



STATE OF NEW YORK
OFFICE OF THE STATE INSPECTOR GENERAL

Final Report
September 6, 2007

OMRDD EMPLOYEE SUSPENDED OVER ILLEGAL DRUG USE

SUMMARY OF FINDINGS/RECOMMENDATIONS

The Office of the State Inspector General found that Frederick Haynes, an employee of the Office of Mental Retardation and Developmental Disabilities (OMRDD) assigned to the overnight shift at the Broome Developmental Disabilities Services Office (DDSO), had used marijuana in violation of DDSO policy. Consequently, the Broome DDSO has disciplined Haynes.

ALLEGATION

On April 18, 2007, this office received a copy of an anonymous letter alleging that some of the overnight staff members at a Broome DDSO residence in Oxford, New York, are “smoking dope.”

SUMMARY OF INVESTIGATION

Broome DDSO operates State Operated Individual Residential Alternatives (SOIRA), in which approximately 10 mentally disabled consumers reside in a home-type setting. Each SOIRA is staffed 24 hours a day by OMRDD Developmental Aides and Team Leaders who are responsible for the consumers’ well-being and needs. At the time this complaint was received, the Oxford SOIRA only had one male on staff, Developmental Aide Frederick Haynes, who worked the overnight (11:00 p.m.-7:00 a.m.) shift. He therefore became the primary subject of the investigation. Given the nature of the allegation and the potential safety risk to the consumers, this office worked collaboratively with officials from the Broome DDSO to promptly respond to the allegation.

As an initial step, a supervisor with the Broome DDSO conducted unannounced visits during the overnight shift to the Oxford SOIRA. However, the supervisor did not

observe any suspicious activities. Haynes was thereafter interviewed on April 25, 2007, at which time he admitted to using marijuana “periodically . . . once a month.” Haynes also voluntarily submitted to a urine test.

Laboratory analysis of Haynes’s urine sample confirmed his marijuana use. Of note is the amount of marijuana metabolites found in the sample. Haynes’ marijuana-metabolite level was 500 nanograms per milliliter. By comparison, the U.S. Department of Defense minimum level for a positive drug test is 50 nanograms per milliliter, a tenth of the level detected in Haynes’s system.

The Broome DDSO’s Alcohol and Drug Use Policy, which provides the following:

[T]he use of . . . controlled substances, either on the job or proximate to an employee’s working hours, might cause problems which have a far-reaching negative impact on client care and on the health and productivity of the work force . . . employees are subject to criminal, civil and disciplinary penalties if they distribute, sell, attempt to sell, possess or attempt to purchase while in the work place or while performing in a work related capacity. Such illegal acts, *even if engaged in off-duty, may result in disciplinary action when a sufficient connection exists between the off-duty acts and the requirements of the employee’s job.* (Emphasis added).

The Broome DDSO initiated disciplinary action against Haynes for violating the aforesaid policy. Haynes and the DDSO subsequently reached a Settlement Agreement wherein Haynes accepted a 60-day unpaid suspension and will return to his position only if he tests negative in a drug test scheduled for October 1, 2007. Should Haynes test positive for illegal substances, he will be terminated from employment with the DDSO, without recourse. Haynes further agreed to submit to random drug tests for one year, beginning on the date he returns to duty, and any drug test Haynes fails will result in his termination.

FINDINGS AND RECOMMENDATIONS

This investigation substantiated the allegation that at least one overnight staff member at the Oxford SOIRA used marijuana in violation of DDSO policy. Haynes admitted to smoking marijuana off duty, and a drug test has confirmed his marijuana use. The Broome DDSO and Haynes agreed to an unpaid suspension with a potential for Haynes retaining his position if he tests negative on future drug tests.