

**Audit Report on Onondaga County
Adult Protective Services – Court Ordered
Guardianship Trust Agreements**

August 2023

By Onondaga County Comptroller Martin D. Masterpole

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Section I

Introduction and Background

Adult Protective Services (APS) is a state-mandated service that all counties in New York State are required to provide with the aim of keeping vulnerable adults (persons 18 years of age or older) safely living in the community or in the least restrictive alternative. The term vulnerable encompasses numerous factors such as abuse, neglect and/or exploitation. The person must reside in the county, suffer from a mental or physical impairment and have no one willing or able to assist them. APS is one of three components of the County’s Department of Adult & Long Term Care Services. Other components include the Office for Aging and the Long Term Care Resource Center. APS reports data to, and receives regulatory guidance from, the New York State Office of Children and Family Services (NYS OCFS).

Services provided by APS include safety monitoring, formal and informal money management and assistance applying for benefit programs like Social Security, Supplemental Security Income (SSI) and/or Temporary Assistance (TA). APS can also connect clients to community-based service providers for issues related to their health, mental health and/or aging. If appointed by the Social Security Administration, APS can act as a representative payee to manage the client’s finances. In some cases, the care of an individual’s person and property requires the County to seek a court ordered guardianship. This audit will focus on APS department’s Court Ordered Guardianship Trust Agreement cases.

The staff of Department of Adult & Long Term Care Services includes a Commissioner and a Deputy Commissioner. A Director oversees the APS unit. The staff overseeing Guardianship and Representative Payee cases in APS includes:

<i>Representative Payees</i>		<i>Guardianships</i>	
2 Case Supervisors	86 cases	2 Sr. Caseworkers	39 cases
9 Caseworkers		2 Caseworkers	
9.55 cases per Caseworker		9.75 cases per Caseworker	

APS cases originate with referrals made in person, by telephone, regular mail, electronic mail, etc. and referral sources may choose to be confidential or anonymous. Sources include medical professionals, teachers, social workers, neighbors, friends and family members. All referrals made to APS are required to have an investigation performed and an assessment made of the possible needs and risk of harm to the person who is suspected of being abused, neglected or exploited.

Per the New York State Office of Children and Family Services, APS will visit the adult’s home within 3 working days or, in the event of a life-threatening situation, within 24 hours. APS then has sixty days to assess each referral and make a determination. APS has the legal authority to request medical and/or financial records. If a crime is suspected, APS is required to make a report to a law enforcement agency.

The referred cases are accepted if the person meets the APS client characteristic standards as set forth in Section 473 of the New York State Department Social Services law. Those criteria dictate a person must:

- Be an adult, 18 years of age or older, and have a mental or physical impairment **and**
- Be at risk of harm, whether by their own or others' actions, or have an unmet need **and**
- Have no one able and willing to responsibly assist them

When a referral meets all three criteria, it is assigned to an APS caseworker and the person in need becomes a client of APS. The next steps are for the assigned caseworker to develop a service plan that aims to address unmet, essential needs. In guardianship cases, such a service plan must adhere to the Court Ordered Guardianship Trust Agreement. To monitor and manage client cases, case assessments are supposed to be held every 6 months. Those case assessments are held with, and need to be signed off on by, an APS Sr. Caseworker or a Supervisor. APS also has a system in which caseworkers meet each Thursday with the County Attorney, the APS Supervisors and the APS Director to discuss the status and needs of clients.

When a client's service plan calls for APS to act as a representative payee or guardian of property, the caseworker is required to provide financial management services that track and manage all of their client's financial information. New York State Department of Social Services Administrative Directive 83 ADM-15 provides APS with the requirements to establish a financial management system and to develop and implement written procedures to maintain a financial accountability of each client and ensure effective delivery of financial management services to clients.

Vulnerable adults have the right to self-determination and have a right to live in the least restrictive environment unless the individual is determined to be medically incompetent or legally incapacitated by a court ruling. It is important to note that APS has no legal authority on its own to remove any person from their home or other setting, or to take any involuntary action. APS must request action from the court or some other official authorized to take such action (e.g., law enforcement, mental health, or developmental disabilities officials.) Crisis interventions can be sought if the person, because of an impairment, is incapable of making the choices necessary to remove the endangering condition. Those interventions include:

- Short-term involuntary protective services orders
- Orders of protection
- Admission to a psychiatric facility
- Admission to a developmental center
- Long-term involuntary interventions, such as seeking guardianship of persons who lack capacity and need protection to care for their person, their property, or both.

Source: <http://ongov.net/aps/guardianships.html>

After a thorough assessment of a client's situation, if there is evidence of a serious threat to their safety and well-being, APS is obligated to secure services to ensure the client's safety.

Once enough information is collected to demonstrate the person in question cannot manage their activities of daily living in a safe and appropriate manner, the case is sent to the County Attorney's office for the filing of a petition seeking a court ordered guardianship of a person, and/or their property. Once

guardianship has been established, APS appoints a caseworker to manage the client's needs as established in the Court Ordered Guardianship Trust Agreement. While the APS staff must respect the individuals' right to self-determination, they also have the legal responsibility to address the need for necessary services to persons who require them. The authority to protect the life and property of unwilling clients is established by Social Services Law, New York Mental Hygiene Law, the Family Court Act, Public Health Law, the Surrogate's Court Procedure Act and in case law. New York State Department of Social Services Administrative Directive 88 ADM-023 serves as a guide for the County to pursue their legal responsibility to protect client(s) who oppose necessary intervention.

New York Mental Hygiene Law Article 81 mandates a guardian shall exercise the utmost care and diligence when acting on behalf of an incapacitated person. Some responsibilities of a guardian include:

Guardian over the Person:

- Providing proper care, maintenance, education, and support.
- Supplying food, clothing, shelter, home care visits and other necessities.
- Authorizing medical, surgical, dental, psychiatric, and psychological care.
- Providing resources including visiting nurses, homemakers, home health aides, adult day care or residential facilities as needed and acting as a health care proxy.
- Making sure the protected person is properly trained and educated, and that the person has the opportunity to learn a trade, occupation, or profession.
- Filing an Initial Report of the Guardian within 90 days of the commission to guardian stating what steps the guardian has taken to fulfill his or her responsibilities.
- Completing an Annual Report of the Guardian letting the court know how the protected person is doing.

Guardian over the Property:

- Protecting, preserving, managing, and disposing of the estate according to law and in the best interest of the protected person.
- Using the protected person's estate for the proper care, maintenance, education, and support of the protected person and anyone to whom the protected person owes a legal duty of support.
- Filing an Initial Report of the Guardian within 90 days of the commission to guardian stating what steps the guardian has taken to fulfill his or her responsibilities.
- Filing an Annual Report of the Guardian with the accounting detail of the estate's income, assets, and expenses. A hearing is required for the judge to review and approve the accounting.

Although there are basic guidelines for duties of a guardian, the individual's actual Court Ordered Guardianship Trust Agreement governs the specific authority and responsibilities of the guardian. A guardian may exercise only those powers they are authorized to exercise by the court agreement.

Additionally, in some rare cases, there may be other elements to consider such as dual guardianship of person and/or property or the existence of a revocable or irrevocable trust agreement.

Section II

Executive Summary

During the course of the audit, we noted:

- The Adult Protective Services unit has no written procedures manual to facilitate the NYS Office of Child and Family Services policies for current staff and administrators. Additionally, there is no written training plan for the new staff.
- A copy of the APS's most recent Social Security Administration Audit Report (from 2019) was requested but could not be provided. Previous SSA Audit Reports as well as reports from other agencies providing guidance and oversight (e.g. NYS Office of Child and Family Services) were also not provided.

In the testing 15 of the 39 guardianship cases, we noted the following:

- In several instances, client data in the service plan was not accurate and the cases were not handled according to the terms of the client's Court Ordered Guardianship Trust Agreement.
- No cases files contained a client budget plan.
- No case files had documentation of accountability of the clients' daily income and expense transactions for the APS Department.
- No cases had documentation of financial reconciliation between the records maintained by APS and the actual transactions processed by Financial Operations.
- Client progress notes were missing from case files.
- Client progress notes did not always document follow-up of medical and personal care requests as respective client issues arise.
- Supporting financial documentation and required forms are missing from some case files.
- An annual New York State Court Examiners' Reports was filed late for several cases.
- In two cases, there were findings that were noted in a previous Trust Account audit.
- There were inadequate internal controls over credit cards maintained by APS staff that are used to meet the basic needs of clients.

**** The information above is detailed in the Findings section, located on page 9.**

Based on the audit findings, we recommend the following:

- Adult & Long Term Care Services and APS administrators should develop resources for staff that includes a procedures manual for current staff and administrators and an onboarding/training plan for new staff. All resources should align with the New York State Office of Children and Family Services (NYS OCFS) regulatory guidelines and should be available in hard copy or electronically.
- Adult & Long Term Care Services and APS administrators should locate and provide the Comptroller's Office with a copy of the latest version (prior to 2019) of any Social Security Administrative audit reports that are on file as well as any reports from the New York State Office of Children and Family Services or other sanctioning bodies that are on file.
- APS Guardianship staff should update all client profiles in the New York State ASAP system to accurately reflect the information in the Court Ordered Guardianship Trust Agreement of APS clients.
- APS Guardianship staff should handle all Guardian client cases according to the conditions in the written Court Ordered Guardianship Trust Agreement.
- Adult & Long Term Care Services and APS administrators should develop a system for tracking the client's flow of daily transactions to include retaining necessary supporting documentation.
- Adult & Long Term Care Services and APS administrators should develop and implement a reconciliation process between the APS unit and Financial Operations. Reconciliations should be completed, quarterly at minimum.
- Adult & Long Term Care Services and APS administrators should consider using the ASAP system's financial component for tracking clients transactions or provide an alternative system.
- APS administrators should emphasize the thorough and timely recording of client progress notes. Progress notes should clearly reflect the personal and medical care provided to clients and when it was provided.
- Adult & Long Term Care Services and APS administrators should ensure the annual New York State Court Examiner reports are submitted on time.
- Due to the importance and complexity of their work, Adult & Long Term Care Services and APS administrators should create a written plan for how they will provide services, meet with clients, document client progress and file timely reports in the event of another large-scale emergency like COVID-19.
- Adult & Long Term Care Services and APS administrators should develop and implement a process to have APS supervisors regularly review progress notes, budget sheets and account reconciliations for each open Guardianship case.
- Adult & Long Term Care Services and APS administrators should design and implement internal control procedures for the client store credit cards for local retailers. Control procedures should include a quarterly reconciliation.

Section III

Scope and Methodology

The Comptroller's Office performed a programmatic audit of Adult Protective Services Guardianships for the period of January 1, 2021 through August 31, 2022.

The objectives of the audit were:

- To obtain an understanding of Adult Protective Services policies and procedures.
- To gain reasonable assurance APS has adequate policies and procedures in place to support their efforts in addressing the needs of vulnerable adults according to the laws, administrative directives and where applicable, respective Court Ordered Guardianship Trust Agreement.
- To evaluate and report on compliance with laws, regulations, policies and procedures in regards to the Adult Protective Services Guardianships.
- To evaluate and report on the effectiveness and efficiency of internal controls relating to the handling of clients financial affairs entrusted to the department.

Methodology:

In order to complete the audit objectives we:

- Reviewed laws, policies, procedures and regulations to attain an understanding of Adult Protective Services.
- Reviewed case files and progress notes to obtain an understanding of their content and as a means to document the services provided to their clients as required according to the laws, administrative directives and Court Ordered Guardianship Trust Agreement.
- Interviewed staff and management responsible for oversight and implementation of the APS Guardianships.
- Completed transaction testing to determine compliance, reviewed controls and verified the required documentation to support the client's income and expenses.
- Performed a walk-through and test of controls to evaluate their effectiveness as related to the proper segregation of duties, supervision and reconciliation.
- Reviewed hard copies of the client progress notes provided by the APS department to ensure completeness and compliance.
- Reviewed and discussed our findings and recommendations with the department's management for inclusion of this report.

Section IV Findings

1. We noted Adult Protective Services unit has no written procedures manual to facilitate the NYS Office of Child and Family Services policies for current staff and administrators. Additionally, there is no written training plan for the new staff.
2. We noted when the Comptroller's Office requested a copy of the most recent (2019) Social Security Administration Audit Report from APS, neither the current management nor the County Administrator of Human Services were able to locate a copy. SSA Audit Reports prior to 2019, as well as reports from other agencies providing guidance and oversight (e.g. NYS Office of Child and Family Services), were also not provided to the Comptroller's Office.
3. We noted in 6 of the 15 tested case files, the classification that categorizes the extent of APS's responsibilities to the client's overall well-being in the client's Service Plan did not match what was in the court ordered Court Ordered Guardianship Trust Agreement.

Client Number	Client Service Plan per the Departments ASAP system	Client's Guardianship Trust Agreement	Guardianship Trust Agreement Date
0923	Property only	Property & Person	11/22/2017
4429	Property only	Property & Person	3/12/1999
9364	Property only	Property & Person	12/8/2020
4510	Property only	Property & Person	2/4/2019
1957	Representative Payee	Property & Person	10/20/2020
XXXX	Temporary Guardian	Property & Person	9/23/2019

4. We noted a number of issues for each of the three cases below:

CASE # 1957

- This case has a Court Ordered Guardianship Trust Agreement effective 10/20/20 that makes APS responsible for the client's property and person. Despite this, it is listed as a Representative Payee case in the client's service plan.
- Per the progress notes, on several occasions the client requested money for, or assistance in obtaining, a cell phone, a laptop, clothing and dental procedures. According to the progress notes, the client has become very frustrated and has made numerous calls to the Department of Social Services-Economic Security (DSS-ES) and other County offices.

Further, the progress notes, state the client has an ongoing Irrevocable Trust that has been set up for her benefit (since 10/20/14) to pay for the additional expenses that are above and beyond her basic living expenses. Due to the complexity of this case it is recommended, that the assigned APS caseworker develop a working relationship with the Trustee of the Irrevocable

Trust to help facilitate a more pleasant and comfortable life for the client according to the demands of the Irrevocable Trust Agreement. The Irrevocable Trust agreement states:

"The express purpose of this Trust is to provide for (CLIENT NAME), extra and supplemental care, maintenance, support and education in addition to and over and above the benefits the beneficiary may otherwise receive as a result of her handicap or disability from any local, state or government or any other public or private agencies, any of which provide services of benefit to persons who are handicapped or disabled. It is the express purpose to use the trust estate only to supplement other benefits received by the beneficiary. To this end, the Trustee may provide such resources and experiences as will contribute to and make the beneficiary's life as pleasant, comfortable and as happy as feasible. Nothing herein shall preclude the Trustee from purchasing those services and items which promote the beneficiary's happiness, welfare and development, including but not limited to, vacation and recreation trips away from places of residence, expenses for traveling companions if requested or necessary, entertainment expenses, supplemental medical and dental expenses, social services expenses and transportation costs. This trust is to be considered as a discretionary and not a basic needs trust."

- APS is responsible for paying the client's bills however, per the progress notes and supporting documentation, the client's Spectrum account was past due at times and the account cannot be reconciled because the March, April, June & September 2022 statements are missing.

Additionally, it was noted, there were three different Spectrum account numbers for the client:

- July 2021 - #202-776861607-001
- May 2022 - #202-777728011-001
- August 2022 - #8358 10 002 0067715

The most current month reviewed was August 2022 and there was a credit balance of \$128.92 and a current monthly charge of \$69.98. It was also noted that several different methods have been used for payments including auto payments, checks and gift cards.

CASE # 4429

- The client has a Court Ordered Guardianship Trust Agreement dating back to March 12, 1999 and is a long-term client of APS. As the result of a subway train accident, the client was deemed incapacitated and unable to make reasoned decisions. It was noted the New York State ASAP database has Onondaga County listed as Guardian of only the client's property. However, the agreement states Onondaga County was appointed Guardian of her person and property pursuant to Article 81 of the Mental Hygiene Law. It was noted in the progress notes the client care provided was not reflective of the directives set forth per the Court Ordered Guardianship Trust Agreement.
- Per progress notes from 5/5/21 and 2/17/22, the client is receiving \$200.00 per month. The client's court ordered Court Ordered Guardianship Trust Agreement, dated 3/12/99, states the client is supposed to receive \$400.00 monthly.

- After review of the progress notes, the housing provided to the client did not appear to provide the client with a safe environment that accommodated and supported the client’s daily living needs per the Court Ordered Guardianship Trust Agreement. Examples include:
 - APS placed the client at a local Rodeway Inn hotel. The client was at the hotel for a month (2/17/22 - 3/17/22) but then the hotel management had to hire a cleaning company to address the client’s unkempt, unsanitary and odorous room. Hotel management subsequently denied the client re-entry.
 - The client next slept at the Rescue Mission shelter from 3/17/22 – 11/1/22. However, the Rescue Mission homeless shelter doesn’t allow residents to be at the facility during the daytime so the client had no home or safe place to be until the Rescue Mission opened up for the night.
 - Progress notes state the client was struck by a car on two separate occasions. The first incident occurred on 10/24/21. The client was treated for spine and eye injuries at Upstate hospital, released and transported to Van Duyn Center on 11/30/21 for rehabilitation. It could not be determined if the client received any medical follow-up or caseworker contact as there were no progress notes on file from 12/30/21 - 2/15/22.
 - Progress notes for 7/11/22 indicate staff at the Rescue Mission informed APS that the client was hit by a car sometime in June 2022 at Gifford and West Streets in Syracuse.
 - Per the progress notes on 11/1/22, the client received keys to an apartment where she and five other individuals rented a room. On 11/8/22, the client made a visit to the County Department of Social Services – Economic Security seeking food. The APS Caseworker provided her with food, ostomy supplies and issued a \$30.00 check. It was noted the client became upset and said all her food is gone. She also conveyed that she could not go back to the apartment because another resident will “smash her head”. The caseworker reported it did not appear there were any signs of abuse on her face and advised her to file a police report related to the threat.
- According to progress notes, the client made several complaints to the caseworker regarding medical issues. After reviewing the progress notes, there was no indication of caseworker taking the client to a doctor or securing a person to escort the client to a doctor. Examples include:
 - On 4/15/21, progress notes said the client complained about right arm weakness.
 - Progress notes on 4/20/21, indicated that Helio Health said the client had Hepatitis C and possible liver damage.
 - On 5/13/21, progress notes said the client complained about a sore foot and the caseworker indicated in the notes that the client’s foot was swollen.
 - On 7/21/21, progress notes said the client complained about her leg hurting.
 - On several occasions, the client has asked for ostomy bags/supplies.

- On several occasions, the client is described as being dirty and smelling of urine.
- On a visit to the Civic Center on 12/5/22, the client requested cigarettes, money and/or a benefit card to get groceries. Department provided client with 2 packs of cigarettes and observed her hands were swollen and her fingers were burned. It was suggested by the APS Caseworker that the client go to the doctor to get her hand checked out. Client asked for ostomy supplies and was provided with the last of the supplies and told to call the doctor for a new script. Client was told to come back tomorrow to receive a card.

CASE # XXXX

(NOTE: Client Social Security numbers are used as case numbers. This client is not a U.S. citizen and therefore, has no Social Security number.)

- Per the Court Ordered Guardianship Trust Agreement effective 9/23/2019, Onondaga County is guardian of this client’s person and property. The progress notes indicate the client had been in Hutchings Psychiatric Center since January 2019. According to the progress notes on 12/8/21 the client’s Temporary Assistance was suspended until the client had a discharge date from Hutchings. On 12/16/21, the progress notes indicate the caseworker received an email stating the client was functioning well and ready for discharge from Hutchings. As of 12/30/22, the progress notes indicated the client was still in Hutchings and waiting for a place to stay.
 - Per the 3/18/22 progress notes, the social worker at Hutchings asked the APS caseworker about getting some clothing for the client. On 4/22/22, the caseworker received an email from the Commissioner of Adult & Long Term Care instructing her how to complete a purchase requisition for the needed items. The client did not receive clothing until 7/5/22.
 - The 3/21/22 progress notes indicate the client, who is not a U.S. citizen, had an expired Green Card as of June 2021. The notes also show that, per a conversation with Temporary Assistance (TA) Deputy Executive Commissioner, the client would not be able to get Temporary Assistance with an expired Green Card. It was recommended that APS get in touch with Immigration Services as soon as possible to obtain the documentation necessary to expedite the process of re-activating the client’s Green Card.
5. We noted in 3 of 15 tested cases client progress notes were missing greater than 90 days (see chart below). As a result, it cannot be determined if the clients received follow-up medical and personal care as required by the Court Ordered Guardianship Trust Agreement, during this time.

Client ID	Progress Notes-Missing > 90 days	No Supervisor Assessment completed due to missing progress notes
7172	1/1/2021 - 9/19/2021	X
3156	1/4/2021 - 9/18/2021	X
XXXX	2/18/2021 - 9/26/2021	

6. We noted in 4 of 15 tested cases, client progress notes do not support the Department’s extent of

responsibilities with the follow-up medical and personal care as required by the Court Ordered Guardianship Trust Agreement.

- **CASE # 3156**

Onondaga County is the guardian of person and property for this client. Per the progress notes, the client fell out of her chair on 12/9/22 and again on 12/13/22. The client died on 12/14/2022. The client was living at Central Park at the time of her passing. It is unclear as to what happened as there are no progress notes written regarding follow up to report of client fall(s). Additionally, there was no medical report found in the client file. A doctor's report was requested. Caseworker was not able to provide any additional information regarding the incident.

- **CASE # 5788**

Onondaga County is the Guardian of property for this client. The client's daughter is the Guardian of his person. The client suffers with physical and mental impairments due to having a stroke. The client is residing at Van Duyn Center. Per the progress notes, on 2/25/21 an email was received by APS from the daughter requesting help in getting an electric wheel chair for her father. In the email, the daughter requested money from his account to cover the cost. On 5/24/2021, 3 months later, the client's daughter inquired a second time as to the progress of getting the electric wheelchair. There is no indication in the progress notes as to the outcome of the guardians' request for the wheelchair was approved or denied.

- **CASE # 9376**

Onondaga County is the Guardian of person and property for this client. Per progress notes from 9/13/21, the unit manager at Upstate at Community Hospital made a recommendation the client have a 1:1 aide because the client was not able to speak due to having had a stroke. Progress notes also reference the client's behavioral frustration with these conditions. There is no indication in the progress notes concerning the client receiving the 1:1 aide and speech therapy.

- **CASE # 4510**

Per the progress notes, client's aunt/guardian passed away and Onondaga County was appointed guardian of person and property on 2/4/2021. The progress notes indicate the client had a hard time with the transition and has been in and out of group homes during a six-month period of time often staying with neighbors and friends. The client was physically removed a few times from the deceased aunt's home. At one point APS paid for a motel stay.

On several occasions the client was admitted to the area hospitals and eventually, on 3/19/2021, received a psychiatric evaluation and was diagnosed with a developmental disability. Per the progress notes, there is no follow-up regarding the client's condition. There are no progress notes to support services provided to address the client's disabilities.

7. We noted for 8 of 15 client cases, the annual NYS Court Examiners reports were filed late. Every guardian is required to file an annual NYS Court Examiners report in the month of May by order of the NYS Supreme Court to provide all the relevant client information requested according to NYS Mental Hygiene Law Article 81.31.

8. We noted the Department's store credit cards were not maintained in a secure location.

9. Based on our reconciliation with the store's credit card Inventory report and the APS's Inventory report, we determined APS should have been in possession, three additional cards. This represents a control weakness.
10. We noted for all 15 cases, we were unable to determine how caseworkers manage the client's finances, as the department could not provide financial or budgetary records.
11. We noted there is no financial tracking of the client's daily income and expense transactions. The APS department is currently using the Financial Operation's report of processed transactions to create a spreadsheet of client activity.
12. We noted a reconciliation is not prepared between the expenses submitted by APS to the actual expenses processed by Financial Operations to ensure that there are no errors in the client's respective trust accounts.
13. We noted the following two findings were brought to the attention of the Chief Fiscal Officer in our previously released audit report of the Social Welfare Trust and Agency account in September 2021 and have not been corrected.
 - **CASE # 9364**
Per the Excel spreadsheet and the Financial Operations report provided, the Social Security Deposits for February 2021 and May 2021 were \$1,729. According to the client's Social Security statement, the deposited amount should have been \$1,230.
 - **CASE # 8092**
Per the excel spreadsheet and the Financial Operations report provided, the Social Security deposits recorded for February 2021 and May 2021 were \$1,230. According to the client's Social Security statement, the deposited amount should have been \$1,729.
14. We noted for 9 of 15 tested files there were missing turnaround forms and/or supporting documentation to support client expenditures.
15. We noted for 4 of 5 tested files there were no supporting documents to support income received on behalf of clients.
16. We noted other findings for 6 of 15 cases:
 - **CASE # 9364**
The progress notes indicate the client passed away on 10/22/21. The client's case was still open as of 12/22/2022. Due to outstanding items and a pending deposit, the account could not be reconciled and closed.
 - **CASE # 2888**
Wegmans' credit card was found in the client's casefile in an unsecure file. The credit card expires in July 2024. Caseworker was not aware of the client having this credit card and had been purchasing Gift cards at Wegmans to buy groceries for the client.

Per the 9/17/21 progress notes, caseworker opened a personal checking account for the client. The client already has a Trust Account. All financial activity should go through the Trust account.

Per the 3/12/21 progress notes, the client complained about Verizon calling for payments. Caseworker asked client "who pays your bills?". Caseworker instructed the client as how to pay bill. Caseworker was not aware that the County was guardianship of client's person and property. Therefore, the APS caseworker should be managing the client's finances.

According to the report provided, the amount of rent paid per month for 2021 and 2022 was \$217.00 per month however according to the Meadow's RE billing sheet/fax the amount should have been \$226 per month.

- **CASE # 6012**

Per the progress notes, the client passed away on 3/20/2022. Further review of the notes, indicate there was a balance of \$4,639.05 in the client's account at the Grand Rehabilitation and Nursing in Utica. It is unclear as to why the client had an account at the facility and not with Onondaga County. It appears the Grand Rehabilitation and Nursing in Utica was managing the client's financial affairs despite the County being the guardian of person and property as of 3/11/2018.

Per the progress notes during 2020, 2021 and through 3/20/22 it does not appear to be any purchases for personal supplies or clothing for the client however, there were documented purchases for personal items and clothing in 2018 & 2019.

Per the progress notes, there is reference to client receiving Social Security income since Guardianship appointment. It cannot be determined where it is deposited. There is no accounting of deposit or withdrawals for the tested period other than the funeral expenses and two annual fees paid to the preparer. Guardianship of Property requires this to be completed.

- **CASE # 9376**

Client has no financial activity recorded in the APS department or Financial Operations except for two recent transactions that were payments to the Court Examiner. The APS department should have a complete accounting of all the income and expenses for this client as Onondaga County was appointed Trustee of the Court Ordered Guardianship Trust Agreement.

- **CASE # 3156**

For 2021, the APS department spreadsheet is lacking two IRA deposit entries for client. The deposit is an IRA monthly distribution that should be \$237.74 every month. Per review of financial report, there is no amount entered as being received for April 2021 and September 2021. Follow up was requested 2/7/23 and caseworker was not able to provide.



County of Onondaga

Department of Adult & Long Term Care Services

Aging • NY Connects • Adult Protective Services
John H. Mulroy Civic Center, 10th Floor
421 Montgomery Street, Syracuse, NY 13202

J. Ryan McMahon, II
County Executive

JoAnne Spoto Decker
Commissioner

August 25, 2023

Comptroller Martin Masterpole
John H. Mulroy Civic Center
421 Montgomery Street-14th Floor
Syracuse NY 13202

Re: “Audit Report on Onondaga County’s Adult Protective Services’ Guardianship Trust Agreement-Final report dated “August-2023” - Management Response

Dear Comptroller Masterpole:

I am acknowledging receipt of the above referenced audit, sent via email dated August 17, 2023. This final Management Response replaces what was sent to you on August 2, 2023. Please see my Management Response below:

General Comments:

The Department of Adult and Long Term Care Services was informed that the timeframe for this Audit was to be 1/1/21-8/31/22. Upon review of the response, there were several instances in auditor “findings” that occurred after 8/31/22. Our department received no written notification of any timeframe extension of this audit. Interestingly, the timeframe of this audit coincides within the timeframe of the “once in a century” Covid-19 pandemic. As such, the regular order of business was more than interrupted, it was usurped. As you are well aware, many county staff were working remotely, and day to day operations were heavily impacted by funding, staffing and rampant serious illness of both staff and their families. The year 2021 represented the lowest staffing pattern for the APS unit in several years. While other human service providers had pivoted from in-home visits to telephone visits, the New York State Office of Children and Family Services required Protective Services for Adults, commonly known as Adult Protective Services (APS) staff to make home visits. Data indicates that there was a 19% growth in the number of community referrals to the APS unit, and a corresponding 18% growth in cases moved to assessment from 2020 to 2021. From 2020 through 2022, there was an increase in the complexity of risk factors presented at intake as follows:

- Untreated Mental Health 46%
- Untreated Physical Health 69%
- Homelessness and Eviction 65%

The number of Guardianship cases managed by APS has increased more than 100% from the start date of this audit (1/1/21).

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Adult Protective Services
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Long Term Care Resource Center
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Like all other county departments, including the Office of the Comptroller, Adult and Long Term Care Services - Protective Services for Adults Unit staff faced unprecedented challenges to serve our county's most vulnerable adult population during this time. As the following information will serve to -verify, our main goal is to provide vulnerable populations with services that honor the New York State's Office of Children and Family Services-Adult Protective Services- guiding principal of service provision employing the **least restrictive alternative** for adults aged 18 and older.

Multiple meetings and interviews between the Auditor and staff of the Department of Adult and Long Term Care Services were conducted in an effort to acclimate the Auditor to Adult Protective Services' powers under current NYS regulatory requirements. One of those meetings focused on the Guardianship process, as explained by the attorney responsible for bringing the petitions to the NYS Supreme Court for adjudication.

Adult Protective Services has recently been congratulated by NYS Office of Children and Family Services, Protective Services for Adults, for surpassing the standard of timely initial service plans (July 2023). The commendation included the following "We congratulate you and your staff for your hard work and efforts to bring best practice in APS services to the vulnerable adults of Onondaga County."

Section 1: Introduction and Background (pages 2 through 5)

Onondaga County Protective Services for Adults (APS) operates pursuant to New York State statutes and regulations under the oversight of our regulatory agency, NYS Office of Children and Family Services (OCFS). As such, we follow all state-mandated policies and procedures in our day-to-day operations and service delivery. No deviation from those policies and procedures is allowed. APS is a mandated service provided by local social services districts. It involves intake, investigation, and assessment of referrals of abuse, neglect, and financial exploitation of impaired vulnerable adults who live in Onondaga County. APS caseworkers develop services plans for eligible clients to remedy physical abuse, sexual abuse, emotional abuse, neglect, financial exploitation, or to address unmet, essential needs of adults.

Adult Protective Services has no independent legal authority to remove any person from their home or other setting. The only person designated to do so, on behalf of Onondaga County government, is the Director of Community Services (DCS), as authorized under Section 41.05 of the New York State Mental Hygiene Law.

In cases where there is suspected incapacity of an individual 18 years and older, APS can apply to the New York Supreme Court to request guardianship of the person and/or property of the alleged incapacitated individual under Article 81 of the New York Mental Hygiene Law. Guardianship is not a "Trust Agreement" as noted in the Auditor. Guardianship is an order of the Supreme Court pursuant to the Mental Hygiene Law section 81.15. The guardian shall exercise only those powers authorized to exercise by court order. Additionally, pursuant to Mental Hygiene Law section 81.22, no guardian may consent to the voluntary formal or informal admission of the incapacitated person to a mental hygiene facility or to a chemical dependence facility. Guardianship does not allow APS to admit an incapacitated person to a "psychiatric facility," or "drug or alcohol rehabilitation facility," as notated and implied in this section.

The Audit makes a reference to Article 81 responsibilities which include: “Making sure the protected person is properly trained and educated, and that the person has the opportunity to learn a trade, occupation or profession”. This is not a power or requirement included in any of the cases where the County is appointed as guardian.

The Audit continually refers to a “guardian trust agreement” when it should be the Court Order of appointing the Commissioner as guardian of the person and/or property of a specified individual whom the Court has determined is incapacitated and needs that level of support. This reference is inaccurate and confuses a Court Order with the financial requirements governing the trust accounts this Department maintains for the property of individuals we are appointed to manage (in the Department’s 053 trust accounts).

The Audit references that APS does not utilize the NYS Adult Services Automation Project (ASAP) to track and manage client information, referencing financial management. There is currently no New York State OCFS regulatory requirement to use ASAP.Net for budget development or recording. We are required to have a budget documented on file, along with financial accounting. The system this Department uses for financial accounting purposes is Docuware™.

Section IV: Findings (Pages 8 through 16)

1. **Finding:** The Adult Protective Services unit has no written procedures manual to facilitate the NYS Office of Child and Family Services policies for current staff and administrators. Additionally, there is no written training plan for the new staff.

Response: OCFS, not this Department, is responsible for mandated new caseworker training and Administrative Directives for operations. As a part of this County’s local district for social services, APS would be in violation of OCFS policies and regulatory requirements if it created a separate, different training program. Procedures are also defined by OCFS via Local District Administrative Directives. Training on local programs from other human service agencies is provided to staff on a regular basis.

2. **Finding:** We noted when the Comptroller’s Office requested a copy of the most recent (2019) Social Security Administration Audit Report from APS, neither the current management nor the County Administrator of Human Services were able to locate a copy. SSA Audit Reports prior to 2019, as well as reports from other agencies providing guidance and oversight (e.g. NYS Office of Child and Family Services), were also not provided to the Comptroller’s Office.

Response: While requested, we could not obtain APS’s “most recent Social Security Administration Audit Report (from 2019).” Those in Adult and Long Term Care Services senior administration during that time are no longer employed with the County. Multiple efforts were made to locate the document by contacting former staff, current staff from Financial Operations and the Department of Law, and directly via email to the Social Security Administration office located in Syracuse. Those contacted stated that they did not receive directly, nor see, a copy of the 2019 SSA Audit. There was no response from the local Social Security Administration. The Auditor was made aware of these efforts on multiple occasions but persisted in requesting the document.

3. Finding: We noted in 6 of the 15 tested case files, the classification that categorizes the extent of APS’s responsibilities to the client’s overall well-being in the client’s Service Plan did not match what was in the court ordered Guardianship Trust Agreement.

Chart attached-Full Social Security Numbers were removed to protect our clients.

Client Number	Client Service Plan per the Departments ASAP system	Client’s Guardianship Trust Agreement	Guardian Trust Agreement Date
0923	Property only	Property & Person	11/22/2017
4429	Property only	Property & Person	3/12/1999
9364	Property only	Property & Person	12/8/2020
4510	Property only	Property & Person	2/4/2019
1957	Representative Payee	Property & Person	10/20/2020
No ID	Temporary Guardian	Property & Person	9/23/2019

Response: Prior to May of 2022, the entry of this data was done by one administrative staff person. The ASAP system technology has been enhanced by OCFS, allowing authorized staff to update sections without issue. We are currently in the process of reviewing and updating any data entry regarding the service plan that was interrupted during the Covid-19 Pandemic.

4. Finding: We noted a number of issues for each of the three cases below:

Case number 1957:

The Audit states: This case has a Court Ordered Guardianship Trust Agreement effective 10/20/20 that makes APS responsible for the client’s property and person. Despite this, it is listed as a Representative Payee case in the client’s service plan.

Response: We are listed as her representative payee because we are her payee for her social security benefits. We have no powers over the Trust.

The Audit states: Per the progress notes, on several occasions the client requested money for, or assistance in obtaining, a cell phone, a laptop, clothing and dental procedures. According to the progress notes, the client has become very frustrated and has made numerous calls to the Department of Social Services-Economic Security (DSS-ES) and other County offices.

Response: We verified that the client already had a working cell phone and laptop in good condition in her possession. Dental Procedures were completed and paid for through her Representative Payee account. This is noted in the case record. Cell phone, landline phone, laptop and clothing were requested by the client. Case notes reflect the trustee notified APS that the client had appropriate clothing, a working laptop, working cell and landline phones. Therefore, the request was denied by the trustee.

The Audit states: APS is responsible for paying the client's bills yet, per the progress notes and supporting documentation, the client's Spectrum account was past due at times and the account cannot be reconciled because the March, April, June & September 2022 statements are missing.

Additionally, it was noted, there were three different Spectrum account numbers for the client:

- July 2021 - #XXXXXXXXXX-001
- May 2022 - #XXXXXXXXXX-001
- August 2022 – XXXXXXXXXXXX-5

Response: The three different Spectrum account numbers were due to the client being evicted for erratic and delusional behavior at three different addresses, resulting in three new account numbers. Spectrum's billing system charges a month in advance, which is why there is a credit balance in August 2022.

As an important side note with respect to the selection of this particular case to review, we are aware that on several occasions, the client has phoned the Comptrollers Fraud hotline seeking assistance. The previous Director of APS has stated that she had received several calls from the Comptroller's Office *administrative staff* concerning this client. As the Comptroller's Office has a history with this client, it questions the validity of this case selection in what is purported to be a "random audit".

Case number 4429:

The Audit states: The client has a Guardianship Trust Agreement dating back to March 12, 1999 and is a long-term client of APS. As the result of a subway train accident, the client was deemed incapacitated and unable to make reasoned decisions. It was noted the New York State ASAP database has Onondaga County listed as Guardian of only the client's property. However, the agreement states Onondaga County was appointed Guardian of her person and property pursuant to Article 81 of the Mental Hygiene Law. It was noted in the progress notes per the ASAP database, the client care provided was not reflective of the directives set forth per the Guardianship Trust agreement.

Response: Onondaga County was not granted authority to act as Guardian by the Court due to a subway train accident as noted by the Auditor, but due to the client's inability to manage finances. The County was initially appointed as Guardian for the individual's property only, which order was subsequently amended to include authority over the Ward's Person and Property.

The Audit states: Per progress notes from 5/5/21, 2/17/22, the client is receiving \$200.00 per month. The client's court ordered Guardianship Agreement, dated 3/12/99, states the client is supposed to receive \$400.00 monthly.

Response: While the order does give APS the power to ascertain respondent's needs and to advance \$400.00 cash monthly directly to respondent to meet their needs, the first order gives APS the authority to advance up to \$400 total to meet her needs, but that amount is not a required distribution. Pursuant to the later modified order, the Department must also collect all the assets and income of the client, to invest those assets and income, as would a prudent investor, and apply such assets and income as necessary, for

the comfort, support, maintenance, and well-being of the client. This power, together with the \$400 direct payment limit, gives the Department the authority to manage the client's finances at its discretion.

The Audit states: After review of the progress notes the housing provided to the client did not appear to provide the client with a safe environment that accommodated and supported the client's daily living needs. Examples include:

- a) **The Audit states:** APS placed the client at a local Rodeway Inn hotel. The client was at the hotel for a month (2/17/22 - 3/17/22) but then the hotel management had to hire a cleaning company to address the client's messy, unsanitary and odorous room. Hotel management subsequently denied the client re-entry.

Response: The Rodeway Inn hotel was utilized as *a temporary safe environment*, and it was difficult to find appropriate housing, as the client had been evicted from several apartment complexes in the past. The condition of the hotel is evidence of the client's unwillingness to agree to improve living conditions and activities of daily living, despite continuous support from APS caseworkers and other human service agencies remaining available to assist.

- b) **The Audit states:** The client next slept at the Rescue Mission shelter from 3/17/22 – 11/1/22. However, the Rescue Mission homeless shelter doesn't allow residents to be at the facility during the daytime so the client had no home or safe place to be until the Rescue Mission opened up for the night.

Response: The client has a chemical dependency addiction, The caseworker tried on multiple occasions to encourage the client to accept "in-patient and/or outpatient" treatment. Client declined. Article 81 does not allow the Guardian to admit a person voluntarily or involuntarily for chemical dependence rehabilitation. Multiple attempts were made to locate permanent housing. However, landlords of private residences, adult homes and assisted living declined acceptance due to client's past behavior.

- c) **The Audit states:** Progress notes state the client was struck by a car on two separate occasions. The first incident occurred on 10/24/21. The client was treated for spine and eye injuries at Upstate hospital, released and transported to Van Duyn Center on 11/30/21 for rehabilitation. It could not be determined if the client received any medical follow-up or caseworker contact as there were no progress notes on file from 12/30/21 - 2/15/22.

Response: Follow-up medical care was indeed obtained through Van Duyn Center for Rehabilitation, for Physical and Occupation Therapy. There were several progress notes identified in case records from 12/30/21- 2/15/22 created by virtual contact and telephone calls because during several months of the Covid-19 pandemic, APS staff were not permitted to go into these facilities.

- d) **The Audit states:** Progress notes for 7/11/22 indicate staff at the Rescue Mission informed APS that the client was hit by a car sometime in June 2022 at Gifford and West Streets in Syracuse.

Response: The case notes on 7/11/22 reflect that the client was hit by a car. However, no reports of injuries were reported by the Rescue Mission staff. Caseworker did address incident with the client and the client refused to follow up with medical care.

- e) **The Audit states:** Per the progress notes on 11/1/22, the client received keys to an apartment where she and five other individuals rented a room. On 11/8/22, the client made a visit to the County Department of Social Services – Economic Security seeking food. The APS Caseworker provided her with food, ostomy supplies and issued a \$30.00 check. It was noted the client became upset and said all her food is gone. She also conveyed that she could not go back to the apartment because another resident will “smash her head”. The caseworker reported it did not appear there were any signs of abuse on her face and advised her to file a police report related to the threat.

Response: The audit states that she and five other individuals “rented a room.” This is incorrect and misleading. The client’s rented room was in a boarding-type home, which she did not share with other individuals. The audit states that on 11/8/22, the client “made a visit to the County Department of Social Services-Economic Security (DSS-ES) seeking food”. This also is incorrect and misleading. APS interviews clients that come to the Civic Center on the 2nd Floor, as the 5th floor is not open to visitors. Notations in this section also state that client did not wish to go back to her apartment because another resident would “smash her head”. Client initially refused to make a police report on the alleged threat. However, the client did agree to the caseworker’s suggestion that she meet with client at the client’s residence to complete the police report. At the time arranged, the caseworker went to the residence and waited half an hour, but the client did not arrive to participate in the interview, as was originally agreed upon.

The Audit states: According to progress notes, the client made several complaints to the caseworker regarding medical issues. After reviewing the progress notes, there was no indication of caseworker taking the client to a doctor or securing a person to escort the client to a doctor. Examples include:

- On 4/15/21, progress notes said the client complained about right arm weakness.
- Progress notes on 4/20/21, indicated that Helio Health said the client had Hepatitis C and possible liver damage.
- On 5/13/21, progress notes said the client complained about a sore foot and the caseworker indicated in the notes that the client’s foot was swollen.
- On 7/21/21, progress notes said the client complained about her leg hurting.
- On several occasions, the client has asked for ostomy bags/supplies. 12
- On several occasions, the client is described as being dirty and smelling of urine.
- On a visit to the Civic Center on 12/5/22, the client requested cigarettes, money and/or a benefit card to get groceries. Department provided client with 2 packs of cigarettes and observed her hands were swollen and her fingers were burned. It was suggested by the APS Caseworker that the client go to the doctor to get her hand checked out. Client asked for ostomy supplies and was provided with the

last of the supplies and told to call the doctor for a new script. Client was told to come back tomorrow to receive a card.

Response: Prior to 4/20/21, the APS Caseworker took client to medical appointments. Client sought medical attention from a clinic, and obtained medication as witnessed and recorded in the case notes by the APS caseworker. Concerning the “right arm weakness, sore throat, sore feet, swollen foot, leg hurting,” the client was encouraged to seek medical attention. It should be noted that at that time, client was housed in the Erie Enriched Housing Program, where residents have onsite access to a social worker, nurses, and health aides. The client once again refused assistance.

As client kept losing her ostomy supplies, an agreement was made between the client and the caseworker that the supplies would remain with APS and the client would pick them up as needed. This agreement was made to ensure that the client always had access to the equipment. The client was encouraged several times to bathe and was also given appropriate hygiene supplies and new clothing. The client was provided with cigarettes pursuant to the client’s wishes to engage in smoking. Client often refuses to see a physician.

Case number XXXX:

The Audit states: (NOTE: Client Social Security numbers are used as case numbers. This client is not a U.S. citizen and therefore, has no Social Security number.)

Response: There are case numbers on file. We informed the Comptroller’s Office of use of Social Security Numbers as client case numbers, and they have been reduced to the last four digits for the purposes of this response. APS cases do have assigned case numbers. The numbers are assigned through the ASAP data system. This client does not have a social security number as the client was not a United States citizen during the audit period.

The Audit states: Per the Guardianship Trust Agreement effective 9/23/2019, Onondaga County is guardian of this client’s person and property. The progress notes indicate the client had been in Hutchings Psychiatric Center since January 2019. According to the progress notes on 12/8/21 the client’s Temporary Assistance was suspended until the client had a discharge date from Hutchings. On 12/16/21 the progress notes indicate the caseworker received an email stating the client was functioning well and ready for discharge from Hutchings. As of 12/30/22, the progress notes indicate the client was still in Hutchings and waiting for a place to stay.

Response: The Hutchings Psychiatric Center social worker stated the client was appropriate for discharge. However, being discharged to a new placement presented a challenge for them. The facility (Hutchings PC) is responsible for ensuring a safe discharge to the community or another secure setting, and there was no suitable discharge resource identified at that time.

The Audit states: The 3/21/22 progress notes indicate the client, who is not a U.S. citizen, had an expired Green Card as of June 2021. The notes also show that, per a conversation with Temporary Assistance (TA) Deputy Executive Commissioner, the client would not be able to get Temporary Assistance with an expired Green Card. It was recommended that APS get in touch with Immigration Services as soon as possible to

obtain the documentation necessary to expedite the process of re-activating the client’s Green Card.

Response: The concern that the client did not have any residence documentation (also known as a “Green Card”) was followed up on through Hutching’s social worker and APS. The social worker at Hutchings PC agreed to take on the role of obtaining documentation to expedite the process.

The audit states: Per the 3/18/22 progress notes, the Social Worker at Hutchings asked the APS caseworker about getting some clothing for the client. On 4/22/22, the caseworker received an email from the Commissioner of Adult & Long Term Care instructing her how to complete a purchase requisition for the needed items. The client received clothing on 7/5/22.

Response: On 3/18/22, the social worker at Hutchings PC requested “summer clothes”, and as the client already had clothes at the facility, there was not an immediate need for “summer-type wear” as the conversation for clothing took place in March. The Commissioner was asked for funds to assist as the client had no funds to purchase items needed. Permission was granted to use Department funds to purchase clothes when needed. Purchases was made through online account. Summer clothes were taken to the client timely.

5. Finding: We noted in 3 of 15 tested cases client progress notes were missing greater than 90 days (see chart below). As a result, it cannot be determined if the clients received follow-up medical and personal care as required by the Court Ordered Guardianship Trust Agreement, during this time:

Client ID	Progress Notes Missing >90 day	No Supervisor Assessment completed due to missing progress notes
7172	1/1/2021-9/19/2021	X
3156	1/4/2021-9/18/2021	X
XXXX	2/18/2021-9/26/2021	

Response: The following progress notes were found in the case record. The auditor was not looking properly in the ASAP system. Most of this time period was during the height of the Covid-19 Pandemic.

Stated Missing Case 7172: 1/1/21-9/19/21

Cases notes in ASAP during that time period:

3/03/21, 3/26/21, 3/30/21, 4/27/21, 5/16/21, 6/03/21, 6/14/21, 6/15/21, 6/25/21, 7/19/21, 7/28/21, 8/02/21

Stated Missing Case 3156: 1/4/21-9/18/21

Cases notes in ASAP during that time period:

2/26/21, 3/05/21, 3/18/21, 3/26/21 (2 notes), 3/29/21, 3/30/21, 4/06/21, 5/04/21, 5/10/21, 6/03/21, 6/22/21, 7/14/21, 8/02/21, 9/22/21

Stated Missing Case No ID (XXXX) : 2/18/21-9/26/21

Cases notes in ASAP during that time period:

3/11/21, 3/26/21, 4/20/21, 4/22/21, 6/24/21, 8/3/21, 10/7/21, 10/15/21, 10/18/21, 10/21/21, 10/28/21, 11/04/21

6. Finding: We noted in 4 of 15 tested cases, client progress notes do not support the Department's extent of responsibilities with the follow-up medical and personal care as required by the Guardianship Agreement. Overall Response to #6-Once again, the Auditor uses the term "Guardianship Agreement".
Footnote: As noted once again, this terminology inaccurately portrays the role of Guardianship and the detailed responsibilities set forth by the NYS Supreme Court.

Case number 3156:

The Audit states: Onondaga County is the Guardian of person and property for this client. Per the progress notes, the client fell out of her chair on 12/9/22 and again on 12/13/22. The client died on 12/14/2022. The client was living at Central Park at the time of her passing. It is unclear as to what happened as there are no progress notes written regarding follow up to report of client fall(s). Additionally, there was no medical report found in the client file. A doctor's report was requested. Caseworker was not able to provide any additional information regarding the incident.

Response: Onondaga County was guardian of person and property for the client. She was 91 years old when she passed away. On 12/9/22 per APS progress notes, the nurse from the long term care facility called APS to report that the client had a "little fall". She slid out of her Geri chair. The nurse stated the client is "okay, no injury from the fall". On 12/12/22, the client slid out of her chair again, with no injury. On 12/13/22 APS visited the client at the nursing home. The client was very restless and moving her arms and legs while lying in bed. Her bed was pushed up against the wall. There were 3 staff attending to the client. The nurse called the caseworker after her visit advising that they were giving the client medication to comfort her, and that "the client wasn't eating and was not looking good;" she was actively dying. APS does not ask for a "doctor's report" upon the death of our clients as best practice is to secure the Death Certificate which lists "cause of death". A Certificate of Death was asked for and received. Cause of death was Cardiopulmonary Arrest per NYSDOH the Certificate of Death dated 12/14/22.

Case number 5788:

The Audit states: Onondaga County is the Guardian of property for this client. The client's daughter is the Guardian of his person. The client suffers with physical and mental impairments due to having a stroke. The client is residing at Van Duyn Center. Per the progress notes, on 2/25/21 an email was received by APS from the daughter requesting help in getting an electric wheel chair for her father. In the email, the daughter requested money from his account to cover the cost. On 5/24/2021, 3 months later, the client's daughter inquired a second time as to the progress of getting the electric wheelchair. There is no indication in the progress notes as to the outcome of the guardians' request for the wheelchair was approved or denied

Response: Onondaga County is the court-ordered guardian over Property for the client. Making decisions on medical plans or medical equipment falls under a guardian of the Person. Client's daughter (who was appointed by the Court as guardian over the client's person) was made aware that she will need to contact a physician regarding the electric wheelchair and that county would pay the bill. On 6/04/21, the caseworker told the client about the wheelchair and the client refused it. Caseworker spoke with a nurse who stated the client is refusing physical therapy and refusing to get out of bed. The nurse stated she was aware of the wheelchair request but does not feel "it is appropriate at this time". As guardian of person, it is the responsibility of the client's court-appointed guardian to pursue the wheelchair for her father.

Case number 9376:

The Audit states: Onondaga County is the Guardian of person and property for this client. Per progress notes from 9/13/21, the unit manager at Upstate at Community Hospital made a recommendation the client have a 1:1 aide because the client was not able to speak due to having had a stroke. Progress notes also reference the client's behavioral frustration with these conditions. There is no indication in the progress notes concerning the client receiving the 1:1 aide and speech therapy.

Response: Progress note 9/13/21: The caseworker spoke to the unit manager at Van Duyn and at Upstate Medical University. On 9/15/21, the caseworker spoke with a social worker at Upstate University Medical Hospital who stated there was no damage to the client's neck and there was no mention of the client needing an aide. **Progress note 9/24/21:** The caseworker received a message from a nurse practitioner at Van Duyn, who stated the client came back into the hospital the day before. The notes indicate the Nurse Practitioner said that "she looks good, nothing new or different to report." Upon further review of case file, the client did receive physical therapy at Van Duyn from 9/24/2021 to 10/07/2021 after she returned from the hospital.

Case number 4510:

The Audit states: Per the progress notes, client's aunt/guardian passed away and Onondaga County was appointed guardian of person and property on 2/4/2021. The progress notes indicate the client had a hard time with the transition and has been in and out of group homes during a six-month period of time often staying with neighbors and friends. The client was physically removed a few times from the deceased aunt's home. At one point APS paid for a motel stay. On several occasions the client was admitted to the area hospitals and eventually, on 3/19/2021, received a psychiatric evaluation and was diagnosed with a developmental disability. Per the progress notes, there is no follow-up regarding the client's condition. There are no progress notes to support services provided to address the client's disabilities.

Response: Response to the 3/19/2021 psychiatric evaluation is as follows: In previous years diligent efforts were made to locate and obtain school records from both primary schools and colleges on behalf of the client. However, there were no records found supporting an IEP or special services for the client. As far as follow up, APS has made several attempts to have an updated psychiatric evaluation completed but medical providers were unwilling to assist. There is documentation in the case file from a New Jersey psychiatric facility indicating a "mental diagnosis". Medical records disclose all medications and why they

are needed. In prior notes, a list of medication was noted for which APS caseworkers were providing for the client.

7. Finding: We noted for 8 of 15 client cases, the annual NYS Court Examiners reports were filed late. Every guardian is required to file an annual NYS Court Examiners report in the month of May by order of the NYS Supreme Court to provide all the relevant client information requested according to NYS Mental Hygiene Law Article 81.31.

Response: New York State Court Examiners Reports were late due to the Covid-19 pandemic and personal issues related to those staff charged to complete the process. It is important to note that there was NO ADVERSE IMPACT on the client and NO REBUKE from the NYS Supreme Court System during this time period. The department hired a part-time (retired) staff member on August 21, 2021, to assist with the remaining backlog left by a retired staff member.

8. Finding: We noted the Department's store credit cards were not maintained in a secure location.

Response: Due to the Covid-19 and other issues, such as remote work, staff shortages/illness, there was an issue brought up to us during the Audit. We have now rectified the situation with the following: The 5th Floor of the Civic Center is closed to the public, and the entrance doors require a badge pass. To add to the security, cards are now locked in a "Safe" and it is placed in a locked file cabinet.

9. Finding: Based on our reconciliation with the store's credit card Inventory report and the APS's Inventory report, we determined APS should have been in possession, three additional cards. This represents a control weakness.

Response: We have made appropriate changes to the process left over from the COVID-19 pandemic. While we don't see this as a "control weakness", the process will be followed to eliminate any potential weaknesses.

10. Finding: We noted for all 15 cases, we were unable to determine how caseworkers manage the client's finances, as the department could not provide financial or budgetary records.

Response: Our regulatory agency, NYS OCFS, does not require us to utilize the financial component of the New York State ASAP system. All documentation is properly recorded in DocuWare.

11. Finding: We noted there is no financial tracking of the client's daily income and expense transactions. The APS department is currently using the Financial Operation's report of processed transactions to create a spreadsheet of client activity.

Response: All financial tracking of any daily income or expense transactions are recorded in DocuWare. The "Turn Around" Form, #DSS-1046 (Trust Unit Authorization), is utilized for this purpose, completed by the caseworker, and sent to Financial Operations. Financial Operations retains a copy on file, available at any time if needed.

12. Finding: We noted a reconciliation is not prepared between the expenses submitted by APS to the actual expenses processed by Financial Operations to ensure that there are no errors in the client's respective trust accounts.

Response: Reconciliation between the transactions processed by Financial Operations is required annually by APS for Guardian cases. We will be working with Financial Operations on a system of more frequent reconciliations now that we are past the Covid-19 Pandemic.

13. Finding: We noted the following two findings were brought to the attention of the Chief Fiscal Officer in our previously released audit report of the Social Welfare Trust and Agency account in September 2021 and have not been corrected.

Case number 9364:

The Audit states: Per the Excel spreadsheet and the Financial Operations report provided, the Social Security Deposits for February 2021 and May 2021 were \$1,729. According to the client's Social Security statement, the deposited amount should have been \$1,230.

Response: Cases with funds remaining cannot be closed. This case was unique as revenues continue to come in from Canada after the client passed away. Financial Operations reached out to the U.S. Treasury Department to stop payment. Determining where the funds need to be returned has been extremely difficult, per Financial Operations.

Case number 8092:

The Audit states: per the excel spreadsheet and the Financial Operations report provided, the Social Security deposits recorded for February 2021 and May 2021 were \$1,230. According to the client's Social Security statement, the deposited amount should have been \$1,729

Response: This case had the wrong revenue posted to it. However, it was corrected in August of 2022.

14. Finding: We noted for 9 of 15 tested files there were missing forms and/or supporting documentation in case files to support expenditures for the client.

Response: "Turn Around" forms are sent to Financial Operations. The supporting documentation for expenditures is recorded directly in DocuWare. The completed "turn around" forms are on file in Financial Operations and are available on request.

15. Finding: We noted for 4 of 5 tested files there was no supporting documentation for income received on behalf of clients.

Response: Our regulatory agency, NYS OFCS, does not require us to utilize the financial component of the New York State Adult Services Audit Project (ASAP), We continue to use DocuWare for this purpose and have not been cited by OCFS in this regard.

16. Finding: We noted other findings for 6 of 15 cases:

Case number 9364:

The Audit states: The progress notes indicate the client passed away on 10/22/21. The client's case was still open as of 12/22/2022. Due to outstanding items and a pending deposit, the account could not be reconciled and closed.

Response: Cases with funds still with the County after the client's death, etc., cannot be closed. This case was unique as revenue was issued into it from Canada after the client passed away. Financial Operations involved the Treasury Department to stop payment. Determining where funds needed to be returned has been extremely difficult, according to Financial Operations.

Case number 2888:

The draft Audit states:

- a) Wegmans' credit card was found in the client's casefile in an unsecure file. The card expires in July 2024. Caseworker was not aware of the client having this card and had been purchasing Gift cards at Wegmans to buy groceries for the client.
- b) Per the 9/17/21 progress notes, caseworker opened a personal checking account for the client. The client already has a Trust Account. All financial activity should go through the Trust account.
- c) Per the 3/12/21 progress notes, the client complained about Verizon calling for payments. Caseworker asked client "who pays your bills?". Caseworker instructed the client as how to pay bill. Caseworker was not aware that the County was guardianship of client's person and property. Therefore, the APS caseworker should be managing the client's finances.
- d) According to the report provided, the amount of rent paid per month for 2021 and 2022 was \$217.00 per month however according to the Meadow's RE billing sheet/fax the amount should have been \$226 per month.

Response: a) Caseworker received this case from another staff member who proceeded with purchasing groceries in the same manner. Once made aware of the Wegmans card, the card was secured in a locked filling cabinet and was utilized appropriately by the worker.

b) Prior caseworker (who did not handle Guardian cases) opened the personal checking account in question. This checking account has been brought to a zero balance and is no longer being used. The plan for checking account is to have it closed.

c) Progress note 3/12/21: Supervisor assisted on a call with the client. Supervisor did try to assist the client with the Verizon bill issues, but the client hung up on her. All rent was paid accurately, and client was never threatened or in jeopardy of eviction.

d) APS received the only notice from the landlord of this client, dated 5/25/22, via fax. That document stated that for the month of October 2021, the rent was \$226. That was for October only. In December of

2022, APS began paying \$226 per month as this is the appropriate amount. We have also contacted the landlord and will be receiving the Recertification paperwork to complete on behalf of the client. APS had not received any verbal or written communication, from the landlord, that the rent being paid was incorrect.

Case number 6012:

The Audit states:

- a) Per the progress notes, the client passed away on 3/20/2022. Further review of the notes, indicate there was a balance of \$4,639.05 in the client's account at the Grand Rehabilitation and Nursing in Utica. It is unclear as to why the client had an account at the facility and not with Onondaga County. It appears the Grand Rehabilitation and Nursing in Utica was managing the client's financial affairs despite the County being the guardian of person and property as of 3/11/2018.
- b) Per the progress notes during 2020, 2021 and through 3/20/22 it does not appear to be any purchases for personal supplies or clothing for the client however there were documented purchases for personal items and clothing in 2018 & 2019.
- c) Per the progress notes, there is reference to client receiving Social Security income since Guardianship appointment. It cannot be determined where it is deposited. There is no accounting of deposit or withdrawals other than the funeral expenses and two annual fees paid to the preparer. Guardianship of Property requires this to be completed.

Response: The power given from the courts to Onondaga County gives us the right to delegate authority to authorize an appropriate Representative Payee on behalf of the incapacitated person. Most nursing facilities become the client's payee and can appropriately carry out this function. The balance in the account was money saved in his Personal Needs account. APS was informed that facility staff was providing clothing for clients in their residence. Long Term Care facilities were on lockdown during much of that time period due to Covid-19, as we all are aware.

Case number 9376:

The Audit states: Client has no financial activity recorded in the APS department or Financial Operations except for two recent transactions that were payments to the Court Examiner. The APS department should have a complete accounting of all the income and expenses for this client as Onondaga County was appointed Trustee of the Court Ordered Guardianship Trust Agreement

Response: Facility where the client resides is the designated Representative Payee for the client through the Social Security Administration. APS receives a resident ledger of the client's income, which is monitored. Payments were made to a Court Examiner for guardianship reports.

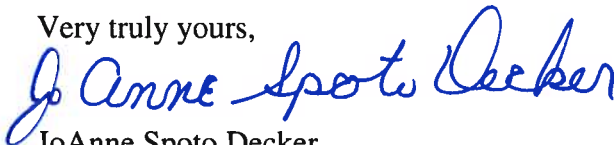
Case number 3156:

The Audit states: Client has no financial activity recorded in the APS department or Financial Operations except for two recent transactions that were payments to the Court Examiner. The APS department should have a complete accounting of all the income and expenses for this client as Onondaga County was appointed Trustee of the Court Ordered Guardianship Trust Agreement

Response: The dates noted were during the Covid-19 Pandemic. Initial reports indicated that no payments were received. However, we will be further investigating this issue.

The Department of Adult and Long Term Care Services appreciates the opportunity to respond to the Programmatic Audit performed by your department staff. As we move beyond the Covid-19 pandemic, we will review your thoughtful recommendations and gauge how they might support and enhance the vital services we provide to vulnerable and at-risk adults 18 years of age and older in our County every day.

Very truly yours,



JoAnne Spoto Decker
Commissioner