



LUCY LANG
Inspector General

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May 10, 2024

Kerri E. Neifeld
Commissioner
New York State Office
for People With Developmental Disabilities
44 Holland Avenue
Albany, New York 12229

Re: NYSIG 0913-031-2023

Dear Commissioner Neifeld:

On March 24, 2023, the New York State Office for People With Developmental Disabilities (OPWDD) alleged to the Offices of the New York State Inspector General that four maintenance supervisors working at OPWDD's Taconic Developmental Disabilities Services Office (DDSO) were improperly collecting "standby on-call" pay while working overtime shifts and collecting overtime pay. The following is a summary of the findings and recommendations stemming from the Inspector General's investigation of this allegation.

According to the Office of the New York State Comptroller (OSC), Bureau of State Payroll Services:¹

Standby on-call is additional compensation authorized by the [New York State Division of the Budget] Director of the Budget for employees eligible to accrue overtime credits *who are required to be available for immediate recall, and who must be prepared to return to duty within a limited period of time.*

The compensation is due for each shift that an employee *is scheduled to remain, and actually remains available, for recall* and is computed on the basis of the work-day rate including any additional salary factors.

An employee who occupies a position in the CSEA or PEF units is eligible to receive standby pay for each 8-hour shift on standby in addition to any overtime or recall pay he or she may be entitled to upon being recalled to work. (Emphasis added.)

Additionally, under "Recall," the OSC Payroll Manual states:

¹ See, [https://web.osc.state.ny.us/payroll/files/information/payrollsystem/files/payserv_manual/online_manual/Content/Earnings%20Manual/Time%20Entry%20Payments/Standby%20On-call.htm#:~:text=Standby%20on%2Dcall%20is%20additional,a%20limited%20period%20of%20time. one\).](https://web.osc.state.ny.us/payroll/files/information/payrollsystem/files/payserv_manual/online_manual/Content/Earnings%20Manual/Time%20Entry%20Payments/Standby%20On-call.htm#:~:text=Standby%20on%2Dcall%20is%20additional,a%20limited%20period%20of%20time. one).)

A recall situation differs from an overtime situation in these respects: (1) An *employee must have completed the normal workday and left the work site when called to come in;* and (2) *Work performed in the recall must not join, coincide or overlap the normal workday.*” (Emphasis added.)²

Thus, per policy, an employee is prohibited from simultaneously receiving pay for both standby on-call and scheduled overtime.³

The Taconic DDSO Work Control Center is responsible for maintenance at regional OPWDD facilities and more than 100 resident group homes in the five counties overseen by the DDSO.⁴ During the period reviewed in this investigation, the department employed a staff of approximately 16, of which four held the title of maintenance supervisor at various times. Generally, maintenance supervisors are responsible for coordinating work orders for staff and responding to emergency maintenance calls at the facility and group homes.

To accomplish this, the Taconic DDSO maintenance supervisors have received authorization from the director of the budget for standby on-call status. According to the Taconic DDSO plant superintendent, as the need for emergency maintenance can occur at any time, Taconic DDSO requires a maintenance supervisor be on standby on-call status weekdays from 4 p.m. through 7:30 a.m., and during weekends and holidays. While on standby on-call duty, a maintenance supervisor receives 25 percent of their base pay for their shift.

Much like an after-hours dispatcher working while off regular duty and away from the facility/office, a maintenance supervisor on standby on-call duty may receive requests for emergency maintenance from group homes or OPWDD facilities. When they do, they may delegate emergency maintenance tasks to other employees⁵ or contractors or undertake the work themselves. In any case, the maintenance supervisor will continue to receive the standby on-call premium of 25 percent of their base pay. For example, if the maintenance supervisor *delegates* the emergency maintenance task to employees or contractors, the supervisor will only receive the standby on-call premium. In instances where a maintenance supervisor receives a request for emergency maintenance and chooses to undertake the repair themselves, they then begin “recall” status and receive recall pay along with their standby on-call premium. This differs from overtime status, which is for *scheduled* maintenance and must be approved in advance.

The plant superintendent further advised that at a minimum, from 2021 through 2023, the DDSO’s maintenance team was short staffed and included only two maintenance supervisors eligible for standby on-call duty. As such, the two rotated being on standby on-call duty during weekday afterhours, weekends, and holidays. Subsequently, in August 2023, two additional maintenance supervisors became eligible for standby on-call duty. According to the plant superintendent, despite this addition of two maintenance supervisors, the maintenance team still remained understaffed, and he had no choice but to allow maintenance supervisors to work and be paid for their regular hours and any overtime necessary to complete tasks, *and to also simultaneously collect standby on-call premiums*. Consequently, in 2023, one senior

² <https://www.osc.ny.gov/state-agencies/payroll/payroll-manual/recall>.

³ Neither OSC guidance nor OPWDD policy *explicitly* states that standby on-call duty and scheduled overtime are mutually exclusive.

⁴ The five counties include Putnam, Dutchess, Columbia, Greene, and Ulster Counties.

⁵ Off-duty maintenance personnel who are not on standby on-call are not obligated to accept maintenance requests.

maintenance supervisor whose base pay was \$83,549 made approximately \$232,520, while another, whose base pay was \$64,319 made approximately \$190,247. Despite a violation of OSC's guidelines regarding simultaneously collecting standby on-call premiums while working scheduled overtime, the Inspector General found no fraudulent activity on the part of either of these employees, but rather an attempt by employees and supervisors of a short-staffed unit to ensure proper servicing of OPWDD facilities.

Given the DDSO's staffing levels; its requirement that a maintenance supervisor be on standby on-call status during weekday afterhours, weekends, and holidays; and the plant superintendent's direction to his subordinates, the Inspector General's investigation did not find evidence of fraud or misconduct on the part of the maintenance supervisors. Therefore, I have determined that this matter is more appropriate for OPWDD to address.

I recommend that OPWDD review with all staff the requirements for the proper use and recording of standby on-call, recall, and overtime hours, and monitor staff compliance with the same. Additionally, I recommend that OPWDD explore electronic systems for scheduling of staff for standby on-call, recall, and overtime hours and the supervisory approvals for the same. I would also emphasize the need for OPWDD to prioritize hiring for these critical maintenance positions, as dividing a workload of this size among a depleted staff invariably results in an inefficient, if not wasteful, use of overtime hours and other standby or on-call premiums.

Please advise me of any action taken by OPWDD in response to this referral within 45 days of the date of this letter. If you have any questions, please contact Deputy Inspector General James R. Davis at [REDACTED].

Sincerely,



Lucy Lang
Inspector General

cc: Eileen M. Haynes, Esq.
Deputy Commissioner and General Counsel