

State of New York
Office of the Inspector General



Investigation into Misuse
of State-Issued E-ZPasses
by Employees of the Office of Mental Health

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EXECUTIVE SUMMARY

The Inspector General received an allegation of time and attendance abuse by certain employees at the New York State Office of Mental Health's (OMH) Manhattan Psychiatric Center and Kirby Forensic Psychiatric Center on Randall's/Wards Island in New York City. The Inspector General's investigation determined that these employees were also misusing their state-issued Randall's Island Only (RIO) E-ZPasses. The Inspector General then expanded the investigation to include other OMH employees at Manhattan Psychiatric Center and Kirby Forensic Psychiatric Center and found rampant and substantial RIO E-ZPass abuse.

Because the only vehicle access to Randall's/Wards Island is over the Robert F. Kennedy Memorial Bridge ("RFK Bridge"), most OMH employees assigned to the Island were provided free E-ZPasses for the bridge toll, but only to be used when commuting to work. The Inspector General's investigation revealed that over 100 OMH employees issued a RIO E-ZPass engaged in significant misuse – using the RIO E-ZPass on weekends, holidays, and, in some instances, after they had ceased OMH employment. The Inspector General has secured either full repayment or restitution agreements from current and former employees, totaling \$275,769. The Inspector General continues to investigate and seek restitution from additional OMH employees for abusing the RIO E-ZPass.

The Inspector General further found that no audit of the employees' RIO E-ZPass usage was conducted. Had an audit been performed, the OMH employees' misuse of the RIO E-ZPasses could have been prevented. The Inspector General recommends that OMH conduct a comprehensive audit of the remaining employees in possession of RIO E-ZPasses and recoup funds from those who engaged in misuse.

The Inspector General also found that E-ZPass records of some of the physicians interviewed showed that they were double-billing by claiming to still be at work at one of the facilities on Randall's/Wards Island while simultaneously claiming to be at work at another hospital and receiving pay from both. While the length of each instance of overlapping time was relatively minimal, this double-billing occurred consistently over extended periods of time. Therefore, OMH should also audit and investigate these physicians and recoup any unearned

funds. The Inspector General has referred these physicians to the New York State Department of Health's Office of Professional Medical Conduct for appropriate action.

The Inspector General recommends that OMH terminate employees' use of RIO E-ZPasses for commuting to Randall's/Wards Island. In its place, OMH should incorporate those employees into the current system instituted for employees hired after 2008, which provides reimbursement to employees for their commute to work over the RFK Bridge upon submission of a receipt and time records in support of that usage. Finally, routine audits of the current system must be conducted, with violators subject to discipline or prosecution as warranted.

OMH has agreed to the recommendations of the Inspector General. Specifically, OMH has implemented an audit process of RIO E-ZPass usage, and is reviewing assigned RIO E-ZPass devices to ensure that they are collected and deactivated upon employee separation from OMH. In addition, OMH is pursuing discipline of employees who have abused their E-ZPass privileges.

OMH is seeking restitution for recovery of improper payments from the physicians identified by the Inspector General who appear to have been paid for time worked at two hospitals simultaneously, as well as seeking disciplinary action. OMH is reviewing outside and dual employment agreements for physicians to determine whether such agreements are appropriate, and is issuing guidance and conducting training on outside and dual employment.

OMH is also reviewing concerns raised by the Inspector General regarding time and attendance abuse, and is issuing reminders to supervisors of their responsibility to oversee and certify employees' reported time and attendance.

The Metropolitan Transportation Authority's Triborough Bridge and Tunnel Authority (MTA-BTA) is terminating the OMH employees' RIO E-ZPasses within 90 days of the issuance of this report.

INTRODUCTION AND BACKGROUND

Randall's/Wards Island

Randall's/Wards Island is located in the East River in New York City, and is part of the borough of Manhattan. Originally separate islands, they were joined by landfill in the 1940s. While a narrow pedestrian and bicycling bridge links the Island to Manhattan, motorists can only access the Island via a toll crossing on the RFK Bridge, formerly called the Triborough Bridge, which connects Manhattan, Queens, and the Bronx. Bridge tolls are imposed only when entering the Island.

Several public facilities are located on Randall's/Wards Island, including the New York State Office of Mental Health's Manhattan Psychiatric Center (MPC) and Kirby Forensic Psychiatric Center (Kirby). Other government buildings include a fire academy, a water treatment plant, several homeless shelters/facilities, and a New York State Police station.

The Bridge Toll and Office of Mental Health Employees

Prior to 1937, the state provided free ferry service to workers on Randall's/Wards Island. Upon construction of the Triborough Bridge, the free ferry service was discontinued. To prevent those employees from being financially burdened solely on the basis of their work location, the state entered into agreements with three employee unions, the Public Employees Federation (PEF), the Civil Service Employees Association (CSEA), and the New York State Correctional Officers and Police Benevolent Association (NYSCOPBA) to cover the costs of the toll portion of their members' work commute. Over the period of these agreements, OMH has used several forms of reimbursement, including tickets, tokens, and reimbursement by check. Initially, employees were issued booklets of tickets to be used when paying the toll. When the ticket system ceased, OMH began the token system, whereby full-time employees were entitled to up to 20 tokens a month provided they produced receipts and work sign-in/sign-out sheets in support of their commute. After OMH ended the token system, employees paid for their commute and then applied for reimbursement by producing documentation, including sign-in/sign-out sheets and receipts. The current PEF and CSEA contracts read as follows:

The State agrees, upon continuation of Legislative approval of recommended funds, to continue payment for car tolls over the Triborough Bridge for employees employed at and not residing at facilities on Wards Island, New York, operated by the New York State Department of Mental Health for the reason that (a) heretofore, free ferry service was provided to the Island, which service has been discontinued, and (b) there is no other way for such employees to reach their work by car except over a toll bridge.¹

The Inspector General determined that members of all three unions were misusing their RIO E-ZPasses.

Randall's Island Only E-ZPasses

From 1996 until 2008, OMH provided employees assigned to Randall's/Wards Island with E-ZPasses issued by the MTA-BTA for free passage over the RFK Bridge.² OMH did not incur any expense in providing the E-ZPasses. Rather, the MTA-BTA absorbed the cost of the free passage. The RIO E-ZPass agreement, signed by employees before being issued the E-ZPasses, states that the pass is to be used "ONLY FOR COMMUTATION TO RANDALL'S/WARD'S [sic] ISLAND when reporting for duty." [Emphasis in original]. To visually distinguish them from standard E-ZPasses, the RIO E-ZPasses are orange with "RIO" clearly marked in black letters. The RIO E-ZPass contains no internal mechanism limiting its use by frequency or time of day.

MTA-BTA discontinued the RIO E-ZPass program in 2008 for budgetary reasons, but employees who had previously been issued RIO E-ZPasses were allowed to keep their passes until they ceased employment on Randall's/Wards Island. Employees who commenced employment on the Island after 2008 must pay the toll and then seek reimbursement from OMH's business office by submitting time sheets and receipts.

¹ The language in the NYSCOPBA contract is substantively the same: "The Employer agrees to arrange for work-related passage over the Triborough Bridge without cost for car tolls to employees employed and not residing at facilities at Wards Island, New York, operated by the New York State Department of Mental Hygiene for the reasons that (a) heretofore, free ferry service was provided to the Island, which service has been discontinued, and (b) there is no other way for such employees to reach their work by car except over a toll bridge."

² The Division of State Police is the only other state agency on the Island that has been issued RIO E-ZPasses for its employees' personal vehicles. The Inspector General reviewed the terms and usage of these E-ZPasses and found the State Police employees to be in compliance with their RIO E-ZPass agreements.

OMH Employee Agreements for RIO E-ZPass

Upon receiving their RIO E-ZPass for commuting to work across the RFK Bridge to Randall's/Wards Island, OMH employees signed an agreement promising to abide by its conditions. The employees also were required to provide copies of their driver licenses, vehicle registrations, MPC/Kirby vehicle registration decals and MPC/Kirby identification cards. This investigation revealed, however, that while OMH maintained this information, OMH did not use it to ensure that OMH employees had properly renewed their licenses and registrations.

RIO E-ZPasses were issued for employees' vehicles registered with the facility. Under the agreement, in the event that an employee changes vehicles or license plates, the employee must notify OMH immediately. The agreement states in bold that "Usage of the 'RIO' EZ Pass during the days when the employee is not on duty at MPC/Kirby Forensic Psychiatric Center may result in the removal of the 'RIO' EZ Pass." The employees agree to be present in the vehicle at the time of usage. In addition, the agreement states, "[a]ny personal non-commutation usage at the Triborough Manhattan toll plaza is classified as unauthorized use and is prohibited." [Emphasis in original]. If the employee ceases employment at MPC/Kirby, the agreement requires the employee to return the RIO E-ZPass to OMH. The agreement further states that failure to do so will result in a replacement cost fee and that the employee's final paychecks will be withheld until such payments are made.

Finally, the agreement states: "Employees will be audited for appropriate use of the 'RIO' EZ Pass. The audit will consist of a comparison of the employees' time and attendance records compared to the 'RIO' EZ Pass usage provided by the Metropolitan Transportation Authority Bridge and Tunnel." Despite this requirement, no audit was conducted since the RIO E-ZPasses were first issued in 1996 until this investigation commenced. Had a meaningful audit been performed, the serious abuses of RIO E-ZPasses by OMH employees revealed by the Inspector General's investigation, as described below, could have been prevented.

THE INSPECTOR GENERAL'S INVESTIGATION UNCOVERS PERVASIVE MISUSE OF E-ZPASS BY OMH EMPLOYEES AND FAILURE TO MONITOR USAGE BY OMH

Significant Misuse of the RIO E-ZPasses by Over 100 OMH Employees

After obtaining information indicating that OMH employees appeared to be misusing their RIO E-ZPasses, the Inspector General conducted an examination of all RIO E-ZPass usage by OMH employees of MPC and Kirby during the five-year period from January 1, 2008, to December 31, 2012. This review produced a significant amount of data for each individual issued a RIO E-ZPass, and required extensive analysis. Of the approximately 900 employees assigned to the two facilities during this period, 787 had been issued RIO E-ZPasses.³

The Inspector General focused on employees who had used their RIO E-ZPass more than 300 times a year – a benchmark reflecting usage substantially in excess of the number of times an employee would commute to Randall's/Wards Island annually assuming full-time employment and possible overtime. The Inspector General's review, assisted by the MTA Inspector General, entailed a comparison of the RIO E-ZPass usage reports for the employees with their OMH time records.

The Inspector General then calculated the amount that each employee owed for improper usage from the number of improper trips traveled over the toll bridge adjusted to reflect the E-ZPass toll rate at the time of the trip.⁴ The Inspector General determined that some OMH employees used the RIO E-ZPass five or six times a day, on weekends, pass days, and even while on vacation or otherwise out of the office for non-business purposes.

The over 100 significant abusers of the RIO E-ZPass represented a cross-section of OMH employees, including a social worker, a psychiatrist, security staff, and housekeeping staff. The following represents examples of RIO E-ZPass misuse by OMH employees:

³ Those not issued E-ZPasses represent management/confidential employees and those employees who started working on the Island after 2008 when the MTA ceased issuing new RIO E-ZPasses for budgetary reasons.

⁴ From 2005 through March 15, 2008, the E-ZPass toll rate was \$4. From March 16, 2008 through July 11, 2009, the E-ZPass toll rate was \$4.15. From July 12, 2009 through December 29, 2010, the E-ZPass toll rate was \$4.57. From December 30, 2010 through March 2, 2013, the E-ZPass toll rate was \$4.80. From March 3, 2013 to the present, the E-ZPass toll rate is \$5.33. The RIO E-ZPass rate is the same as any other E-ZPass rate. The toll is higher for each of these periods when paying in cash.

- A Social Worker II used his RIO E-ZPass an average of 804 times a year (which represents crossing the RFK Bridge more than twice a day every day of the year – more than double the intended frequency), amounting to \$12,510.28 in inappropriate toll charges. The Social Worker II has entered into a restitution agreement with OMH.
- A Psychiatrist I used his RIO E-ZPass an average of 561 times a year from 2008 to 2012, far in excess of the once-a-workday limitation on use of the pass, amounting to \$7,681 in improper toll charges. The Psychiatrist I has entered into a restitution agreement with OMH.
- A Security Hospital Treatment Assistant, who was absent from work for various reasons for an entire two-year period except for the day he filed his retirement paperwork, accumulated \$6,785 in improper RIO E-ZPass charges, representing 1,673 trips over the RFK Bridge, many of which took place after he retired. Specifically, this former employee claimed that from January 1, 2008, through September 22, 2009, he was on sick leave, leave without pay, leave with pay, vacation or personal days. The only day he reported to work was September 23, 2009, the day he filed for retirement. He then continued using the RIO E-ZPass until November 25, 2009. This investigation determined that he used his RIO E-ZPass 940 times on 324 days in 2008, an average of 2.9 trips over the bridge each day. In 2009, he used his RIO E-ZPass 733 times on 263 days (through November 25, 2009), an average of 2.8 times a day. OMH is seeking restitution from the Security Hospital Treatment Assistant.
- A Mental Health Therapy Aide used his RIO E-ZPass an average of 427 times a year, including 269 rides over 10 months after he ceased working at OMH, amounting to \$4,482 in inappropriate toll charges. The Mental Health Therapy Aide has entered into a restitution agreement with OMH.
- A Safety and Security Officer II, who left OMH to work for another state agency on June 30, 2011, continued to use his RIO E-ZPass for the next year. All of his post-June 30, 2011 usage, which amounted to 470 trips over the RFK Bridge, violated the RIO E-ZPass Agreement. Over the five-year period from January 1, 2008 through December 31, 2012, which included time before and after his job change,

the officer misused his RIO E-ZPass 1,629 times, amounting to \$3,864 in improperly charged tolls. The Safety and Security Officer II has entered into a restitution agreement with OMH.

Failure to Conduct Required Audits Resulted in Undetected Abuse

As noted, the RIO E-ZPass Agreement states that employees to whom passes are issued “will be audited for appropriate use.” In fact, the agreement describes the means for conducting such an audit: “a comparison of the employees’ time and attendance records . . . to the ‘RIO’ EZ Pass usage.” The Inspector General found that the MTA-BTA sent a monthly report of RIO E-ZPass usage to OMH that was forwarded to the business office on Randall’s/Wards Island responsible for oversight of the RIO E-ZPass program. However, despite being in possession of the data necessary for performing an audit, the OMH business office never did so. Current business office employees interviewed by the Inspector General acknowledged that former business office staff received the monthly usage report from the MTA-BTA, but filed them away without review. These current employees further stated that while the formerly employed business office staff should have performed an audit, none was ever conducted.

The Inspector General also found that the business office failed to ensure that employees surrendered their RIO E-ZPasses upon cessation of their employment on Randall’s/Wards Island, or even during leaves of absence. The consequences of this shortcoming are evident, as noted above, in the continued use of the passes by employees after they left the employ of OMH. OMH business office staff who neglected to collect these RIO E-ZPasses are no longer employed by OMH, as are the staff who failed to conduct the audits.

Review of E-ZPass Usage Revealed Time and Attendance Issues and More Serious Offenses

In some cases, a review of the employees’ E-ZPass usage revealed other misconduct in addition to the E-ZPass abuse itself. Many employees’ E-ZPass records revealed time and attendance issues, such as tardiness for work or leaving the Island during scheduled breaks, but far exceeding the permissible break time. One employee’s E-ZPass records revealed that he was driving while his license was suspended for failure to renew his license. Many of the physicians who work at the OMH facilities on Randall’s/Wards Island also work at other hospitals on their

days off and after hours. The E-ZPass records of some of the physicians interviewed showed they were double-billing by claiming to still be at work at one of the facilities on Randall's/Wards Island while simultaneously claiming to be working at another hospital and receiving pay from both. While the length of each instance of overlapping time was relatively minimal, this double-billing occurred consistently over extended periods of time.

FINDINGS AND RECOMMENDATIONS

The Inspector General's investigation revealed widespread and longstanding abuse of the RIO E-ZPass program by OMH employees on Randall's/Wards Island. Significantly, the investigation identified over 100 employees who engaged in flagrant misuse of the RIO E-ZPass, using it on weekends, holidays, and, in some instances, after they had ceased OMH employment. The Inspector General further found that no audit of the employees' E-ZPass usage had been conducted prior to this investigation. Had an audit been performed, the OMH employees' misuse of the E-ZPasses could have been prevented.

To date, the Inspector General, with assistance from OMH, has secured from over 100 OMH employees either full payment or restitution agreements to repay the state for their RIO E-ZPass misuse totaling \$275,769. The Inspector General recommends that OMH conduct a comprehensive audit of the remaining employees in possession of RIO E-ZPasses and recoup funds from those who misused them. OMH should also review the time and attendance abuse revealed by this investigation and take appropriate action.

OMH should also audit the physicians who appear to have been double-billing by claiming to still be at work at one of the facilities on Randall's/Wards Island while simultaneously claiming to be working at another hospital and receiving pay from both, and recoup any unearned funds. The Inspector General has referred these physicians to the Department of Health's Office of Professional Medical Conduct for appropriate action.

The Inspector General further recommends that OMH and MTA-BTA terminate OMH employees' use of the RIO E-ZPasses for commuting to Randall's/Wards Island. In its place, OMH should devise a new system to properly compensate employees for their commute to work.

In addition, regular audits of the new system must be conducted, with future violators subject to discipline or prosecution as warranted.

RESPONSE OF THE OFFICE OF MENTAL HEALTH

OMH has agreed to the recommendations of the Inspector General. Specifically, OMH has implemented an audit process of RIO E-ZPass usage, and is reviewing assigned RIO E-ZPass devices to ensure that they are collected and deactivated upon employee separation from OMH. In addition, OMH is pursuing disciplinary action against those employees who have abused their E-ZPass privileges.

OMH is also seeking restitution for recovery of improper payments from the physicians identified by the Inspector General who appear to have been paid for time worked at two hospitals simultaneously, and is pursuing disciplinary action. OMH is reviewing outside and dual employment agreements for physicians to determine whether such agreements are appropriate, and is issuing guidance and conducting training on outside and dual employment.

OMH is also reviewing concerns raised by the Inspector General regarding time and attendance abuse, and is issuing reminders to supervisors regarding their responsibility to oversee and certify employees' reported time and attendance.

The MTA-BTA is terminating the OMH employees' RIO E-ZPasses within 90 days of the issuance of this report.