will include this response in its entirety within its final Audit Report.

The City Auditor states that the Division of Compensation and Benefits (hereinafter “the Division”) is responsible under the City Charter for the administration and coordination of all employee benefit and wellness programs, and for the establishment of salary surveys and merit pay programs consistent with the City’s performance appraisal system including, where possible, incentive pay programs designed to provide competitive pay in order to attract highly qualified persons. It should be noted from the outset that the job description for the Director of Compensation and Benefits in the City Charter is a general outline and does not include the day-to-day duties of the position and that numerous efforts have been undertaken to clarify the accuracy of activities listed in the Charter for this title, as, for example, salary surveys are functions of the Division of Budget and performance appraisals have not, as of yet, been successfully negotiated with the bargaining units.

It should be noted that to date, the City Auditor’s expansion of the original audit to observe any changes within the Division failed to yield any substantive changes in the relationship between the Division and the Department of Audit and Control (hereinafter “the Department”). Lastly, my predecessor removed the Sr. Accountant position from the Human Resource budget with the understanding and mutual agreement that the Audit Department would absorb the duties formerly performed by the late Roberta Coax, who was assigned to the Compensation and Benefits Department. The Department’s continued postponement of assigning the agreed upon Sr. Accountant to facilitate the changes recommended in its’ own Audit Report precludes the Division from satisfactorily addressing the problems cited in the Audit.

## II. Health Now (Blue Cross/Blue Shield) – Medical

The City Auditor makes four critical assessments of the Division in this section.

**1. Issue:** The Division decided that it would no longer reconcile its records with the bills provided by HealthNow and no longer wanted bills from the insurer, as the City instead opted to self-bill, make changes on adjustment sheets, send them to the insurer and make payments based on data runs provided by the Department of Management and Information Systems. There was no reconciliation being made between the data on the City system and that of the insurer. Therefore, if an employee wanted to change any information (i.e. address, etc.), it had to be made in both places and City personnel were not aware of this requirement.

### 1. Response: The Division Disagrees.

The Division respectfully disagrees with the implications contained in this issue. While the Audit implies that the City decided to change to self-billing shortly before the Audit was undertaken, in fact the Division began the practice of self-billing in 1993. The self-billing system used by the Division was separate and distinct from the City's Payroll System and would be reconciled with HealthNow on a monthly basis using adjustment sheets. Thus, any changes made in employee status or information would be detailed on adjustment sheets provided to HealthNow by the Division and it would then be incumbent upon HealthNow to make the changes detailed in the adjustment sheets on its system. Streamlining this process through the Division is more efficient than a constant exchange of data between HealthNow and the City, as changes to status, benefits and information cannot be made directly through HealthNow. The system utilized, which centralizes information changes within the Division avoids the redundancies highlighted by the City Auditor of employees or timekeepers having to change the information in two places. Since the Audit was commenced and the Comptroller's Office suggested the use of the City's payroll system to generate bills and to reconcile health care information, we will adopt the Comptroller's recommendation and utilize the City payroll system to reconcile monthly bills. This process has been established and the Division feels, together with the other mechanisms detailed in this response, maintenance of timely and accurate status information can be achieved.

While the Audit alludes that the Director simply decided to no longer receive bills from the insurer, in fact the Division chose to no longer receive paper bills from the insurer, opting instead to receive the information electronically to improve efficiency and reduce the time and costs associated with paper document transmission, storage and destruction and to transition the office to a more efficient 'paperless' environment. Additionally, if an employee were to have changed his or her status and a delay occurred in updating the information, the Division would and does regularly receive credits from the insurer for the time period the employee was erroneously carried incorrectly.

It should finally be noted that the Audit's criticism of the reconciliation process was a direct result of the Department of Audit and Control's inaction on assigning a Senior Accountant to the Division in and after 2004. The meltdown in the system has been the lethargy of the Department of Audit & Control in assigning the necessary manpower to the Division to perform the tasks that have created many of the issues cited in the Audit.

**2. Issue:** Former employees and deceased employees were being carried on the City's records, and many were being carried on the active file, when they were, in fact, retired. This caused overpayments and made any valid analysis impossible and, despite this discovery, the Division continued to make payments without a monthly reconciliation of either the insurer's bills or the City's payroll records.

**2. Response: The Division Disagrees.**

First and foremost, there is no difference in cost between an active benefits plan and a retirement benefits plan. Therefore, the statement that carrying a retired employee as an active one caused overpayments is patently false. Spouses of retirees have no motivation to notify us of the death of the retiree because they have no life insurance benefit due them. At that time, the cost of continued health insurance is born by COBRA and subsequently creates a financial liability for the widow/widower that did not exist prior to the death of the retiree. The Division uses the New York State Retirement System quarterly report to validate retiree data and is the catalyst for most benefit changes in status for retirees. Ultimately, the protracted erroneous classification of a retired employee as active, is a rare and unlikely occurrence that hosts no fiscal impact on the City.

In addition and as a result of this audit, the Division of Compensation and Benefits now compares the information on the Payroll System with the Health Insurance Database to verify status. As for deceased retirees and employees, the Division is developing a more comprehensive internal process for staff to react in a more timely manner and to make adjustments in benefits, for example, use of New York State Retirement System quarterly updates to ascertain the deaths of retirees. For active employees, a death would necessarily be reflected in the Payroll System and, therefore, would certainly be co-terminously adjusted in benefits because of the Division's transition to that system. The Division respectfully suggests that all steps necessary to insure that status changes are made with all deliberate speed have taken place.

**3. Issue:** The Division "double-paid" for bills for employees covered under the Enterprise Fund for the months of May, June and July of 2008, totaling \$526,309.57 in overpayments. A letter was sent to the Commissioner of Human Resources by the Division of Audit on April 1, 2009 informing her of the overpayment and asking her to request a refund from Health Now, which has not occurred.

### **3. Response: The Division Disagrees.**

The loss of the Senior Accountant assigned to the Division of Compensation and Benefits by the Department of Audit and Control prompted an agreement between the Division and the Department of Audit and Control providing that the Department of Audit and Control would be responsible for the the in-depth checks, balances and verification of the accuracy of every purchase order submitted until it was able to assign a replacement. This agreement was prompted by the death of the Senior Accountant assigned to the Division of Compensation and Benefits in 2004, as no member of the Division of Compensation and Benefits is charged with said task in their job descriptions and the function was always carried out by a Department of Audit and Control employee. The basic understanding was that if a purchase order were to be submitted by the Division, which was redundant or inaccurate, the Department of Audit and Control would advise of the same and a correction would occur. The problem here is the inconsistency in the Audit Department's correction process of errors on purchase orders generated by the Division. It appears that while occasionally pointing out errors, the Department of Audit and Control was not making corrections prior to payment processing, resulting in erroneous checks being cut by that Department. As is apparent from the sheer amount of the overpayments and editorialized by the City Auditor, the significant fiscal impact of these errors makes it incumbent upon the Department of Audit and Control to assign an Accountant to work with the Director of Compensation and Benefits and assigned staff to remedy the issues cited, so that once an error is discovered, it is not only corrected going forward, but erroneous payments are stopped short of overpayment and the need to seek refunds or restitution in the future is alleviated.

As for the allegation that an April 1, 2009 letter was sent to the Commissioner of Human Resources asking her to request a refund for \$526,309.57 in overpayments, but nothing has been done to further this objective, it is patently false. Following the notification issued by the Department of Audit and Control, the Director of Compensation and Benefits immediately contacted Health Now and requested a refund of the "double payments" discovered by the Department of Audit and Control. Health Now requested additional documentation to verify the City's refund claims. Said information was sought from the Department of Audit and Control on numerous occasions and has, to date, not been supplied. It is inappropriate for the Department of Audit and Control to actively resist providing the requisite information necessary to demand a refund and then to intimate that the Commissioner of Human Resources is somehow to blame.

The Division and the Department of Audit & Control are now working proactively to resolve the issue of arrears and to improve communication, so that future incidents of this nature are promptly resolved.

**4. Issue:** There was no effort made to allocate accurate costs to the various funds responsible for medical costs, with all adjustments being charged to the General Fund, resulting in improper allocation of expenses. In some months all adjustments were charged to active General Fund employees, despite a clear breakdown between active employees and retirees on the MIS program.

#### **4. Response - The Division Disagrees.**

As suggested in prior comments, the movement to the City's Payroll System has assisted the Division in identifying retirees and active employees more quickly and efficiently. The Division currently has no protocol to communicate with the Department of Audit and Control to identify a change in an employee's fund allocation. It should be noted that there is absolutely no cost to the City because of improper fund allocation and the function of fund allocation is one that has traditionally been performed by the Department of Audit & Control prior to the death of the Senior Accountant assigned to the Division of Compensation & Benefits for whom no replacement has been named or assigned. While claims that no effort has been made to insure proper fund allocation, the Department of Audit and Control's failure to assign the appropriate personnel to insure that fund allocation is accurate has caused this problem.

Going forward, the Division commits to establishing a protocol with the Department of Audit and Control to enhance communication and streamline procedures.

### **III. GHI Dental**

**Issue:** Incorrect rates were paid without proper adjustment prior to June of 2008 and retroactive adjustments were only made to the three months prior to June of 2008, when the City changed to a "self-insured" claims payment system.

**Response: The Division Disagrees.**

The Division's reconciliation efforts with respect to GHI Dental coverage and the use of the City payroll, the Human Resources database and GHI bills will be utilized in the future to insure that monthly payments and invoices are properly apportioned and paid. As the issues with reconciliation all stem from the use of a system other than the Payroll System, the use of said system will address this issue. It should be noted that the Division's initiative in transferring to claims payment coupled with payment of minimum administrative fees has generated substantial savings to the City of Buffalo since its inception. It should also be noted that this function was also performed and verified by the Senior Accountant assigned to the Division who died in 2004 and has once again, not been replaced.

### **IV. Rates Paid for Medical and Dental Insurance**

**Issue:** The Audit takes issue with the use of Brown & Brown of New York Insurance to negotiate rates for various employee groups based on coverage and other options, when said company is paid by the Insurer.

**Response: The Division Disagrees.**

While the Comptroller's Office suggests that Brown and Brown be immediately replaced as negotiator for the City in establishing rates, we suggest that a closer analysis be undertaken before such drastic steps are taken. The Agreement that designates Brown and Brown as intermediary was the work of the prior Commissioner and careful attention needs to be paid to the four corners of the contractual relationship causing Brown and Brown to perform this service, the objective criteria Brown and Brown utilizes to negotiate rates and the ethical and contractual restraints the company must abide by in performing the service. It would not be in the City's best interest to disqualify Brown and Brown if they are achieving the best possible result in terms of group rates without any contract costs to the City. If savings could be generated by another firm and said savings could be verified by independent analysis of the comparable group rates achieved for comparable plans, an analysis should be undertaken to determine if said amount is de minimis and would easily be offset by the contract costs associated with the City issuing a request for proposals and independently paying for the service. Also, as the prospective contract fees are not contemplated by the Division's current budget, incurring this expense without closer scrutiny would be unwise. It should also be noted that the transition from a flat fee per employee arrangement with GHI Dental to a much lower flat fee with claims payment arrangement was the suggestion of Brown and Brown and a decision which has resulted in substantial savings to the City. The Commissioner of Human Resources submits that we should honor the terms of our contract with Brown and Brown in their current capacity and review their performance prior to the expiration of their contract.

**V. Case Management – IOD**

**Issue:** All 84 service orders paid to Coventry Health Care Workers Compensation, Inc. were paid late because the Department made errors in identifying funding sources, the amount needed and the amounts available and apparently misunderstood the contract processing procedures required by both the City and the Buffalo Fiscal Stability Authority, while also having no sense of urgency to make said payments.

**Response: The Director Disagrees.**

The Vendors' inability to provide timely supporting documentation to promptly pay the invoices caused a backlog that was perpetuated in subsequent fiscal years by the City's closeout procedures. The Prior Fiscal Year Claims Process is the only one available to the Division to pay charges incurred prior to July 1<sup>st</sup> of each year and was the appropriate mechanism for dealing with the back payments, as there is no dispute that the services were ably performed by the vendor and there was simply a delay in receiving and processing the paperwork. As these invoices were not subject to any interest or penalties as a result of the delays, the only expense associated with the payments was staff time devoted to channeling the paperwork through the Common Council and, in

limited instances, the Buffalo Fiscal Stability Authority for approval. It was the Director's understanding of contracting procedures and payments of prior fiscal year invoices that occasioned the proper payment of the invoices, despite their tardiness, as opposed to some effort to skirt these procedures in the absence of legal process. It should also be noted that the delays in payment processing were occasioned by protracted contract negotiations with the vendor, which called into question the duration of the contractual relationship.

## **VI. Comments and Recommendations**

Each of the Audit's Comments and Recommendations will be addressed individually as required by §7-7 of the City Charter except for those of a general nature contained in the final Comments and Recommendations and the Conclusion.

**1. Comment and Recommendation:** Many of the problems encountered with the medical and dental payments appear to have resulted from the loss of an employee, which emphasizes the need for cross-training in the duties among the various Division employees.

**Response:** Cross-training of employees is taking place, however, the problems encountered with medical and dental payments are a direct result of the death of a Department of Audit and Control employee (a Senior Accountant). No degree of cross-training is going to fill the void left by the loss of a Sr. Accountant to the Division, as no Division employees are accountants specifically trained to perform reconciliation functions.

**2. Comment and Recommendation:** There are numerous errors in the rates used due to limitations in the program used to calculate the amounts over multiple rate periods, which can be avoided by monthly reconciliation and verification. The Division should meet with the data processing departments for both the City and the health insurance vendor to allow for easier review and reconciliation.

**Response:** The Audit demonstrates a fundamental misunderstanding of the reconciliation process. Adjustments are made using adjustment sheets on a monthly basis. Changes in coverage are made by the Division and adjusted as it is made aware of them and those adjustments are forwarded to the insurer. As the Payroll system allows for this process to take place more quickly, the Division will be operating at maximum efficiency with the use of said system. Improvement in operation would be realized once the Department of Audit and Control assigns an Accountant to process/verify the accuracy of the purchase orders submitted and to provide a system of checks and balances for work done by the Division.

**3. Comment and Recommendation:** The June 2008 reconciliation of GHI bills was only done for three months back to March of 2008 and one employee carried erroneously indicates that the Division could have reconciled bills further back and realized substantial savings by identifying additional overpayments.

**Response:** The Audit identifies an unnamed employee who had incorrectly been carried on the City's Dental Insurance and mentions no other examples. That substantial savings could be recognized would require the Auditor to first analyze the records to determine that to be true, instead of merely speculating, and allowing the Division to take the necessary steps to make the adjustment. The Audit repeatedly cites examples that were not brought to the Division's attention and speculates of the existence of others without any proof of the existence of such examples. Any and all errors detected were, in fact, reconciled by the Division upon detection. The transition to the claims process makes clear that the potential losses to the City have been drastically cut because the flat fee is less than a fourth of the previous one and because credits can be taken against any errors discovered in the future, steps which are not adequately described in the Audit Report.

**4. Comment and Recommendation:** "In-lieu" payments were made to employees taking advantage of the medical insurance benefit and others who switched from insurance to "in-lieu" payments were never paid. The City payroll system should be used to insure accuracy.

**Response:** A full review of procedures is being conducted in response to this Audit and the transition to reconciliation with the City Payroll system has already taken place. While the Division believes that the failing of the Department of Audit and Control to assign an Accountant also contributed to the alleged improper payments, the Division is committed to closer scrutiny of these payments by utilizing the City Payroll System, **and is relying on the** Department of Audit and Control to review the purchase orders to insure accuracy.

**5. Comment and Recommendation:** Payments made on behalf of those employees who were not notified on a timely basis of their COBRA rights and did not utilize their insurance during said period should be refunded.

**Response:** Any time an adjustment should have been made, but was not, it is subsequently made with the insurance companies with a credit back to the City for the period during which premium payments were made, but coverage should not have been provided. There are limited instances in which COBRA notification is delayed, including the possibility of litigation against the City for the termination of an employee, resulting in an increase in damages if COBRA notification is made and benefits discontinued. These situations are discussed with the Law Department, so that the Division can best assess how to proceed without increasing the City's exposure and the use of the City's payroll system will also ensure the timeliness of COBRA notifications.

**6. Comment and Recommendation:** A timeframe for review of coverage and reconciliation with insurance companies needs to be agreed upon and conducted on a regular basis. The Division should be confirming status changes on a regular basis, including updates of information based on MIS data runs and notarized confirmations of employee addresses and coverage.

**Response:** The Division commits to more regular, formalized reconciliation processes to insure accuracy and consistency of information. While the Division does do data runs, gets quarterly updates from the New York State Pension Division to alert of any changes in the status of retirees

and reconciles information on a monthly basis, the Division will request information from program participants more regularly to add yet another layer of review to the system. It should be noted that reconciliation is a function of the accounting process under the Department of Audit and Control.

**7. Comment and Recommendation:** There has been very little movement towards any reform in the Division as medical payments are being submitted without verification of amounts and there have been threats of denial of services or imposition of charges because of late payments and a backlog that needs to be cleaned up. While an employee has been assigned to this since January of 2009, the delay is problematic and needs to be cleaned up.

**Response:** As with most of the other criticisms leveled at the Division, the prior comment needs to be addressed in no uncertain terms. While the Division has assigned an employee to expedite the process, the Audit both complains of delays in processing and inaccurate or incomplete verification. The Department of Audit and Control is also culpable for some of the backlog by failing to request additional information for justification of purchase orders in a timely manner, thus preventing payments from going out expeditiously.

**8. Comment and Recommendation:** Payments for HealthNow medical continue to be presented without adequate verification and three purchase orders were presented for former employees who had not yet been apprised of their COBRA rights. These delays appear to have caused significant overpayments.

**Response:** Purchase orders submitted to the Department of Audit and Control have been properly verified. In cases where an error occurs or there is a delay in notification of status changes, the Division routinely requests adjustments from the insurer in the form of credits and reconciliation occurs shortly thereafter. There are instances in which COBRA rights notifications and status changes are delayed because of unique circumstances (i.e., the death of a City employee on the job or a termination that is the subject of pending litigation)

**9. Comment:** The payment of benefits to former employees or employees on extended leave awaiting possible approval for New York State Disability Pensions was cited as being done according to City policy, but evidence of such a policy was never produced.

**Response:** There are instances in which an employee who is awaiting a determination as to his or her eligibility for a disability retirement must be carried on the City's insurance until said eligibility is resolved because of gray areas surrounding the entitlement to said benefits in the language of the representative Union's Collective Bargaining Agreement. As these cases are very few and far between, the cost of carrying, as opposed to dropping, and the resultant exposure to increased damages, is assessed from a risk management standpoint, which resulted in the development of the practice.

**10. Further Comments/Recommendations and Conclusions:** The Audit determines that the Division submits inaccurate summary sheets with purchase orders, that the Coventry contract

should have been renewed expeditiously, that medical payments need to be processed with a higher level of attention, that Brown and Brown should not be negotiating rates with the insurance companies on behalf of the City, that employee proficiency in various functions needs to be increased, that all Departments should be made aware of how to inform the Division of life changes, that the Human Resources MUNIS module needs to be utilized and that more day-to-day functions should be delegated by the Director.

**Responses/Conclusions:** The Division has committed itself to cross-training employees, cleaning up any backlogs that exist and to working with the Departments of Management Information Systems and Audit and Control to improve procedures and efficiencies. However, it must be noted that many of the alleged problems cited in the Audit are not the fault of nor are they going to be rectified solely by the Division. With regard to status changes and reconciliation between the City Payroll and the purchase orders ultimately submitted to Audit and Control for payment, the death of the Senior Accountant five years ago created a system where verification was to be conducted by the Department of Audit and Control, which it cannot simply pretend has not contributed to problems concerning reconciliation of information and payment processing.

The Division is open to the use of new systems and creation of efficiencies, but it needs the cooperation of the other two departments to achieve them. For example, it is disingenuous for the Department of Audit and Control to cite delays in payments as cause for criticism when said delays are often occasioned by its failure to promptly process purchase orders. It is also disingenuous for it to blame overpayments on the Division when it ultimately is responsible for insuring the accuracy of payments before the checks leave the mailroom. It is further disingenuous to call for the immediate dismissal of the firm retained to negotiate for the City's rates when an objective analysis reveals that the City's rates are amongst the lowest and the recommendations of Brown and Brown have proven to have generated significant cost savings to the City.

While the two-year audit is devoid of specific instances in which the City has incurred any financial penalties associated with any of the alleged shortcomings of the Division, it is clear that the Department of Audit and Control's failure to assign the appropriate staff to what it identifies as a major cost center, has caused problems, which will only be ameliorated once the Division and the Department of Audit and Control begin to work cooperatively to resolve the issues cited, as opposed to having the Department of Audit and Control utilizing its audit power to cast all blame on the Division without acknowledging its culpability.