



Commonwealth of Massachusetts
Office of the State Auditor
Suzanne M. Bump

Making government work better

Official Audit Report – December 6, 2016

Nonotuck Resource Associates Inc.

For the period July 1, 2013 through June 30, 2015





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Mr. Fred Bona, Board Chair
Nonotuck Resource Associates Inc.
425 Prospect Street
Northampton, MA 01060

Dear Mr. Bona:

I am pleased to provide this performance audit of Nonotuck Resource Associates Inc. This report details the audit objectives, scope, methodology, findings, and recommendations for the audit period, July 1, 2013 through June 30, 2015. My audit staff discussed the contents of this report with management of the agency, whose comments are reflected in this report.

I would also like to express my appreciation to Nonotuck Resource Associates Inc. for the cooperation and assistance provided to my staff during the audit.

Sincerely,

A handwritten signature in blue ink, appearing to read "SMB", written over a light blue circular stamp.

Suzanne M. Bump
Auditor of the Commonwealth

cc: George Fleischner, President, Nonotuck

TABLE OF CONTENTS

EXECUTIVE SUMMARY	1
OVERVIEW OF AUDITED ENTITY.....	3
AUDIT OBJECTIVES, SCOPE, AND METHODOLOGY	5
DETAILED AUDIT FINDINGS WITH AUDITEE’S RESPONSE.....	8
1. Nonotuck did not properly administer its consultant contracting process.	8
2. Nonotuck did not maintain required documentation in its personnel files.	9
3. Nonotuck charged \$4,304 of nonreimbursable costs to state contracts.	10
OTHER MATTERS	12

LIST OF ABBREVIATIONS

ADL	activities of daily living
AFC	adult foster care
CMR	Code of Massachusetts Regulations
DDS	Department of Developmental Services
IADL	instrumental activities of daily living
MMIS	Medicaid Management Information System
OSA	Office of the State Auditor
OSD	Operational Services Division
UFR	Uniform Financial Statement and Independent Auditor's Report

EXECUTIVE SUMMARY

Nonotuck Resource Associates Inc., founded in 1972, is a not-for-profit human-service agency located in Northampton. During the audit period, Nonotuck operated programs that offered shared living, adult foster care (AFC), and day services to citizens living in locations throughout Massachusetts, including Boston, Brockton, Northampton, and Pittsfield. Nonotuck receives the majority of its funding from Commonwealth agencies.

In accordance with Section 12 of Chapter 11 of the Massachusetts General Laws, the Office of the State Auditor (OSA) has conducted a performance audit of certain activities of Nonotuck for the period July 1, 2013 through June 30, 2015. The purpose of our audit was to determine whether Nonotuck complied with certain laws, regulations, and contractual requirements in the areas reviewed. In addition, OSA's Medicaid Audit Division conducted data analytics of the claims that Nonotuck submitted to the state's Medicaid agency, MassHealth, for AFC services, to determine whether they were in accordance with MassHealth's regulations. This audit was conducted as part of OSA's ongoing efforts to audit human-service contracting activity by state agencies and to promote accountability, transparency, and cost-effectiveness in state contracting.

Below is a summary of our findings and recommendations, with links to each page listed.

Finding 1 Page 8	Nonotuck lacked written, signed, and/or current contracts for five consultants.
Recommendations Page 8	<ol style="list-style-type: none">1. Nonotuck should establish written policies and procedures for consultant contracts.2. Nonotuck should enter into formal written contracts with all its consultants, setting forth clearly defined duties and responsibilities for both parties.3. Nonotuck should enhance its monitoring of consultant contracts to ensure that all payments are made in accordance with specific terms and conditions of properly executed contracts.
Finding 2 Page 9	Nonotuck did not maintain required documentation (e.g., evaluations, contracts, confidentiality forms) in its personnel files.
Recommendation Page 10	Nonotuck should enhance its policies and procedures to ensure that required documentation is maintained in caregiver files for the Adult Foster Care Program and the Department of Developmental Services.

Finding 3 Page <u>10</u>	Nonotuck charged \$4,304 of nonreimbursable costs to state contracts.
Recommendations Page <u>11</u>	<ol style="list-style-type: none">1. Nonotuck should collaborate with the state Operational Services Division to determine whether Nonotuck should repay the unallowable \$4,304 or refile its fiscal year 2014 Uniform Financial Statement and Independent Auditor’s Report (UFR) and properly classify these costs as nonreimbursable.2. Nonotuck should establish adequate internal controls to ensure that all nonreimbursable expenses it incurs are properly identified and reported as such in its UFRs and that no state funds are used to pay for them.

OVERVIEW OF AUDITED ENTITY

Nonotuck Resource Associates Inc., located in Northampton, was incorporated on December 19, 1972 under Chapter 180 of the Massachusetts General Laws as a not-for-profit human-service agency. During our audit period, Nonotuck provided programs for shared living, adult foster care (AFC), and day services.

During fiscal years 2014 and 2015, Nonotuck received revenue from the following sources:

Summary of Revenue

Revenue Source	Fiscal Year 2014	Fiscal Year 2015
Department of Children and Families	\$ 14,796	\$ 43,025
Department of Developmental Services	8,687,546	10,050,231
Department of Mental Health	30,646	30,645
Massachusetts Commission for the Blind	146,058	159,700
Medicaid—Direct Payment	10,849,171	12,146,529
Medicaid—Massachusetts Behavioral Health Partnership Subcontract	531,321	1,046,915
Massachusetts Rehabilitation Commission	118,683	133,624
Massachusetts State Agency Non—Purchase of Service	27,524	27,524
Client Resources	629,729	776,696
Private Client Fees (excluding third parties)	219,763	101,865
Non-Charitable Revenue	3,708	3,799
Investment Revenue	1,290	452
Other Revenue	152,296	162,441
Total	<u>\$21,412,531</u>	<u>\$24,683,446</u>

Adult Foster Care Program

The Adult Foster Care Program provides elderly or disabled MassHealth members with assistance in performing activities of daily living (ADLs) and instrumental activities of daily living (IADLs). ADLs include activities such as eating, toileting, dressing, bathing, and walking. IADLs are activities related to independent living that are incidental to the care of the member, such as household management, laundry, shopping, housekeeping, meal preparation and cleanup, transportation, and medication management. Members are eligible to receive AFC services if they require assistance or supervision with at least one ADL. Members who receive AFC services live in the private residences of caregivers employed by MassHealth-contracted AFC providers, such as Nonotuck, and receive 24-hour supervision and

assistance with ADLs and IADLs. Each AFC residence may house up to three members. AFC providers must provide nursing and case-management services for each member. During the audit period, MassHealth paid Nonotuck \$3,685,351 on 3,521 claims for 151 different AFC members.

Home Health Services Program

The Home Health Services Program provides payment for home health services, including skilled nursing, home health aides (for ADLs and IADLs), and therapeutic services (physical, occupational, and speech and language) that are medically necessary for eligible MassHealth members who are under the care of physicians and who reside in non-institutional settings, which may include their homes, homeless shelters, or other temporary residences in community settings. Home health services are provided through contracts with home health agencies and independent nurses.

AUDIT OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with Section 12 of Chapter 11 of the Massachusetts General Laws, the Office of the State Auditor (OSA) has conducted a performance audit of certain activities of Nonotuck Resource Associates Inc. for the period July 1, 2013 through June 30, 2015.

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.

Below is a list of our audit objectives, indicating each question we intended our audit to answer; the conclusion we reached regarding each objective; and, if applicable, where each objective is discussed in the audit findings.

Objective	Conclusion
1. Did members of Nonotuck's Adult Foster Care Program concurrently receive duplicative home health services?	Yes, but see <u>Other Matters</u>
2. Did Nonotuck comply with state regulations regarding payments made to caregivers and the maintenance of their personnel files?	No; see <u>Finding 2</u>
3. Did Nonotuck properly identify and report nonreimbursable expenses?	No; see <u>Findings 1 and 3</u>
4. Did Nonotuck properly administer its client fund accounts?	Yes
5. Were credit-card expenses reasonable and allowable?	Yes
6. Did Nonotuck adhere to reporting requirements and properly report purchases under the Commonwealth's Supplier Diversity Program?	Yes

To achieve our objectives, we gained an understanding of the internal controls at Nonotuck that we deemed significant to our audit objectives and evaluated the design and effectiveness of those controls, which were as follows:

- client funds
- nonreimbursable expenses

- credit-card expenses
- payments to caregivers and the maintenance of caregiver personnel files

In addition, we performed the following procedures:

- We examined organizational charts and financial records, both electronic and hardcopy, including pertinent source documents and the Uniform Financial Statements and Independent Auditor's Reports that Nonotuck filed with the state Operational Services Division annually.
- We identified and reviewed applicable laws, regulations, agency policies, and procedures relevant to our audit objectives, as well as the Commonwealth's general terms and conditions for human- and social-service contracts, which applied to Nonotuck's state contracts.
- We interviewed key officials and reviewed all the minutes of the meetings of Nonotuck's board of directors that occurred during our audit period.
- As part of the audit, we analyzed data stored in MassHealth's Medicaid Management Information System (MMIS). We performed additional validity and integrity tests on all claim data, including (1) testing for missing data, (2) scanning for duplicate records, (3) testing for values outside a designated range, and (4) looking for dates outside specific time periods. Based on the analyses conducted, we determined that the data obtained were sufficiently reliable for the purposes of this report.
- We queried all Nonotuck's claims for adult foster care (AFC) and home health services from MMIS for the audit period. We performed data analytics on these claims to identify (1) the frequency and cost of services performed by the AFC provider, Nonotuck, for members receiving concurrent home health services and (2) service trends and billing anomalies indicating potential fraud, waste, and abuse.
- We selected certain transactions for further examination by using judgmental sampling, which we did not project to the population:
 - We selected files for 20 of 172 clients for whom Nonotuck is the organizational representative payee¹ for our sample and reviewed client files for financial assessment and fund management training plans. We also reviewed client files for documentation to support disbursements, and we determined whether rent charged to these clients was accurate.
 - Nonotuck spent \$323,034 on 33 consultants during the audit period; we selected 5 consultants who received payments, together totaling \$236,669, for our review of nonreimbursable expenses. We reviewed consultant contracts to determine whether payments for services were in agreement with the contracts and were allowable costs.
 - We selected 25 credit-card expenses, totaling \$9,300, to review for reasonableness and allowability. Nonotuck spent \$86,526 on 325 credit-card expenses during the audit period.

1. According to the Social Security Administration's website, "Some [Social Security beneficiaries] need assistance in managing their benefits. Payments to these individuals are paid through a representative payee who receives the check on behalf of the beneficiary and provides for [the beneficiary's] personal needs."

- We selected 35 of 849 caregivers to review payments and to review caregiver files and determine whether they contained all documentation required by the agency's policies and procedures.

We examined all of the 21 payments made to Nonotuck's reported Supplier Diversity Program vendors for fiscal year 2014 for adherence to established practices.

In a prior audit, OSA assessed the reliability of information stored in MMIS, which the Executive Office of Health and Human Services maintains; tested selected system controls; and interviewed knowledgeable agency officials about the data. The prior audit showed that the data were sufficiently reliable. Also, we analyzed data stored in Nonotuck's electronic accounting system by performing additional validity and integrity tests, including (1) testing for missing data, (2) scanning for duplicate records, and (3) testing for values outside a designated range. We determined that the data from this system were also sufficiently reliable for the purposes of our audit.

DETAILED AUDIT FINDINGS WITH AUDITEE'S RESPONSE

1. Nonotuck did not properly administer its consultant contracting process.

During the audit period, Nonotuck paid five consultants a total of at least \$236,669 for marketing, legal, computer, and client services. However, it did not execute written contracts with two of these consultants, and the contracts with the other three either were not signed by both parties or had expired. As a result, Nonotuck lacked a mechanism to protect itself from any legal issues that could arise (e.g., claims for nonperformance of services or liability claims for any property damage or personal injury). Further, without formal written contracts, management cannot be certain that the types and levels of services provided, and the amounts billed, by these consultants were consistent with what was agreed to during the procurement process.

Authoritative Guidance

Sound business practices require entering into a properly executed contract when procuring services from a consultant. Section 21.08(1) of Title 801 of the Code of Massachusetts Regulations (CMR), which applies to state agencies, represents this best practice for contract administration:

The Contractor shall only be compensated for performance delivered to and accepted by the Department in accordance with the specific terms and conditions of a properly executed Contract.

Reasons for Noncompliance

Nonotuck does not have written policies and procedures for executing consultant contracts. In addition, Nonotuck did not monitor consultant contracts and ensure that all payments were made in accordance with specific terms and conditions of a properly executed contract.

Recommendations

1. Nonotuck should establish written policies and procedures for consultant contracts.
2. Nonotuck should enter into formal written contracts with all its consultants, setting forth clearly defined duties and responsibilities for both parties.
3. Nonotuck should enhance its monitoring of consultant contracts to ensure that all payments are made in accordance with specific terms and conditions of properly executed contracts.

Auditee's Response

1. *Nonotuck has established a written policy and procedures for consultant contracts. . . .*

2. *Nonotuck will within the next thirty (30) days enter into formal written contracts with all of their consultants it conducts business with, and has set forth clearly defined duties and responsibilities for both parties.*
3. *In accordance with Nonotuck's written policy and procedures for consultant contracts, Nonotuck is monitoring [to ensure that] all payments are made in accordance with specific terms and conditions of a properly executed contract.*

2. Nonotuck did not maintain required documentation in its personnel files.

Nonotuck did not ensure that adult foster care (AFC) and Department of Developmental Services (DDS) caregiver² personnel files were properly maintained. We reviewed 35 AFC and DDS caregiver personnel files and found that 12 (34%) were missing at least one or more required documents, as follows:

- annual evaluations (8)
- signed acknowledgment of responsibility confirming receipt of Nonotuck's policies and procedures (6)
- signed confidentiality form (5)
- suitability-of-home review (2)
- signed contract outlining AFC provider's and caregiver's responsibilities (2)
- documentation of training performed within a specific time frame (2)
- initial house inspection (1)

As a result, Nonotuck cannot be certain that the affected employees were aware of its policies and procedures; had received all required training and performance evaluations, signed contracts, and confidentiality forms; and had suitable homes for AFC and DDS consumers.

Authoritative Guidance

Nonotuck's Policies and Procedures Manual correlates with 130 CMR 408.433–435 and 115 CMR 7.06, which require AFC and DDS providers to ensure that AFC and DDS caregivers have the following, among other items, documented in their files:

1. annual evaluations
2. acceptance of policy and procedures
3. signed confidentiality form

2. DDS and AFC caregivers can be family members or non-family members, but cannot be spouses, parents of minor children, or legally responsible relatives.

4. suitability-of-home review
5. signed contract as caregiver
6. documentation of training
7. initial house inspection

Reason for Noncompliance

Nonotuck management had not implemented adequate policies and procedures to ensure that personnel files were properly maintained.

Recommendation

Nonotuck should enhance its policies and procedures to ensure that required documentation is maintained in AFC and DDS caregiver files.

Auditee's Response

Nonotuck has instituted strengthened procedures to ensure that all AFC and DDS care provider files contain all of the required documents. An internal review of the missing items revealed that most had been completed as required but were housed in the local satellite offices. These documents are now in the central office files for all active caregivers. Nonotuck has revised the internal procedures regarding the maintenance of all caregiver files to ensure that all required caregiver documents are correctly filed in the central office in a timely manner going forward.

3. Nonotuck charged \$4,304 of nonreimbursable costs to state contracts.

For fiscal year 2014, Nonotuck charged \$4,304 of unallowable expenses against its state contracts. Of this amount, \$3,916 was for salary payments to the executive director that exceeded the amount allowed by the regulations of the state Operational Services Division (OSD), and \$388 was for alcohol. Further, Nonotuck did not report these costs as nonreimbursable in the Uniform Financial Statements and Independent Auditor's Reports (UFRs) it filed with OSD. As a result, Nonotuck did not provide the required level of transparency regarding the executive director's compensation. Further, this \$4,304 could have been used by the state agencies that contract with Nonotuck to pay for program-related expenses for needy citizens.

Authoritative Guidance

According to 808 CMR 1.05, certain costs are nonreimbursable under state contracts, including the following:

- luxury items, including alcoholic beverages (808 CMR 1.05[23])

- certain salary payments to officers and managers, such as the aforesaid \$3,916 (808 CMR 1.05[24])

Reason for Noncompliance

Nonotuck had not established adequate internal controls to ensure that all nonreimbursable expenses it incurs are properly identified and reported as such in its UFRs and that no state funds are used to pay for these expenses.

Recommendations

1. Nonotuck should collaborate with OSD to determine whether Nonotuck should repay the unallowable \$4,304 or refile its fiscal year 2014 UFR and properly classify the salary and alcohol as nonreimbursable costs.
2. Nonotuck should establish adequate internal controls to ensure that all nonreimbursable expenses it incurs are properly identified and reported as such in its UFRs and that no state funds are used to pay for them.

Auditee's Response

1. *In Fiscal Year 2014, the non-reimbursable expenses of \$4,304 were defrayed by [items elsewhere on the UFR that were not funded by state contracts] totaling \$7,272. . . . Nonotuck will re-submit the FY2014 UFR within (30) days. The Fiscal Year 2015 UFR accurately identifies non-reimbursable expenses. . . .*
2. *Nonotuck has established internal procedures that comply with 808 CMR 1.05 Non-Reimbursable Costs. All non-reimbursable costs will be identifiable . . . and properly classified on the annual Uniform Financial Report.*

Auditor's Reply

Nonotuck states that the \$4,303 of nonreimbursable expenses that we identified were defrayed using funds that were not for state contracts, but that is not what it reported in its fiscal year 2014 UFR. Nonotuck states that in order to address the problem discussed in this finding, it will refile its fiscal year 2014 with the expenses reported in the correct section. However, it should first collaborate with OSD to determine the appropriate course of action: repaying the \$4,304 or refiling the UFR.

Based on its response, Nonotuck is taking measures to address our concerns in this area.

OTHER MATTERS

MassHealth allowed Nonotuck to bill \$164,649 for unallowable adult foster care services.

During the audit period, Nonotuck billed, and received payments totaling as much as \$164,649 from MassHealth, for adult foster care (AFC) services that were duplicative and not allowable under MassHealth regulations. The services included personal care and assistance with hygiene, bathing, dressing, walking, and medication, as well as skilled nursing care. These are the same services that are to be provided to Nonotuck's clients in their homes under the Home Health Services Program funded by MassHealth. Section 408.437 of Title 130 of the Code of Massachusetts Regulations (CMR) states,

The MassHealth agency does not pay an AFC provider when

(A) the member is receiving any other personal care services, including, but not limited to . . . home care services under the Executive Office of Elder Affairs regulation 651 CMR 3.03(5).

According to 651 CMR 3.01(2), these services include "skilled nursing care and home health aide" services. Home health aide services, in turn, are defined under the same regulation as including the following:

Services provided to Clients under the supervision of a registered nurse, or a speech, occupational, or physical therapist. This includes personal care; simple dressing changes that do not require the skills of a registered nurse; [and] assistance with medications that are ordinarily self-administered and that do not require the skills of a registered or licensed nurse.

MassHealth enabled this improper practice in a September 15, 2014 email to AFC providers from its then-director of Long-Term Services and Supports. This email informed AFC providers that they could bill for certain home care services for AFC members for which MassHealth's regulations prohibit them from billing. We originally identified this problem of duplicative services in an audit of MassHealth (No. 2016-1374-3M2) and made several recommendations to MassHealth to address it, including a recommendation that it not pay for AFC services for MassHealth members who are receiving these and similar services while residing in rest homes. Based on this, Nonotuck should collaborate with MassHealth to find out whether MassHealth intends to cease paying for these duplicative services.

At the end of our audit, we gave MassHealth a copy of this section of the report for its review and comment. In its comments, MassHealth stated that it needed to review the data that we used in this analysis so that it could evaluate whether its regulations had been violated. MassHealth further stated,

In 2015, MassHealth identified program integrity across Long Term Support Services (LTSS) as a top priority and has implemented a series of initiatives to ensure appropriate utilization of LTSS services. As part of this effort, MassHealth recently conducted a series of audits of Adult Foster Care (AFC) and Home Health providers. Findings from these audits resulted in provider sanctions, identification of overpayments, and requirements for audited providers to submit plans of correction, which will improve program integrity and enhance member health and safety.