

State audit outlines apparent criminal activity at Trenton methadone clinic

By Penny Ray, The Trentonian

New Horizon Treatment Services owes the state more than a quarter of a million dollars after an audit revealed that several of the agency's reported costs were not substantiated, while other costs were overstated according to contract guidelines.

The audit also highlights apparent criminal activity, including the falsification of salaries and wages on government grant forms.

The audit revealed other alarming facts as well:

- New Horizon is hiding unused state money in bank accounts that are not being reconciled.
- New Horizon violated state wage and hour laws, as well as the False Claims Act.
- Several of New Horizon's reported purchases were not supported by vendor invoices or receipts.

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— Brian H. Mahany
MahanyLaw attorney
specializing in fraud
recovery



Yvonne Doogah, a whistleblower who used to work at New Horizon Treatment Services says the agency is double-billing government agencies and falsifying grant forms.

- The agency reportedly spent more than \$18,000 for a holiday party, but then claimed the expense as Materials and Supplies, as opposed to Fringe Benefits on government grant forms.
- And the agency reportedly loaned its Board of Directors President \$5,000, but the “promissory note” for the loan was dated more than a year prior to the payment being made.

New Horizon Treatment Services is a non-profit

organization that provides medical, clinical, psychosocial and educational services primarily to clients who struggle with substance abuse. The Division of Mental Health and Addiction Services (DMHAS) began an investigation of New Horizon's financial records last year after state officials conducted a routine audit and found something that prompted a full fiscal review. According to a spokesperson with the Department of Human Services (DHS), the audit lasted at least six months.

NEW HORIZON - AUDIT REPORT

The Trentonian obtained a copy of the audit report through a public records request, and an accompanying letter shows that it was sent to state officials as well as several of New Horizon's directors in July.

The report also states that when auditors questioned what caused the blatant mismanagement of state-provided funds, New Horizon's personnel boldly ignored the inquiries.

According to the report, the state investigation only audited the DMHAS contract for the period of July 1, 2012 to June 30, 2013. The audit only investigated how funds provided by DHS were used for that contract period; it did not include how monies received from other sources were used.



New Horizon Treatment Services on Perry St in Trenton.

For the contract period, DHS provided New Horizon Treatment Services \$1,937,594. The agency's reported contract expenditures for that period was \$1,896,626, leaving \$40,968 of unused state funds. According to the audit report, New Horizon never returned that unused money to the state of New Jersey. Auditors also adjusted and reclassified some of New Horizon's reported expenses, resulting in the agency owing the state an additional \$241,878.

FALSE DOCUMENTATION

It appears that whoever processed New Horizon's payroll for the audited contract period did not correctly perform their job. The audit report says some salaried employees worked less than 80 hours per pay period, but were paid a full salary. Meanwhile, three non-salary employees were not paid for time worked in excess of 80 hours, which is a violation of state wage and hour laws.

Auditors also found that salary and wage expenses

reported by New Horizon for the contract period in question were overstated by more than \$6,000. The report says 51 of the 85 audited salaries did not agree with the corresponding personnel records, and according to a whistleblower employed by New Horizon for 12 years, those discrepancies are intentional.

"The more employees earned, the more grant money New Horizon received, so they lied about how much we were making," Yvonne Doogah, who was the Front Office Administrator at New Horizon until December 2013, said.

Doogah said she learned that New Horizon's grant writers were inflating salaries on applications shortly after she started working for the agency. Doogah said she was in the conference room one day when a grant writer and another employee mentioned her name.

"I earned \$11 an hour at that time, but they wrote that I was making \$15 an hour," Doogah said.

The falsifying of applications for government grant money is a violation of the New Jersey False Claims Act, which authorizes the state Attorney General to file civil action to recover any funds fraudulently obtained. It's also a violation of Title 18 of the U.S. Code section 1347, which established a criminal penalty of up to 10 years in prison for

fraudulently obtaining money provided by any healthcare benefit program.

MISUSED CREDIT CARDS AND EXPENSIVE HOLIDAY PARTY

Auditors also reported that invoices and receipts were not available to support a large amount of New Horizon's credit card purchases. The report says New Horizon used two credit cards issued to three different employees during the audited contract period, and that more than \$81,000 worth of purchases were not supported by documentation.

The report also says New Horizon spent \$18,055 on a holiday party, and that \$11,000 of that money was used to purchase gift cards from CVS. But the report notes that only \$6,388 worth of gift cards could be verified through documentation, which was obtained from CVS. New Horizon's personnel didn't provide any receipts for the gift cards, and the agency failed to provide auditors with documentation regarding who exactly received the cards.

The Trentonian interviewed more than a dozen current and former New Horizon employees over the past four months, many of whom attended the 2012 holiday party at Washington Crossing. Those employed by New Horizon during that time said some of the gift cards

provided at that party were useless.

"Some of the counselors tried to use their gift card, but there was no money on them," Doogah said. "They had to go back to management and get another card."

VENDOR ISSUES AND HIDDEN MONEY

The audit report says several of New Horizon's reported purchases were not supported by vendor invoices or receipts. It also states that some consultant contracts did not support the rate paid, and were not signed by all parties. New Horizon also failed to issue federal Form 1099-MISC to every non-employee who was reportedly paid at least \$600 for the year.

Auditors also reported that a significant amount of New Horizon's expenses were not paid within 90 days after the end of the contract period, and other expenses remained unpaid a year and a half after the end of the contract period. Some of those expenses were written-off of New Horizon's accounts payable, even though the vendor still expects payment.

According to Eric Viereck, who was employed as New Horizon's Director of Administrative Services from August 2002 until the non-profit reorganized in January 2014, there are countless vendors that will no longer do business with the

agency unless they are paid in cash or with a credit card over the phone.

"They refuse to bill us because Dr. Nieves refused to pay them," Viereck said.

Dr. Luis Nieves is Executive Director of New Horizon Treatment Services. Current and former employees interviewed for this report say all of the agency's decisions must be approved by Nieves. Employees say Nieves has refused to pay certain vendors over the years, and that when companies refused to do business with New Horizon, Nieves would tell his staff to "find another vendor."

"A lot of times, I would open a bill and it would be a shutoff notice because Nieves wouldn't pay the money," Doogah said. "There were times when Dr. Nieves didn't pay for the methadone, so we wouldn't get our delivery and would have to borrow from another clinic. Clients complained that the methadone was watered-down when we didn't have enough, but we didn't have enough because Nieves wasn't paying for it."

The audit report shows that New Horizon wrote-off more than \$54,000 owed to Ammon Analytical, which employees say is the company that tested clients' urine for drugs and alcohol. The agency also wrote-off more than \$19,000 owed to Smart Management, which employees say is the company

that issued New Horizon's payroll checks. When Dr. Nieves stopped paying Smart Management, employees were issued checks directly from one of New Horizon's bank accounts. The Trentonian obtained documentation from employee bank deposits which show the difference in the checks. Employees say when checks were provided directly from New Horizon, there were issues with salaries and pension contributions. It's unclear whether the debacle was ever completely rectified; some employees say they quit the exhausting fight to obtain matching contributions owed to their retirement plan.

State auditors found that New Horizon has several bank accounts that had no bank reconciliation records for the audited period. New Horizon management even lied to auditors claiming they didn't know about a TD Bank account, even though a balance was carried on the general ledger for the account. Auditors also found some bank accounts that were reconciled, but included outstanding checks that had never cleared the bank and were never re-issued or written-off.

"[New Horizon] routinely carries old outstanding checks on its bank reconciliations that may be due back to applicable state in accordance with state unclaimed property guidelines," the audit report states.

In other words, New Horizon is hiding unused state money in bank accounts that are not being reconciled.

New Horizon also wrote-off more than \$14,000 owed to Greater Mt. Zion A.M.E. Church. But representatives from the church say they never wrote-off that debt from their books, and that New Horizon actually owes them more than the amount mentioned in the audit.

"That money was figured into the overall operating budget, and to not be reimbursed is reprehensible," the Rev. Stanley Justice of Mt. Zion Church said.

New Horizon previously rented a property located at 131 Perry Street, which is owned by Mt. Zion Church; the agency used it for counseling sessions and office space. Church officials say New Horizon suddenly stopped paying the rent, which accumulated to approximately \$14,000 over the course of a year. Church officials also say New Horizon owes an additional \$3,600 for utilities the agency stopped paying during the final months of its lease. Rev. Justice said the church still needs the money, and that not having it left a "monumental hole" in the operating budget.

"That building needed repairs and funds were spent in anticipation of being reimbursed," Justice said.

EXCESSIVE PERKS

The audit report also notes that Dr. Nieves received some questionably excessive benefits. During the audited contract year, New Horizon claimed a \$12,000 auto allowance that was paid to Nieves, but the agency did not provide any documentation to prove the expense was business related.

The report also notes that Nieves did not contribute any money to his health insurance benefits during the audited contract year. The report states that Nieves' monthly health insurance premium is \$3,580, or \$42,970 annually, and that he did not contribute toward his health insurance benefits through payroll deductions, which is a violation of New Horizon's internal personnel policies. The report says the health insurance contributions made by other New Horizon employees range from 10 to 30 percent of their respective premiums.

SHADY LOAN

Another alarming finding of the state's audit is a \$5,000 loan made to the President of New Horizon's Board of Directors, Harry Luna. The report says the loan was made on Jan. 22, 2013, and was claimed as a Materials and Supplies expense. However, the only documentation provided to auditors for the expense was a "promissory note" dated Jan. 9, 2012, which

is more than one year prior to the payment being made. The audit report says the promissory note contained one sentence stating that the Board President would repay the loan, but it did not contain any specific terms of repayment. Additionally, the promissory note did not include any signatures other than the Board President's.

In a conversation with The Trentonian last week, Luna's story changed several times. Luna said he borrowed the money from New Horizon because he was unable to secure a loan elsewhere. Luna said "it took a little longer" to repay the money than the "couple of months" he originally planned. But the money, he said, was repaid "right away." The audit report says the loan had not been repaid as of December 8, 2014. And when The Trentonian pointed that out, Luna said he partially repaid the loan prior to that date, and had paid the balance of the loan within "the last couple of months."

NO PROOF OF COUNSELING

When auditors reviewed New Horizon's level of service (LOS) reporting, they found that often times there was no sign-in sheet for group and individual counseling sessions. Former employees say those sheets were missing because no session actually took place.

"Tracy wanted me to bill

for services that we never provided," Doogah said.

Tracy Simmons-Hart is New Horizon's current Deputy Executive Director of Operations, according to the agency's organizational chart provided by Nieves last year. Doogah said clients are required to sign a sheet of paper signifying that they participated in group or individual counseling sessions. At times, no counselors were available, Doogah said, but New Horizon personnel would require clients to sign the sheet regardless.

"Tracy would give them credit for participating in groups even though there were no sessions, and then we'd bill the services to drug court," Doogah said.

Employees who worked in the billing department also said New Horizon double-billed services to Medicare and Medicaid. Employees further said that unlicensed counselors often conducted sessions, but the services were billed to government agencies as having been conducted by Nieves.

"There were a couple of unlicensed counselors who provided services, and we billed it under Dr. Nieves' license," an employee said.

Double-billing government agencies and falsifying client treatment records to obtain government funds are violations of both state and federal laws.

"These audit findings strongly suggest that there are violations of the state and federal False Claims Act, and there appears to be criminal violations as well," former law enforcement officer turned fraud recovery lawyer Brian Mahany said after reviewing the report himself. "There's false statements all over this audit."

NEW HORIZON'S RESPONSE

Dr. Nieves refuses to communicate with The Trentonian via phone or in person, so, at his request, the newspaper faxed him direct questions regarding the audit report. When Nieves responded, he asked for a copy of the report obtained by the newspaper — even though he already had a copy of it — and he ignored the questions.

Harry Luna said the agency's Board of Directors are aware of the audit, and that they've responded to the state to address some of the deficiencies outlined in the report. But he also tried to downplay the audit's findings. When asked about the money he borrowed, Luna said scrutiny of that transaction "is like saying 'look at the black dot on the white piece of paper.'"

Luna further downplayed the audit's findings by saying the actions occurred "three or four years ago." When asked if the agency's behavior had changed

since the audited contract period, Luna did not provide a straight answer. Earlier in the conversation, Luna said New Horizon's board members "try not to micromanage" the agency's staff, and that the board only meets once a month.

WHAT IS THE STATE DOING?

The Trentonian emailed a DHS spokesperson regarding the disciplinary action New Horizon's management faces for the apparent criminal behavior outlined in the audit report, and a response stated, "DHS will determine what disciplinary action, if any, based on the provider's response to the audit disposition process."

The audit disposition process requires New Horizon to submit a Corrective Action Plan (CAP) to the state and then fully repay the money owed, at which time DHS will close the audit.

When asked how the audit findings affect New Horizon's contract with the state, the spokesperson replied, "[New Horizon] will pay back the [money] due the Division in full or payment will be withheld from current contract."

If New Horizon does not immediately have \$280,000 to repay the state for misused funds, the state will simply withhold that amount from funds it plans to provide the agency.

The DHS spokesperson further stated via email that failure to implement the corrective action plan may result in withholding of current contract funds, or termination of contract. But there was no mention of whether New Horizon's personnel will be held personally accountable for the fraudulent actions outlined in the state's audit.

"If this organization is lying to the state in order to obtain funds, they're violating both the state and federal False Claims Act," Mahany said. "These could also be criminal violations. Healthcare fraud is a federal crime punishable by up to 10 years in prison. Both the state and the feds have a number of tools in their toolbox to penalize and hold these individuals personally responsible, and someone could actually go to jail for this." ■