pennsylvania
DEPARTMENT OF PUBLIC WELFARE

NOV 10 2011

Mr. Dan Loftus, Executive Director
Northeast Center for Independent Living
1142 Sanderson Ave, Suite 1
Scranton, Pennsylvania 18509

Dear Mr. Loftus:

I am enclosing the final report of the audit of the Northeast Center for Independent Living, recently completed by this office. Your response has been incorporated into the final report and labeled Appendix A.

The final report will be forwarded to the Department's Office of Long Term Living (OLTL) to begin the Department's resolution process concerning the report contents. The staff from OLTL may be in contact with you to follow up on the actions taken to comply with the report's recommendations.

I would like to extend my appreciation for the courtesy and cooperation extended to my staff during the course of the fieldwork.

Please contact Alexander Matolyak, Audit Resolution Section, at 717-783-7786 if you have any questions concerning this audit.

Sincerely,

Tina L Long

Tina L. Long, CPA
Director

Enclosure

c: Secretary Gary Alexander
Ms. Bonnie Rose
Mr. Michael Hale
Ms. Jenifer Diane Brannon Nordtomme

pennsylvania
DEPARTMENT OF PUBLIC WELFARE

NOV 10 2011

MAILING DATE

Mr. Timothy M. Costa
Executive Deputy Secretary
Health & Welfare Building, Room 333
Harrisburg, Pennsylvania 17120

Dear Mr. Costa:

In response to a request from the Office of Long Term Living's (OLTL) Quality Management, Metrics and Analytics Office, the Bureau of Financial Operations (BFO) completed a performance audit of The Northeastern Pennsylvania Center for Independent Living (NEPACIL), one of the largest providers of OLTL Medicaid waiver services in Northeastern Pennsylvania. The audit was primarily directed to determine NEPACIL's compliance with applicable regulations and management of its various programs. The audit focused on the period July 1, 2009 through March 31, 2011.

The auditors identified approximately $1.5 million of savings could be realized by OLTL if changes are made in the attendant care program.

The auditors also identified OLTL was overcharged $44,573 for Supports Coordination billings, which were unsupported and $122 in non-medical transportation costs, which were unallowable per waiver regulations.

The report is currently in final form and therefore does contain NEPACIL's views on the report findings, conclusions, or recommendations. NEPACIL's response to the draft report is included as Appendix A. The data used to prepare the report findings was discussed with NEPACIL management at a closing conference held on August 18, 2011. NEPACIL did not request an exit conference.

Northeast Pennsylvania Center For Independent Living
Executive Summary

NEPACIL is a not-for-profit, social service organization that provides services and community education focusing on promoting and supporting independent living for persons with disabilities. NEPACIL owns and has its main offices at 1142 Sanderson Avenue, Scranton, PA.

NEPACIL, through federal Medicaid waiver programs administered by the Department of Aging and OLTL, provides services directly and subcontracts with other providers to furnish an array of home and community-based services that assist waiver participants (WP) to live in the community and avoid institutionalization. The waiver programs currently utilized by NEPACIL are: Independence, OBRA, CommCare, Attendant Care, and Adult Autism.

NEPACIL, as a certified Fiscal/Employer Agent (F/EA), performs Financial Management Services (FMS) on behalf of individuals which include issuing paychecks, withholding payroll taxes, remitting payroll tax liability, and doing background checks. The center also assists WPs in purchasing participant-directed goods and services.

FINDING NO. 1	SUMMARY
***Finding No.1* - Rates for Consumer Model of Attendant Care Provided $1.5 Million in Excess Funds**	For attendant care services, NEPACIL costs for paid personal care assistants are less than the reimbursements it receives from PROMISe. After taking into account costs of all the waiver programs, NEPACIL received approximately $1.5 million in excess of its total cost for FY 10-11.

HIGHLIGHTS OF RECOMMENDATIONS

OLTL should:

- Determine the appropriateness of the profit levels achieved and use of these funds in relation to the goals and objectives of the program. This could include limiting the billing of attendant wages to the actual amounts paid or could be accomplished through a return of any excess of revenue from the waiver programs to DPW.

FINDING NO. 2	SUMMARY
***Finding No 2* - Support Coordinators' Time Records and Case Notes Did Not Substantiate Units Billed to PROMISe.**	The claims billed by Supports Coordinators could not be entirely verified because the time expended on particular WPs and recorded in the case notes often did not agree with the units billed to PROMISe. The audit test results, as extrapolated, indicate that an overcharge of $44,573 has been made.

HIGHLIGHTS OF RECOMMENDATIONS

OLTL should:

- Recover the $44,573 relating to unsupported Supports Coordinator claims.
- Consider the use of HCSIS for billing purposes of Supports Coordination Claims.

NEPACIL should:

- Cease billing claims that are not supported by the proper documentation in the case records, such as the time required and services rendered.
- Ensure that employees are trained as to how to record properly the time required and services rendered in the case records.

FINDING NO. 3	SUMMARY
***Finding No. 3* - Noncompliance Regarding Issuances of Non-Medical Transportation Expenditures.**	NEPACIL did not always document in the individual's ISP the particular places, activities, or other unique identifying information that would provide sufficient detail to show the need for NMT services. Additionally, the BFO identified one non-medical transportation claim billed to PROMISe that was an unallowable expenditure for mileage paid to a WP's spouse.

HIGHLIGHTS OF RECOMMENDATIONS
OLTL should: • Recover the $122 relating to the unallowable Non-Medical Transportation claims. NEPACIL should: • Improve its supports coordination procedures to ensure Supports Coordinators provide more complete detail in their service notes to support the need for NMT services.

OBSERVATION	SUMMARY
***Observation No. 1* - NEPACIL's Audit Format Needs to Be Enhanced**	NEPACIL's independent audit format needs to be enhanced to allow for an accurate determination of the actual cost of the waiver programs.

Background

The OLTL is responsible for the overall management of programs that were designed to assist individuals with physical disabilities. This is done through waiver services that complement and/or supplement the services available to participants through the Medicaid State plan and other federal, state and local public programs.

Under the self-directed model for personal care services, individuals with physical disabilities who are Waiver Participants (WP) are empowered to interview, hire, and fire their personal care assistants. NEPACIL, as a certified Fiscal/Employer Agent (F/EA), performs Financial Management Services (FMS) on behalf of WPs which include issuing paychecks, withholding payroll taxes, remitting payroll tax liability, and doing background checks. The center also assists WPs in purchasing participant-directed goods and services. Additionally, NEPACIL works with the Pennsylvania's Nursing Home Transition (NHT) Program and with Area Agencies on Aging (AAA) to facilitate environmental home modifications for consumers who are 60+ to help them stay in their homes and communities.

Individual Service Plans (ISPs) address possible natural supports in the participant's community, desired outcomes, appropriate types of services and service providers needed to achieve or realize those outcomes, and the frequency of needed goods or services. Supports Coordinators (SCs) communicate with WPs throughout the year on the phone and in person and meet with them annually to review prior year ISPs and amend them as needed. ISPs detail the type and amount of waiver services available to the WP and specify the units that can be billed through the PROMISe system.

Objective, Scope and Methodology

The audit objectives developed in concurrence with the OLTL were:

- To determine if NEPACIL has documentation to support its claims to PROMISe for Non Medical Transportation (NMT), Durable Medical Equipment (DME), Supports Coordination

Services (SC), Personal Assistance Services (PAS), and Personal Emergency Response Systems (PERS).

- To determine the effectiveness of DPW rates with respect to actual cost.

In pursuing our objectives, the BFO interviewed management and staff members from NEPACIL. We also reviewed client case records, program monitoring reports, financial reports, and other pertinent documentation necessary to complete our objectives.

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.

Government auditing standards also require that we obtain an understanding of internal controls that are relevant to the audit objectives described above. The applicable controls were examined to the extent necessary to provide reasonable assurance of the effectiveness of those controls. Based on our understanding of the controls, a number of deficiencies were identified. These deficiencies and other areas where we noted an opportunity for an improvement in management's controls are addressed in the findings and observation of this report.

Fieldwork for this audit took place intermittently between July 27, 2011 and August 18, 2011. The report, when presented in its final form, is available for public inspection.

Results of Fieldwork

Finding No. 1 – Rates for Consumer Model of Attendant Care Provided $1.5 Million in Excess Funds

The Attendant Care Program (ACP) is funded by OLTL and Aging and encompasses two models, the Agency Directed Model and the Consumer Model. Each model has its own distinct fee-for-service rate depending upon the region in which the provider is located. The Agency Directed Model is structured for providers who directly hire employees to perform the actual direct care service to the consumer. The Consumer Model allows the consumer to employ their own attendants and have an organization provide the fiscal and administrative oversight for the consumer, known as a Fiscal/Employer Agent (F/EA).

The NEPACIL ACP is based on the Consumer Model. The NEPACIL responsibilities under this model is enrolling participants, providing orientation and training; conducting criminal background checks; distributing, collecting, and processing support worker timesheets. In addition, NEPACIL also prepares and issues workers' payroll checks; withholding, filing, and depositing federal, state, and local income taxes; brokering workers' compensation for all support workers; processing all judgments, garnishments, tax levies, or any related holds on workers' pay; and preparing and disbursing IRS Forms W-2s and/or 1099s.

The ACP has always been interpreted as a fee-for-service program. This entitles the provider to retain any excess revenue over expenses. The excess revenue has been used to cover shortfalls in other waiver programs as well as administrative costs.

The BFO obtained the total costs of the waiver programs provided by NEPACIL for FY 10-11. The waiver programs would include SC, DME, PERS, and NMT. After allocating a portion of overhead to all waiver programs and essentially paying in full all costs of NEPACIL, the BFO determined that NEPACIL's ACP program realized approximately $1.5 million in excess revenue over expenses for the fiscal year June 30, 2011. The BFO does note the calculation of excess revenue ignores the restriction from the bulletin OLTL issued to providers in January 2011, regarding the ACP.

Recommendations

The BFO recommends the OLTL determine the appropriateness of the profit levels achieved and use of these funds in relation to the goals and objectives of the program. This could include limiting the billing of attendant wages to the actual amounts paid or could be accomplished through a return of any excess of revenue from the waiver programs to DPW.

Finding No. 2 – Support Coordinators' Time Records and Case Notes Did Not Substantiate Units Billed to PROMISe

Service Notes Not Present

Pursuant to the Department of Health and Human Services' interim rule published in the Federal Register on December 4, 2007, Vol. 72, No. 232, if a State plan provides for case management services, the "… case records must document for each individual … the dates of case management services; the nature, content, units of case management services received, and whether the goals specified in the care plan have been achieved…" (42 CFR, Parts 431, 440, and 441).

NEPACIL billed PROMISe for supports coordination services which were not always substantiated by the service notes found in HCSIS and/or NEPACIL consumer files. Additionally, discrepancies were found between the service notes dates in HCSIS and the dates used for billing purposes. As a result, the BFO could not always find a direct correlation between support coordination service note dates and PROMISe billing dates.

The variance between PROMISe billings and the specific units or hours documented per federal guidelines in HCSIS and/or NEPACIL consumer files resulted in an error rate of 9.8%. When the BFO extrapolates the percentage over the entire population of billings for support coordination, it results in a disallowance of $44,573.

Billing Procedures Need to Be Strengthened

Currently, NEPACIL bills support coordination services at the end of the month, rather than at various times during the month as PROMISe allows. When NEPACIL bills for the service, they combine the dates of services into one date, which does not comply with Federal guidelines.

The use of this method causes discrepancies between the date of the service notes found in HCSIS and the dates used for billing purposes. This method also resulted in supports coordination services to be billed as transportation for six claims as the waiver code is very similar between the two services.

PROMISe allows the dates of services to be entered for each claim. This is more important in OLTL as the units of services for support coordination vary from an hourly rate to a monthly rate, depending on the waiver program. The current method utilized by NEPACIL could cause units provided to be unbilled.

In another program office, the supports coordinators are able to bill directly from HCSIS, when PROMISe performs a sweep of the activities twice a month. Currently, OLTL does not utilize HCSIS for that function. The program office that does utilize that option in HCSIS does not reimburse a provider for supports coordination unless a note is present in HCSIS.

This option would allow more accurate billing from the providers due to the fact that they will not be reimbursed unless a note is present. This also allows greater oversight from management at the providers as well as OLTL.

Quarterly Phone Calls and Biannual Personal Visits Were Not Always Performed

The HCBS Waiver requires providers to monitor the health and safety of the participant and the quality of services provided to the participant through personal visits at a minimum of twice per year and telephone calls at least quarterly. A review of sample items for the period of July 1, 2009 through March 31, 2011, determined service coordinators made all quarterly phone calls to consumers for 42 of the 50 tested (84%). Further, they held at least two face to face meetings with consumers for 35 of the 50 tested samples (70%).

NEPACIL is meeting the required contact guidelines in situations where onsite visits are necessary to inspect the WP residences. For example, when a home modification is necessary, the service coordinators are required to visit the residence before and after the modification is performed and follow-up to ensure the WP is satisfied. In addition, a review of more recent activity does show service coordinators are making the necessary contacts as required by the waiver contract.

Recommendation

The BFO recommends the OLTL recover the $44,573 relating to unsupported Supports Coordinator claims.

The BFO also recommends that OLTL consider utilizing HCSIS to bill for supports coordination claims.

The BFO further recommends that NEPACIL improve its supports coordination and billing procedures to ensure all PROMISe billings are supported by the required service notes and that all service notes correspond to the dates or periods the services were provided. The BFO also recommends that NEPACIL ensures Supports Coordinators fully document their services and dates of services to support the claims billed in PROMISe as well as track quarterly and face to face contacts

Finding No. 3 - Noncompliance Regarding Issuances of Non-Medical Transportation Expenditures

Non-medical transportation services are offered in order to enable participants to gain access to waiver services and other community activities and resources as specified in the ISP. These services include personnel costs for drivers and others to transport a participant and/or the purchase of tickets or tokens to secure transportation for a participant.

Monthly transportation costs are capped at $215 per person. Whenever possible, family, neighbors, friends, or community agencies which can provide this service without charge should be utilized. The ISP must document the need for those NMT services as well as any source which could provide this service without charge.

Only one of the twenty samples tested was determined to be unallowable as a family member was reimbursed for mileage. After consideration of the adequacy of the internal controls in this area we limited the disallowance to the unallowable claim identified. This results in a payback of $122.

Recommendation

The BFO recommends the OLTL recover $122 of unallowable transportation claims.

The BFO also recommends that NEPACIL improve its supports coordination procedures to ensure Supports Coordinators provide more detail in the participants ISP to support the need for NMT services.

Observation – NEPACIL's Audit Format Needs to Be Enhanced

The presentation of the Statement of Functional Expenses included in the NEPACIL annual independent audit is not in a format that will allow the OLTL to determine accurate financial information for each of the waiver programs that are funded. The NEPACIL provides services to the State of Illinois as well as Pennsylvania. The NEPACIL audit does not include a presentation which identifies the revenues applicable to each state. Additionally, the NEPACIL audit does identify revenue applicable to each waiver program provided in the state of Pennsylvania. This prohibits users of the audit to identify the profit and loss of each program.

Auditors Commentary

In accordance with our procedures, the NEPACIL was given the opportunity to have an exit conference to discuss the findings and recommendations included in the draft audit report. NEPACIL elected not to have an exit conference. This removed the opportunity to discuss, clarify, and if necessary make changes to the response.

In finding one, the audit report directs recommendations to the OLTL to determine the appropriateness of the profit levels achieved and use of these funds in relation to the goals and objectives of the program. This was one of the objectives the OLTL wanted the BFO to determine on a fiscal year basis. In NEPACIL's response, it calculates the excess over the 21 month period of review. Our objective was to determine the annual impact, which for fiscal year 2010-11 was approximately 1.5 million. Furthermore, the BFO does not dispute the claim the program was modeled on a fee for service unit, rather the BFO is directing OLTL to determine the appropriateness of continuing the model in the future.

In accordance with our established procedures, an audit response matrix will be provided to OLTL. The OLTL will be responsible for completing the matrix and forwarding it to the DPW Audit Resolution Section within 60 days. The response to each recommendation should indicate OLTL's concurrence or non-concurrence, the corrective action to be taken, the staff responsible for the corrective action, the expected date that the corrective action will be completed, and any related comments.

Sincerely,

Tina L Long

Tina L. Long, CPA
Director

c: Secretary Gary Alexander
Mr. Daniel P. Loftus
Ms. Bonnie Rose
Mr. Michael Hale
Ms. Jennifer Diane Brannon Nordtomme

OFFICE OF ADMINISTRATION | BUREAU OF FINANCIAL OPERATIONS
525 HEALTH AND WELFARE BUILDING | HARRISBURG, PENNSYLVANIA 17105-2675 | P 717-772-2231 | F 717-705-9094

NORTHEAST PENNSYLVANIA CENTER FOR INDEPENDENT LIVING RESPONSE TO THE DRAFT REPORT

APPENDIX A

NORTHEAST PENNSYLVANIA CENTER FOR INDEPENDENT LIVING

FORGING PATHWAYS TO INDEPENDENCE
NE PA CIL

1142 Sanderson Avenue
Suite 1
Scranton, PA 18509-2623

October 25, 2011

Mr. Thomas Crofcheck,
Director Division of Audit and Review
Bureau of Financial Operations
Department of Public Welfare
Rm. 325 Scranton State Office Building
100 Lackawanna Ave.
Scranton, PA 18503

Re: NEPACIL Performance Audit Report Response

Dear Mr. Crofcheck:

In effort to determine our, the Northeast PA Center for Independent Living[NEPACIL], compliance with applicable regulations and management of various programs, the Bureau of Financial Operations of the PA Department of Public Welfare conducted a "performance" audit for the period selected July 1, 2009 thru March 31, 2011.

An Executive Summary of this correspondence is attached.

The auditors, varying in number, were here, on our premises from July 27 for several weeks with some absent days. During their presence our staff was cordial, and above all, cooperative. ALL materials that were asked for, in preparation for the audit, were provided in an organized binder for easy access.

Aside from the materials asked for, the auditors made multiple requests for additional or clarifying data which was readily supplied in a post haste manner.

As noted in your summary, NEPACIL is a PRIVATE, non-profit organization that provides services to persons with disabilities in Northeastern Pennsylvania. NEPACIL has grown over the past 10 years [123 fold in terms of gross revenues] to be a premier disability provider in this region and Commonwealth. This has been accomplished through the provision of quality services by a quality and, in many circumstances, certified staff in the conduct of their duties.

Many duties, such as those in the Fiscal Employer Agency realm, result in MILLIONS of transactions [FWT, State, FICA, FUTA, SUTA, and LOCAL income tax, which are the most complicated given the plethora of taxing bodies in the Commonwealth]. In addition, there are voluntary deductions and the corresponding payments there of for both Fiscal Employer Agency Services and Service Coordination activities that involve Durable Medical Equipment and other items deemed necessary in a participants service plan.

Despite all those transaction, the Bureau of Financial Operations [BFO] reported only three [3] findings from their extensive review. Although we provided preliminary rebuttal during a 'closing conference' we are providing more substantive refutation and mitigation of the review of those findings.

FINDING No. 1
Rates for Consumer Model of Attendant Care Provided in $1.5 Million in Excess Funds.
The reader will note here that the BFO auditor correctly uses the words "*excess funds*" rather than the inappropriate use of the seditious word "*savings*" stated in the opening summary.

1. For the record, during the period of the audit, there is NO evidence that a personal attendant in the entire Commonwealth was paid MORE in the Consumer Directed Model than what was received from the payroll that we process. Since consumer choice is involved, we have always viewed this as a competitive advantage to '*pay more*'[1] than any other enrolled provider in the Commonwealth. Thus the 'excess' is actually less of an excess achieved by the other three dozen FEA providers in the Commonwealth. Now we know that it's not the degree of compliance, but the compliance itself. We recognize that compliance is binary in nature—it either is or isn't. We merely want to point out that we are compliant in serving consumers in Northeastern PA. Furthermore, DPW and its successor OLTL have periodically, over several years, asked providers like NEPACIL for documentation on its use of funds, including the wage rate, and not once did they question our submissions. Thus, OLTL has always been tolerant of the prevailing practice. Simple mathematics would reveal that there is an excess between the prevailing w1792 rate and the wages and statutory deductions. Thus, this practice is not new to OLTL and its predecessor.
2. One cannot be myopic in looking at this element of the audit. As an integrated system of services, we have accomplished what the Commonwealth has not. That is, we are providing a comprehensive array of services in an affordable manner. Specifically the services audited looked at DME and other expenditures for consumers. It did not, however, look at the total COST of providing the service in all of the various Waivers [Independence, OBRA, CommCare, Attendant Care and Adult Autism and the ACT 150 Program]. Neither did the Commonwealth look at total cost in establishing rates to 'pay' for those coordinated services. Thus, what NEPACIL did, and what all of the other providers in the Commonwealth have done, was to use the 'excess' in the w1792 rate to fund the Commonwealth's deficits in providing those services. Presently, there are a myriad of ways the Commonwealth pays for these services. Neither they, and admittedly NEPACIL and other providers, looked closely at the inadequacy of funding those services so long as the 'total pot' [the "excess" included] covered the costs. We estimate that to be ~$1.1Million over the

[1] Make no mistake, we are fully cognizant that the consumer chooses the rate, not NEPACIL

21 month period for which the Commonwealth was honor bound to ethically support. After all, why doesn't the Commonwealth provide all of these services in the community? Simply because it's more efficient and cost effective to have a broad array of individual service providers to provide choice to consumers. Thus, we believe that we are compliant with the spirit and intent of the regulations.

3. Now, using our math and the argument above, would leave a new "excess" balance is closer to ~$400k. Simply stated the W1792 "reimbursement rate" is a <u>Fee</u> for Service. It is not a grant. Just as the fee paid to a family physician for a Medical Assistant recipient is their fee, so is the full W1792 quarterly hour 'rate' simply that—a RATE to be fully paid. Now, we have 'gone 15 rounds' with the Office of Long Term Living on this issue. So much so that through two associations—the PA Council on Independent Living and the PA Providers Coalition Association—we, and three dozen other providers, have joined to pursue litigation. Counsel for both organizations met with Counsel for the Commonwealth to develop language that ALL can live with until the new rates for service coordination are developed adequately and affordably. A copy of the signatory page of that agreement is attached for reference. Thus, to net it out, the Commonwealth never achieved a 'savings' of $1.5 Million either because of the reasons outlined above or the provider network would simply dry up leaving the Commonwealth with the burden to expend even more resources for these overwhelming needs.
4. We agree with the first part of the BFO recommendation, supported above, that "*OLTL should-determine the appropriateness of the profit*[2] *levels and use of these funds in relation to the goals and objectives of the program*". But, it goes without saying that we profoundly disagree with the second part of "*limiting*" or "*returning excess revenue*" since it's not a grant but a true <u>Fee</u> for Service.
5. The OLTL Bureau of Provider Support, through the Office of Quality Management, Metrics and Analytics were on site March 9-12, 2009 and audited our FMS Program and approved our StIP [Standard Implementation Plan] and was completed on July 27, 2010 and consider their findings "closed".
6. Finally, In fact, in a dialogue during our 'closing conference', the representative from the Bureau of Financial Operations alluded to allowing approximately 5% 'investing allowance' for future initiatives, a majority of which would include costs of implementing and updating Information Technology that are associated with the HCSIS and PROMISe systems employed by the Commonwealth. As an example, all systems will need modification when OLTL negotiates the appropriate service coordination rates, as well as the Center for Medicare and Medicaid Services requirement for the conversion of the Health Insurance Portability and Privacy Act [HIPPA] standards. Stated another way: No margin, no mission.

[2] We prefer "surplus" since we are a NOT-for-profit organization

FINDING NO. 2
Support Coordinators Time Records and Case Notes Did Not Substantiate Units Billed to PROMISe.

The finding makes reference to "*...test results, as extrapolated indicate that an overcharge of $44,573...*"

First, on this point, we have an issue with the '*extrapolation*'. The sample presumes that it was random from a statistical point of view. We submit that the sample has 'sampling errors' as illustrated in statistical text books. By way of illustration, one samples blood by taking a vial, and not all ten pints for testing because it is statistically probable that the vial is representative of ALL ten pints in the body. Consequently, we feel that the $450 discovered not only is not representative of our organization, it employs specious reasoning. It assumes that the billing and the service were on the same day. They are not, which is explained below. Accordingly, we respectfully quarrel with the 'extrapolation' from $450 to $44,573. We agree to $450. During the visit the audit covered a potential volume of service coordination/DME/FMS totaling $33,241,911.27 and found $571.50 in errors. That represents 0.00172% of the program for TWO years. We think that's pretty good. In fact, even if we agreed with the extrapolation we don't think that the BFO amount is 'material' from an accounting point of view.

It may be difficult for the reader to conclude but NEPACIL has improved its quality substantially each and every year as we've grown in providing an integrated system of services for persons with disabilities. The data selected does not appear to be sufficiently random enough to make such an extrapolation. Additionally, during the 'closing conference' the Bureau of Financial Operations referenced the comparison of data was from 2009 to the latter portions in 2011, and noted there is an empirically significant increase in quality and validity of claims presented.

Second, Waiver programs have multiple ways of funding Service Coordination. We note additionally here, as above earlier, that they are so haphazard that it's difficult, if not impossible, to equate the existing levels [monthly, weekly and hourly] and methods of funding with the proposed ¼ hour method of funding, i.e. apples to oranges, And again, as long as the W1792 code "excess" revenue was available unit costing was not necessary. The point is, that NEPACIL billed for services at the end of the month. This is called, in accounting and other data processing arenas simply "batch processing". It's not uncommon for any enterprise to provide billing and reconciliations at the end of the month, or even quarter. As a business operation we've opted for the end of the month billing since our income statements are monthly and that matches up very nicely. Thus, it is understandable, where one can conclude that is the day 'the service' was rendered, when, in fact, there is a strong probability that it was rendered sometime earlier in the month.

There are other program components within the PA Department of Public Welfare that provide for an automatic exchange from service rendering to billing. Billable Service Notes are entered in HCSIS and by the click of the computer mouse billing is COMPLETED. This can be specifically referenced in the Office of Developmental Programs. This is substantiated in the BFO recommendation.

We also quarrel with the recommendation that "*NEPACIL should cease billing claims that not supported by the proper documentation in the case records, such as the time required and services rendered*". They ARE supported---just not until the end of the month.

Further, the auditors need to rely on a reference in the Federal Register, Vol. 72, No. 232, December 4, 2007 as their tool for guidance in their examination of our operation of service coordination. The Commonwealth has failed to provide directives to clarify exactly what is required in the body of service notes. Absent specific directives, NEPACIL still believes that it provides quality service and that the Commonwealth gets what it pays for since we believe that quality endures.

As far as the second recommendation "*ensure that employees are trained...,*" management believes that OLTL owns some of the responsibility for this to provide more periodic, meaningful, regional training for persons new to the position or, require remedial assistance. It's in their best interest to do so.

FINDING NO. 3
Noncompliance Regarding Issuances of Non-Medical Transportation Expenditures.

This one is simple. To use a legal term: "nolo contendere." No contest. It happened. The SC who did this is no longer with us. That's no excuse. We should have caught it. We didn't and we'll gladly repay the $122 of unallowable Non-Medical Transportation. Please note that the Organized Health Care Delivery System [OHCDS] became effective July 1, 2010 [mid way thru this audit examination period] and errors such as this can no longer occur. We're undecided if we'll try and recover the expenditure from the spouse since transportation did, in fact, occur.

OBSERVATION No. 1
NEPACIL's Audit Format Needs to be Enhanced

As noted above NEPACIL is a private, non-profit CORPORATION. As such, it's Board of Directors, with their fiduciary responsibility are satisfied that the overall financials of the organization are sufficiently accounted for using Generally Accepted Accounting Practices. In an audit, even though each program is tested and reviewed, it's not necessary to REPORT on EACH program. Nevertheless, from a management point of view we provide monthly departmental [program] reports to the Executive Director and are available to the Board of Directors. This, of course, is meaningless without a legitimate cost allocation methodology for which we have. General Motors doesn't provide the results of each make of car in their audit, but their internal records certainly do. A request for each department, for any month during the audit period, is simply available upon request.

On June 15, 2011 over the signature of Sallee Rowe, DPW Provider Services Division, stated that "*...providers who have an existing Standards Implementation Plan [StIP] with a finding regarding the <u>Single Audit</u> Act* ***WILL NOT BE REQUIRED*** [emphasis added] *to remediate that finding*". Nevertheless NEPACIL is also committed to providing a Single Audit for the just completed FY 2011, with a concentration on clearly identifying the PA Waiver Programs from other funding sources.

CONCLUSION:

NEPACIL embraced the opportunity for an audit of our operations. We feel very strongly that we run a quality organization with a quality staff. An audit like this helps substantiate that conclusion.

While the auditors have "findings", we believe we have mitigated them based on our responses above.

Therefore, based on the meager amounts of ineligible expenditures, whether extrapolated or not, we believe that they are 'immaterial' from an accounting point of view and thus respectfully request that the proposed BFO recovery be abated and forgiven.

We welcome a return visit by any and all program monitors from the Commonwealth to view the operation of an integrated system of quality services.

Respectfully submitted,

Daniel P. Loftus, MSW, MS
Executive Director

Att. Executive Summary
Agreement signatures re: w1792 funds

Cc: President, Board of Directors
Controller
Director, Waiver Services

Executive Summary:

The Bureau of Financial Operations audited the **Northeast Pa. Center for Independent living** in the summer of 2011. NEPACIL cooperated fully and substantially. The BFO had 3 findings and an observation:

- A finding of 'excess' revenue which NEPACIL and other providers in the Commonwealth have mitigated with Counsel from OLTL. We believe that this is a FEE and not a grant therefore is not 'excess'. This issue has resulted in months of dialogue and negotiation with attorneys representing providers and OLTL;
- That $450 of ineligible expenditures were found and 'extrapolated' to $44,573 with a sample that does not appear to be random. NEPACIL disagrees with the extrapolation methodology.
- A finding of an ineligible expenditure of $122 was found. Although we recognize that it happened, controls are now in place that it's impossible to happen again, even though the consumer was actually served and got the required benefit.
- Our auditing format did not meet the BFO expectations. We met GAAP requirements and have documentation that a Single Audit is not required. Although we sympathize with the auditors and will probably move in that direction we feel that it is a 'clean audit'.

Thus NEPACIL, based on the attached, respectfully requests the abatement of the financial recovery since we believe it to be 'not material'.

d. This Release Agreement is not binding on any other state agency or any federal agency.

7. This Release Agreement may not be altered, amended or modified in any respect or particular whatsoever except by writing duly executed by an authorized representative of each of the parties.

8. Each signatory to this Release Agreement represents that he or she is duly authorized to execute it on behalf of the party or parties he or she represents, and that he or she has obtained all necessary approvals and consents.

9. This Release Agreement may be executed in counterparts, all of which shall constitute collectively one agreement and when so executed shall be legally binding.

10. This Release Agreement is effective on the date on which all parties or their duly authorized representative have executed this Release Agreement.

PENNSYLVANIA PROVIDERS COALITION ASSOCIATION

By: ______________________ Date: 9-7-11
John J. McGovern, Jr., Esquire
Attorney for the Association

PENNSYLVANIA COUNCIL ON INDEPENDENT LIVING

By: ______________________ Date: 9-7-11
John A. Kane, Esquire
Attorney for the Council

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENTS OF PUBLIC WELFARE AND AGING
OFFICE OF LONG-TERM LIVING

By: ______________________ Date: 9-15-2011
Kevin Hancock
Acting Deputy Secretary