

AUDIT REPORT

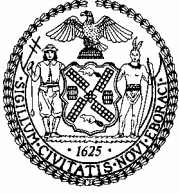


CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
BUREAU OF MANAGEMENT AUDIT
WILLIAM C. THOMPSON, JR., COMPTROLLER

Audit Report on the Timeliness of the Human Resources Administration's Implementation of Fair Hearing Decisions on Public Assistance and Food Stamp Cases

ME05-066A

June 27, 2005



THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
1 CENTRE STREET
NEW YORK, N.Y. 10007-2341

WILLIAM C. THOMPSON, JR.
COMPTROLLER

To the Citizens of the City of New York

Ladies and Gentlemen:

In accordance with the Comptroller's responsibilities contained in Chapter 5, §93, of the New York City Charter, my office has examined whether the Human Resources Administration (HRA) implemented fair hearing decisions on public assistance and food stamp cases in a timely and accurate manner.

The results of our audit, which are presented in this report, have been discussed with HRA officials, and their comments have been considered in the preparation of this report.

Audits such as this provide a means of ensuring that City resources are used effectively, efficiently, and in the best interests of the public.

I trust that this report contains information that is of interest to you. If you have any questions concerning this report, please e-mail my audit bureau at audit@comptroller.nyc.gov or telephone my office at 212-669-3747.

Very truly yours,

A handwritten signature in cursive script that reads "William C. Thompson, Jr.".

William C. Thompson, Jr.

WCT/fh

Report: ME05-066A
Filed: June 27, 2005

Table of Content

AUDIT REPORT IN BRIEF 1
 Audit Findings and Conclusions..... 1
 Audit Recommendations..... 2
 HRA Response..... 2
INTRODUCTION 3
 Background..... 3
 Objective..... 3
 Scope and Methodology 3
 Discussion of Audit Results..... 4
FINDINGS AND RECOMMENDATIONS..... 5
 HRA’s Implementation of Fair Hearing Decisions Generally Complied with HRA
 Standards..... 5
 Recommendations..... 7
 HRA’s Timeframe for the Implementation of Fair Hearing Decisions on Food Stamp
 Cases Conflicts with State Standard 8
 Recommendation 9
 HRA’s Fiscal Year 2004 Compliance Report Is Not Fully Supported by Daily Tally
 Sheets 9
 Recommendation 9
ADDENDUM

*The City of New York
Office of the Comptroller
Bureau of Management Audit*

**Audit Report on the
Timeliness of the Human Resources Administration's
Implementation of Fair Hearing Decisions on
Public Assistance and Food Stamp Cases**

ME05-066A

AUDIT REPORT IN BRIEF

This report determined whether the Human Resources Administration (HRA) implemented fair hearing decisions in a timely and accurate manner. HRA provides a wide range of social welfare benefits and services, including public assistance, food stamps, and job training services. When HRA staff determine that it is appropriate to disallow, decrease, or discontinue benefits to public assistance and food stamp applicants and recipients, these individuals may request fair hearings on such determinations. A fair hearing is an opportunity for recipients of public assistance or food stamp benefits to appeal their case to an administrative law judge (ALJ) of the New York State Office of Temporary and Disability Assistance (OTDA). At the hearings, the applicants or recipients can explain why they think HRA's decisions on their cases were incorrect. HRA's objective is to ensure implementation of 90 percent of public assistance fair hearing decisions within 30 days and 90 percent of food stamp fair hearing decisions within 15 days.

Audit Findings and Conclusions

HRA's implementation of fair hearing decisions for public assistance and food stamp recipients in Fiscal Year 2004 was adequate in terms of timeliness and accuracy. In our sample reviews, 90 percent of public assistance fair hearing decisions were implemented within HRA's 30-day timeframe and 100 percent of food stamp decisions were implemented within HRA's 15-day timeframe. In addition, HRA accurately implemented 95 percent of the decisions in our sample. However, HRA's 15-day timeframe for the implementation of food stamp decisions conflicts with the State standard that requires a 10-day timeframe. HRA also lacks a written procedure to ensure that certain retroactive payments are made when recipients requalify for benefits. Finally, HRA's annual compliance report on the timeliness of decision implementations was not fully supported by the daily tally sheets.

Audit Recommendations

The audit recommended that HRA:

- Continue to improve its efforts to implement fair hearing decisions in a timely and accurate manner.
- Establish written criteria to guide its efforts to carry out overdue decision implementations within a reasonable time.
- Prepare a written procedure to ensure that retroactive payments ordered by ALJs are paid upon a recipient's reinstatement in the public assistance or food stamp program.
- Follow the State standard that requires fair hearing decisions favorable to food stamp beneficiaries to be implemented within 10 days.
- Ensure that it maintains all of the daily tally sheets upon which its annual compliance report is based.

HRA Response

On May 19, 2005, we submitted a draft report to HRA officials with a request for comments. We received a written response from HRA on June 10, 2005. In its response, HRA officials agreed with all of the audit's findings and recommendations.

The full text of HRA's comments is included as an addendum to this report.

INTRODUCTION

Background

The mission of the New York City Human Resources Administration is to enhance the quality of life for all City residents by providing temporary assistance to eligible individuals and families to help them lead independent and productive lives. HRA accomplishes its mission through a wide range of social welfare benefits and services, including public assistance, food stamps, and job training services. HRA provides these services through 29 Job Centers and three specialized service centers.

HRA designed its Job Centers to assist individuals and families to move to self-sufficiency through integrated services. The Job Centers meet emergency and temporary financial needs, while supporting the efforts of those on public assistance to obtain a job and achieve financial independence.

When HRA staff determine that it is appropriate to disallow, decrease, or discontinue benefits to public assistance and food stamp applicants and recipients, these individuals may request fair hearings on such determinations. A fair hearing is an opportunity for recipients of public assistance or food stamp benefits to appeal their case to an administrative law judge of the New York State Office of Temporary and Disability Assistance. At the hearings, the applicants or recipients can explain why they think HRA's decisions on their cases were incorrect.

HRA's objective is to ensure implementation of 90 percent of public assistance fair hearing decisions within 30 days and 90 percent of food stamp fair hearing decisions within 15 days. According to the Mayor's Management Report, HRA, during Fiscal Year 2004, implemented 97.7 percent of public assistance decisions within 30 days and 85.9 percent of food stamp decisions within 15 days.

Objective

The objective of the audit was to determine whether HRA is implementing fair hearing decisions in a timely and accurate manner.

Scope and Methodology

The period covered by this audit was July 1, 2003 through June 30, 2004 (Fiscal Year 2004).

To gain an understanding of the fair hearing process, we interviewed HRA officials and conducted a walkthrough of the fair hearing process. We also reviewed relevant regulations in the *Official Compilation of Codes, Rules and Regulations of the State of New York* (18 NYCRR §358-5 and §358-6), HRA's *Fair Hearing and Conciliation Manual* and *Job Center Operations Manual*, and court decisions relating to the fair hearings process (a New York State Supreme Court settlement in the *Piron v. Wing* case and a United States District Court settlement in the

Moore v. Perales case). In addition, we analyzed HRA's Fiscal Year 2004 compliance report on the timeliness of its implementation of fair hearing decisions on public assistance and food stamp cases.

To determine whether HRA implemented fair hearing decisions in a timely manner, we obtained from HRA a file listing all Fiscal Year 2004 fair hearing decisions received from OTDA by HRA's Fair Hearing Tracking, Monitoring and Review (FHTMR) Unit. The file listed 67,049 fair hearing decisions in Fiscal Year 2004 on public assistance and food stamp cases. From this list, we randomly selected 60 ALJ decisions and determined whether HRA implemented the decisions in a timely and accurate manner. Of the 60 decisions selected, 46 were public assistance cases and 14 were food stamp cases. We did not include decisions in which HRA's actions were affirmed because little action is required of HRA to implement such decisions.

To assess the reliability of HRA's fair hearing compliance tracking system (called ECAPS), we used the same random sample of 60 fair hearing decisions to compare data in ECAPS to documentation found in hard copy files. We also compared the ECAPS data to information available on the State's Fair Hearing Information System (FHIS) and the State's Welfare Management System (WMS). We concluded that the data in ECAPS were generally reliable.

The results of the above tests, while not statistically projected to their respective populations, provide a reasonable basis for us to assess the timeliness and accuracy of HRA's implementation of fair hearing decisions.

This audit was conducted in accordance with generally accepted government auditing standards (GAGAS) and included tests of records and other auditing procedures considered necessary. This audit was performed in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the New York City Charter.

Discussion of Audit Results

The matters in this report were discussed with HRA officials during and at the conclusion of this audit. A preliminary draft report was sent to HRA officials on April 27, 2005, and was discussed at an exit conference held on May 11, 2005. On May 19, 2005, we submitted a draft report to HRA officials with a request for comments. We received a written response from HRA on June 10, 2005. In its response, HRA officials agreed with all of the audit's findings and recommendations.

The full text of HRA's comments is included as an addendum to this report.

FINDINGS AND RECOMMENDATIONS

HRA's implementation of fair hearing decisions for public assistance and food stamp recipients in Fiscal Year 2004 was adequate in terms of timeliness and accuracy. In our sample reviews, 90 percent of public assistance fair hearing decisions were implemented within HRA's 30-day timeframe and 100 percent of food stamp decisions were implemented within HRA's 15-day timeframe. In addition, HRA accurately implemented 95 percent of the decisions in our sample. However, HRA's 15-day timeframe for the implementation of food stamp decisions conflicts with the State standard that requires a 10-day timeframe. When applying the 10-day standard, HRA implemented only 64 percent of the food stamp cases in a timely manner. HRA also lacks a written procedure to ensure that certain retroactive payments are made when recipients requalify for benefits. Finally, HRA's annual compliance report on the timeliness of decision implementations was not fully supported by the daily tally sheets.

HRA's Implementation of Fair Hearing Decisions **Generally Complied with HRA Standards**

In accordance with HRA standards, HRA generally implemented fair hearing decisions for public assistance and food stamp recipients in a timely and accurate manner in Fiscal Year 2004. To determine the timely implementation of fair hearing decisions, we randomly selected a sample of 60 decisions issued during Fiscal Year 2004. Our review of these decisions revealed that 93 percent of the cases in our sample were implemented in a timely manner. In addition, HRA accurately implemented 95 percent of the fair hearing decisions in our sample.

HRA's FHTMR Unit receives logs of fair hearing decisions from OTDA and sorts and batches the decisions by Job Center. These decisions are then sent to the individual Job Centers so that the ALJ decisions can be implemented. The Job Centers then have to review the cases, make necessary adjustments to client accounts, and notify the clients of the adjusted benefits. It is the responsibility of the Job Centers to implement the decisions in a timely and accurate manner.

According to HRA's standard, the process of implementing fair hearing decisions should be completed within 30 days of the receipt of public assistance decisions and within 15 days of the receipt of food stamp decisions. The FHTMR Unit must notify OTDA of HRA's actions to implement the decisions within the allotted timeframes. HRA's goal is to implement 90 percent of the fair hearing decisions within these timeframes.

HRA includes in its timeliness calculations for its compliance report those fair hearing decisions in which the ALJ ruled both that benefits should be provided, maintained, or increased and that HRA's original action was incorrect. These include decisions that reverse HRA's initial determination to deny, terminate, or reduce benefits and decisions in which HRA withdraws its initial determination. HRA excludes from its timeliness calculations those fair hearing decisions in which HRA's initial determinations either were affirmed by the ALJ or were determined to have been "correct when made," but were reversed in the decision based on new evidence provided at the hearing.

To be consistent with HRA’s methodology, we excluded four of our 60 sample cases in which ALJs decided that HRA’s initial determinations were “correct when made.”¹ Our review, as shown in Table I below, found that 52 (93%) of the remaining 56 randomly-selected fair hearing decisions were implemented in a timely manner.

Table I
Timeliness of Implementation of Sampled
Fiscal Year 2004 Fair Hearing Decisions

| Case Type | # of Reversals and HRA Withdrawals in Sample | # of Cases Completed Within HRA Timeframe | Percentage Completed Within Timeframe |
|-------------------|---|--|--|
| Public Assistance | 42 | 38 | 90% |
| Food Stamp | 14 | 14 | 100% |
| Totals | 56 | 52 | 93% |

The percentage of public assistance cases in our sample that were completed in a timely manner equaled the 90 percent required by HRA, but fell somewhat below the 97 percent timeliness reported by HRA in its compliance report for Fiscal Year 2004. For the four public assistance cases for which data did not show that the decisions had been implemented within 30 days, we found that the cases had been implemented between five and eight days late. HRA’s compliance report properly categorized the four case decisions as having been implemented in more than 30 days. In addition, HRA implemented all of the fair hearing decisions on the 14 food stamp cases in our sample within 15 days. HRA’s compliance report stated that in Fiscal Year 2004, it implemented 91 percent of food stamp decisions within 15 days.

HRA tracks its overdue decision implementations in monthly reports. However, HRA has not established written criteria to guide its efforts to carry out these overdue implementations. Such guidance could help HRA ensure that decisions that are not carried out within established time standards are implemented within a reasonable time thereafter.

To determine whether HRA accurately implemented the fair hearing decisions, we compared the ALJs’ orders in the decisions to the compliance data entered by HRA in the State’s Fair Hearing Information System. Our comparisons revealed that HRA accurately implemented 57 (95%) of the 60 sampled fair hearing decisions.² In two cases, the ALJ had instructed HRA to reconsider the applications of those denied benefits. In one of these two cases, HRA claims that

¹ As noted above, the 60 cases in our sample did not include those decisions in which HRA’s actions were affirmed. We excluded those decisions because little action is required of HRA to implement them.

² We included the four “correct when made” decisions in our review of the accuracy of HRA’s implementation of fair hearing decisions. We did this because even though the ALJs concluded that HRA’s actions on these cases were correct, changing circumstances for the applicants or recipients led the ALJs to order new actions to be taken.

it notified the applicant to report to a center, but HRA was unable to provide us with a copy of the notification letter. HRA claims that the applicant subsequently failed to report to the center. For the other case, HRA failed to implement the ALJ's order to "advise the [applicant] as to any additional documentation required to determine eligibility."

In the third case, HRA did not implement the ALJ decision to restore benefits because subsequent to requesting a fair hearing, the recipient did not attend a mandatory recertification interview. While this action was correct, when the recipient was subsequently reinstated in the program about three weeks later, the recipient should have received the retroactive payments ordered by the ALJ. In fact, the case record shows that the recipient complained in February 2004 about not receiving the retroactive payments. However, the retroactive payments of \$961 were not made until February 2005, when we brought this case to the attention of HRA's FHTMR Unit.

FHTMR Unit officials stated that they do not have a written procedure to cover this type of situation. A written procedure could help ensure that retroactive payments ordered by ALJs are paid upon a recipient's reinstatement in the public assistance or food stamp program.

Recommendations

1. HRA should continue to improve its efforts to implement fair hearing decisions in a timely and accurate manner.

HRA Response: "We agree with this recommendation. With the use of automation, the Division of Fair Hearing Administration expects to streamline the current process of tracking and reporting compliance actions. In addition, the Division is meeting with the Family Independence Administration (FIA) Operations to develop a more efficient compliance process that would ensure the timely and accurate completion of Fair Hearing decisions. We hope to implement this process during FY 2006."

2. HRA should establish written criteria to guide its efforts to carry out overdue decision implementations within a reasonable time.

HRA Response: "We agree with this recommendation. Representatives from the pertinent HRA offices have met to develop a process for handling overdue decisions. We plan to include this new procedure in the August 2005 training release."

3. HRA should prepare a written procedure to ensure that retroactive payments ordered by ALJs are paid upon a recipient's reinstatement in the public assistance or food stamp program.

HRA Response: "We agree with this recommendation. Representatives from the pertinent HRA offices have met to develop a process for paying retroactive benefits, as ordered by Administrative Law Judges (ALJ), upon a recipient's reinstatement to the

public assistance or food stamp programs. This procedure will be developed for inclusion in the August 2005 training release.”

**HRA’s Timeframe for the Implementation
Of Fair Hearing Decisions on Food Stamp Cases
Conflicts with State Standard**

HRA’s 15-day timeframe for the implementation of fair hearing decisions on food stamp cases conflicts with the State standard that requires a 10-day timeframe. When applying the 10-day standard, HRA implemented only 64 percent of the food stamp cases in our sample in a timely manner.

HRA’s 15-day timeframe for the implementation of fair hearing decisions on food stamp cases is based on a Stipulation and Order of Settlement in the case of *Moore v. Perales* in the U.S. District Court for the Eastern District of New York. This settlement required HRA to implement 90 percent of the fair hearing decisions on food stamp cases within 15 days. However, this settlement, which went into effect on March 1, 1998, stated that the order “cease[d] to have any effect whatsoever” on December 31, 1999. With the expiration of this order, the State standard provided in 18 NYCRR §358-6.4 applies. This standard requires the implementation of favorable fair hearing decisions in food stamp cases “within 10 days of the receipt of the hearing decision.”³ HRA officials told us that although all other localities in the State must meet the 10-day standard, a 15-day standard applies in New York City because of the *Moore v. Perales* case. However, we believe that since the court order establishing a 15-day standard has expired, the State standard requiring a 10-day implementation period applies.

In terms of the State standard, nine (64%) of the 14 food stamp cases that we reviewed were implemented within 10 days; five cases were implemented between two and five days late.⁴ HRA’s compliance report for Fiscal Year 2004 showed that it implemented only 77 percent of the fair hearing decisions on food stamp cases within 10 days. We are concerned that food stamp beneficiaries in New York City are not able to obtain, as quickly as beneficiaries living elsewhere in the State, those benefits that are awarded, restored, or increased through the fair hearing process.

In a related matter, the court order in the *Moore v. Perales* case excludes “correct when made” decisions from having to be implemented within 15 days. However, the State standard requires all decisions favorable to beneficiaries, including “correct when made” decisions, to be implemented within 10 days.

³ The standard allows the implementation of a favorable decision to be more than 10 days after the decision if HRA decides to make the decision effective on the date of the client’s next scheduled food stamp allotment and if this date is less than 60 days from the date of the client’s request for a hearing.

⁴ For two of the five cases, more than 60 days elapsed from the date of the client’s request for a hearing to the date that the decision was implemented (in one case 69 days and in the other case 111 days). While the other three cases were implemented in less than 60 days, HRA provided no evidence that an implementation period of longer than 10 days was acceptable in these cases due to the clients’ next scheduled food stamp allotment date being less than 60 days from the date of the hearing request.

Recommendation

4. HRA should follow the State standard that requires fair hearing decisions favorable to food stamp beneficiaries to be implemented within 10 days. These decisions should include those decisions in which the ALJ ruled that HRA's initial determination was "correct when made."

HRA Response: "We agree with this recommendation. As stated above, we have recently confirmed that the NYS regulatory standard for the implementation of fair hearing decisions in food stamp cases is ten days. Staff has been advised and, effective immediately, a policy directive will be issued to reflect this timeframe."

HRA's Fiscal Year 2004 Compliance Report Is Not Fully Supported by Daily Tally Sheets

The totals presented in HRA's Fiscal Year 2004 compliance report, which details the timeliness of its implementation of fair hearing decisions, were not fully supported by the daily tally sheets upon which these totals were based. For our review, HRA was unable to provide us with the daily tally sheets for six (10%) of the 60 cases in our sample. All of these six were food stamp cases.

The FHTMR Unit prepares daily tally sheets showing all of the decisions received from the State OTDA each day. As the decisions are implemented, HRA indicates on the tally sheet the number of days it took to implement each decision. Although the information available on the tally sheets for 54 of the 60 cases in our sample was generally consistent with file and system data we gathered on these cases, HRA's inability to find all of the tally sheets corresponding to our 60 sample cases raises questions about the reliance that can be placed on HRA's Fiscal Year 2004 compliance report.

Recommendation

5. HRA should ensure that it maintains all of the daily tally sheets upon which its annual compliance report is based.

HRA Response: "We agree with this recommendation. As stated above, OTDA is implementing a new electronic system, which, once functional, will assist us in better maintaining the documentation that supports our annual compliance report."



HUMAN RESOURCES ADMINISTRATION
OFFICE OF AUDIT SERVICES AND
ORGANIZATIONAL ANALYSIS
180 WATER STREET
NEW YORK, NEW YORK 10038
(212) 331-3978 Fax: (917) 639-0219
E-mail: brownhe@hra.nyc.gov

VERNA EGGLESTON
Administrator/Commissioner

HOLLY E. BROWN
Executive Deputy Commissioner

June 10, 2005

Greg Brooks, Deputy Comptroller
Policy, Audits, accountancy & Contracts
The City of New York
Office of the Comptroller
Executive Offices
1 Centre Street
New York, N.Y. 10007-2341

Re: Audit Report on the Timeliness of the
Human Resources Administration's
Implementation of Fair Hearing Decision on
Public assistance and Food Stamp Cases
ME05-066A

Dear Mr. Brooks:

We have reviewed the draft audit report on the Timeliness of the Human Resources Administration's Implementation of Fair Hearing Decisions on Public Assistance and Food Stamp Cases (ME05-066A). We are pleased to note that in general you have found that we comply with the standards that we have set for the operation of this function, and we will continue our efforts in this area.

Following is our detailed response to the audit's findings and recommendations:

Auditors' Finding:

HRA's Implementation of Fair Hearing Decisions Generally Complied with HRA Standards

Agency's Response:

We agree with this finding.

Auditors' Finding:

HRA's Timeframe for the Implementation of Fair Hearing Decisions on Food Stamp Cases Conflicts with State Standards.

Agency's Response:

We agree with this finding. We recently confirmed that the NYS regulatory standard for the implementation of fair hearing decisions in food stamp cases is ten days. We have notified staff to begin using this standard and a policy directive will be issued immediately to reflect this requirement.

Auditors' Finding:

HRA's Fiscal Year 2004 Compliance Report is not fully supported by daily Tally Sheets.

Agency's Response:

We agree with this finding. The Office of Temporary and Disability Assistance (OTDA) is implementing a new electronic system that will streamline the process so that we will be better able to maintain the documentation that supports our annual compliance reports.

Auditors' Recommendation #1:

HRA should continue to improve its efforts to implement fair hearing decisions in a timely and accurate manner.

Agency's Response:

We agree with this recommendation. With the use of automation, the Division of Fair Hearing Administration expects to streamline the current process of tracking and reporting compliance actions. In addition, the Division is meeting with the Family Independence Administration (FIA) Operations to develop a more efficient compliance process that would ensure the timely and accurate completion of Fair Hearing decisions. We hope to implement this process during FY 2006.

Auditors' Recommendation #2:

HRA should establish written criteria to guide its efforts carry out overdue decision implementations within a reasonable time.

Agency's Response:

We agree with this recommendation. Representatives from the pertinent HRA offices have met to develop a process for handling overdue decisions. We plan to include this new procedure in the August 2005 training release.

Auditors' Recommendation #3:

HRA should prepare a written procedure to ensure that retroactive payments ordered by the Administrative Law Judges (ALJ) are paid upon a recipient's reinstatement in the public assistance or food stamp program.

Agency's Response:

We agree with this recommendation. Representatives from the pertinent HRA offices have met to develop a process for paying retroactive benefits, as ordered by Administrative Law Judges

(ALJ), upon a recipient's reinstatement to the public assistance or food stamp programs. This procedure will be developed for inclusion in the August 2005 training release.

Auditors' Recommendation #4:

HRA should follow the State standard that requires fair hearing decisions favorable to food stamp beneficiaries to be implemented within 10 days. These decisions should include those decisions in which the ALJ ruled that HRA's initial determination was "correct when made."

Agency's Response:

We agree with this recommendation. As stated above, we have recently confirmed that the NYS regulatory standard for the implementation of fair hearing decisions in food stamp cases is ten days. Staff has been advised and, effective immediately, a policy directive will be issued to reflect this timeframe.

Auditors' Recommendation #5:

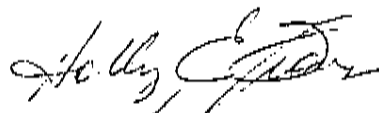
HRA should ensure that it maintains all of the daily sheets upon which its annual compliance report is based.

Agency's Response:

We agree with this recommendation. As stated above OTDA is implementing a new electronic system, which, once functional, will assist us in better maintaining the documentation that supports our annual compliance report.

It is the goal of HRA to provide our clients and applicants with the services to which they are eligible, in an efficient and compliant manner. We remain committed to this effort and appreciate the opportunity to respond to your observations. Should you have any questions regarding this response, please contact Hope Henderson, Director, Bureau of Audit Coordination at (212) 331-3522.

Sincerely,



Holly E. Brown

cc:

Commissioner Eggleston
R. O'Halloran