

DOAH CASE NOTES*from page 12*

Center even though one of its program analysts had previously determined that the vast majority of the services at issue were reimbursable by Medicaid. During the overpayment hearing, the ALJ determined in his Recommended Order that AHCA was entitled to recover less than 1% of that amount. (The overpayment administrative orders are summarized in DOAH Case Notes in the December 2014 Newsletter). Also, in a portion of the Recommended Order that the ALJ characterized as a "Final Order," he sua sponte determined that the Chrysalis Center was entitled to an award of attorneys' fees under section 57.105(1)(a), Florida Statutes. During the subsequent hearing on attorneys' fees, AHCA did not dispute the reasonableness of the hourly rates charged by the Chrysalis Center's attorneys. But, AHCA did argue that the total amount sought--over \$180,000--was unreasonable.

OUTCOME: The ALJ issued a Final Order awarding \$61,505 in attorneys' fees to the Chrysalis Center. While noting that nothing in the record suggested any conscious overbilling by the Chrysalis Center's attorneys, the ALJ found that the 475 hours claimed by the Chrysalis Center's attorneys was excessive given the straightforward nature of the underlying case. In support thereof, the ALJ stated that "[i]f the Overpayment Case had been as factually complicated as [the Chrysalis Center] now claims, somewhere, in the pile of transcripts and exhibits constituting the record of the Overpayment Hearing, a material fact would have provided enough support for [AHCA]'s overpayment claim to avoid liability for attorneys' fees under section 57.105, Florida Statutes." The lack of any such material fact "now inures to the detriment of [the Chrysalis Center] as it attempts to prove the reasonableness of extensive legal work in the Overpayment Case."

The Chrysalis Center appealed to the Third District Court of Appeal, where it was assigned case number 3D14-3150.

Agency Snapshot: The Office of Early Learning

by Lauri Goldman

Part of the Florida Department of Education, the Office of Early Learning (OEL) dedicates its people, time and energy to ensuring access, affordability, and quality of early learning services for the state's children and families. Florida welcomes 600 newborns every day and is home to more than one million children under the age of 5. As many as 700,000 of these children attend some type of early learning program. OEL supports these children, their families, and the child care providers who serve them, through administration and management of 30 early learning coalitions across the state. Early learning coalitions deliver early learning services at the local level. They are not-for-profit corporations with governing boards made up of members of the local community. OEL oversees how early learning coalitions and other subcontractors use federal, state, local, and private resources. The goal is for Florida's children to achieve the highest possible level of school readiness.

OEL oversees three programs—Florida's School Readiness, the Voluntary Pre-kindergarten Education Program and Child Care Resource and Referral services. The Florida School Readiness Program offers financial assistance to low-income families for early education and care so they can become financially self-sufficient and their young children can be successful in school in the future. Florida's Voluntary Pre-kindergarten Education Program (VPK) is a free educational program that prepares 4 year olds for success in kindergarten and beyond. Within the options for VPK is the new program of Voluntary Pre-kindergarten Specialized Instructional Services that allows 4 year old children with disabilities to obtain specialized instructional services outside of the traditional classroom setting. The Child Care Resource and Referral service is a statewide network with information for families with young children. The service is free for any family living in or preparing to move to Florida. It operates a toll-free early learning call center

for families and providers with information and access to all early learning programs in Florida.

In addition to the oversight of these programs, OEL is responsible for numerous statewide initiatives that offer training and professional development to early education providers and establish early education standards

Agency Head

Rodney MacKinnon, Interim Executive Director of OEL, has extensive knowledge of the school readiness and voluntary pre-kindergarten education programs as well as the workings of the early learning coalitions. Immediately preceding his appointment as Interim Executive Director, Mr. MacKinnon served as the Inspector General for OEL. He has also held the positions of Assistant General Counsel and Accountability Analyst within OEL and previously worked for a children's services council. Mr. MacKinnon holds a juris doctor from Stetson University College of Law and a master's degree in business administration from Florida State University.

Agency Clerk

The Agency Clerk is Judy Jones. The hours for filing are: 8:00 a.m. to 5:00 p.m. Filings may be hand delivered or sent to: 250 Marriott Drive, Tallahassee, FL 32301. At this time, OEL does not accept electronic filings. Ms Jones may be reached at 850-717-8550.

General Counsel

Margaret O'Sullivan Parker is General Counsel. Ms. Parker has extensive experience in education law and has been an adjunct professor at the FSU College of Law. Ms. Parker may be contacted at: maggi.parker@oel.myflorida.com.

The Office of General Counsel provides legal services to OEL's leadership and divisions. It provides legal support for contracts, rulemaking, and administrative hearings related to good cause exemptions.