

# STATE OF NORTH CAROLINA

## INVESTIGATIVE REPORT

**NORTH CAROLINA DEPARTMENT OF HEALTH  
AND HUMAN SERVICES**

**DIVISION OF HEALTH SERVICE REGULATION**

**OFFICE OF EMERGENCY MEDICAL SERVICES**

**RALEIGH, NORTH CAROLINA**

**JUNE 2012**

**OFFICE OF THE STATE AUDITOR**

**BETH A. WOOD, CPA**

**STATE AUDITOR**

**INVESTIGATIVE REPORT**

**NORTH CAROLINA DEPARTMENT OF HEALTH  
AND HUMAN SERVICES**

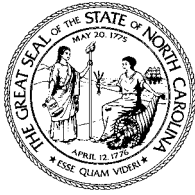
**DIVISION OF HEALTH SERVICE REGULATION**

**OFFICE OF EMERGENCY MEDICAL SERVICES**

**RALEIGH, NORTH CAROLINA**

**JUNE 2012**

# Office of the State Auditor



**Beth A. Wood, CPA**  
State Auditor

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## AUDITOR'S TRANSMITTAL

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The Honorable Beverly Perdue, Governor  
Members of the North Carolina General Assembly  
Albert A. Delia, Acting Secretary, Department of Health and Human Services

Ladies and Gentlemen:

Pursuant to North Carolina General Statute §147-64.6(c)(16), we have completed an investigation of allegations concerning the use of state vehicles by employees of the Department of Health and Human Services, Division of Health Service Regulation, Office of Emergency Medical Services. The results of our investigation, along with recommendations for corrective action, are contained in this report.

Copies of this report have been provided to the Governor, the Attorney General and other appropriate officials in accordance with G.S. §147-64.6(c)(12). We appreciate the cooperation received from the management and employees of the Office of Emergency Medical Services.

Respectfully submitted,

A handwritten signature in cursive script that reads "Beth A. Wood".

Beth A. Wood, CPA  
State Auditor

June 26, 2012

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## INTRODUCTION

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The Office of the State Auditor received a complaint through the *State Auditor's Hotline* concerning the improper use of state-owned vehicles by employees of the North Carolina Department of Health and Human Services (DHHS), Division of Health Service Regulation, Office of Emergency Medical Services.

To conduct our investigation of this complaint, we performed the following procedures:

- Review of applicable North Carolina General Statutes, federal regulations, DHHS policies and procedures, and the Motor Fleet Management Regulations Manual
- Examination of relevant DHHS documents and records
- Interviews with DHHS personnel
- Interviews with Motor Fleet Management personnel

This report presents the results of our investigation. The investigation was conducted pursuant to North Carolina General Statute § 147-64.6 (c) (16).

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## **ORGANIZATION OVERVIEW**

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The purpose of the State of North Carolina's Office of Emergency Medical Services is to assist local providers of Emergency Medical Services (EMS) in the delivery of adequate emergency medical and trauma services to North Carolina citizens and to provide medical care during a disaster or bioterrorism event.

The Office of Emergency Medical Services fulfills its mission through both regulatory oversight and technical assistance to EMS systems statewide. The Office of Emergency Medical Services ensures that EMS systems comply with North Carolina General Statutes and the North Carolina Medical Care Commission's administrative rules. In addition to the delivery of emergency medical and trauma services, the Office of Emergency Medical Services participates in public education, injury prevention initiatives, wellness initiatives, the public health system, and follow-up lifesaving and restorative care.

To maximize the efficiency of the agency, the Office of Emergency Medical Services engages with a variety of local, state and federal agencies, licensing boards, and professional associations. This includes but is not limited to the State Emergency Response Team (SERT) directed by the North Carolina Department of Public Safety and the United States Department of Homeland Security.

The Office of Emergency Medical Services currently has 54 permanent positions of which 39 are members of SERT. Of the 39 SERT members, 24 employees have individually-assigned state vehicles. These vehicles are assigned to employees whose job responsibilities require extensive regional or statewide travel. In addition, SERT responsibilities require that employees remain on-call 24 hours a day, seven days per week.

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## **FINDINGS AND RECOMMENDATIONS**

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### **THE OFFICE OF EMERGENCY MEDICAL SERVICES DID NOT OBTAIN COMMUTING REIMBURSEMENTS FROM EMPLOYEES WITH PERMANENTLY ASSIGNED STATE VEHICLES.**

Our investigation determined that none of the 24 Office of Emergency Medical Services employees with permanently assigned state vehicles reimbursed the State for commuting between their home and official duty station.

The Office of Emergency Medical Services currently has 54 permanent positions of which 39 are members of SERT. Of the 39 SERT members, 24 employees have individually-assigned state vehicles. These vehicles are assigned to employees whose job responsibilities require extensive regional or statewide travel. In addition, SERT responsibilities require that employees remain on-call 24 hours a day, seven days per week.

According to NCGS § 143-341(8)i.7a, “every individual who uses a State-owned passenger motor vehicle, pick-up truck, or van to drive between the individual’s official work station and his or her home, shall reimburse the State for these trips at a rate computed by the Department of Administration.” State law also requires:

- The rate of reimbursement shall approximate the benefit derived from the use of the vehicle as prescribed by federal law
- Reimbursement shall be for 20 days per month regardless of how many days the individual uses the vehicle to commute during the month
- Reimbursement shall be made by payroll deduction each month from the employee’s check
- Reimbursement shall be deposited as a refund of expenditure to the fund/center and account where the motor fleet bill is paid

We determined through our review of applicable federal regulations that these employees accrued a taxable fringe benefit for the personal use of their assigned state vehicles. The derived benefit should have been computed using the federal government’s “commuting rule.” Internal Revenue Service (IRS) Publication 15-B, *Employer’s Guide to Taxable Fringe Benefits*, defines this rule and its application.

The Office of Emergency Medical Services did not request reimbursement based on its understanding that no reimbursement was necessary because the vehicles were used to perform required job duties that included on-call status 24 hours a day, seven days per week. However, North Carolina General Statute § 143-341(8)i.7a states that no state employee shall be exempt from paying a commuting fee except as provided by state law.

State law provides specific exclusions for certain employees meeting specific criteria. For example, commuting does not apply to those individuals whose office is in their home, as determined by Motor Fleet Management. Other exclusions include clearly marked police

## **FINDINGS AND RECOMMENDATIONS (CONCLUDED)**

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and fire vehicles and certain vehicles exempted by IRS regulations.<sup>1</sup> A recent change by the IRS, effective May 19, 2010, **exempted “clearly marked public safety officer vehicles,”**<sup>2</sup> when the employee is required to use the vehicle for commuting and is on call at all times. A public safety officer vehicle is clearly marked if, through painted insignia or words, it is readily apparent that the vehicle is a public safety officer vehicle.”

We determined that none of the 24 employees worked out of an office in their home and their state vehicles were not clearly marked with “Office of Emergency Medical Services” decals or insignias. Upon notification of the statutory requirements, the Office of Emergency Medical Services agreed with our determination and is in the process of clearly marking all 31 of their state vehicles (agency and individual) with “Office of Emergency Medical Services” decals.

### **RECOMMENDATION**

Management should ensure that all assigned state vehicles are properly marked as emergency vehicles to comply with federal and state statutory requirements. Management should also consult with legal counsel concerning state and employee liability for the taxable fringe benefits accrued during the period of noncompliance.

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<sup>1</sup> Internal Revenue Code Section 274(d).

<sup>2</sup> Definition was amplified to include those trained in “rescue activity” and “emergency medical services.” Public Safety Officers’ Benefit Regulations, 28 Code of Federal Regulation (CFR), part 32.



**North Carolina Department of Health and Human Services**

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Beverly Eaves Perdue, Governor

Albert A. Delia, Acting Secretary

June 25, 2012

The Honorable Beth A. Wood, State Auditor  
Office of the State Auditor  
2 South Salisbury Street  
20601 Mail Service Center  
Raleigh, North Carolina 27699-0601

Dear Ms. Wood:

We are in receipt of your letter and draft report regarding the investigation of allegations concerning the improper use of state-owned vehicles by employees of the North Carolina Department of Health and Human Services (DHHS), Division of Health Service Regulation, Office of Emergency Medical Services (OEMS). The following represents our response to the Audit Findings and Recommendations.

**1. THE OFFICE OF EMERGENCY MEDICAL SERVICES DID NOT OBTAIN COMMUTING REIMBURSEMENTS FROM EMPLOYEES WITH PERMANENTLY ASSIGNED STATE VEHICLES.**

Our investigation determined that none of the 24 Office of Emergency Medical Services employees with permanently assigned state vehicles reimbursed the State for commuting between their home and official duty station.

The Office of Emergency Medical Services currently has 54 permanent positions of which 39 are members of SERT. Of the 39 SERT members, 24 employees have individually-assigned state vehicles. These vehicles are assigned to employees whose job responsibilities require extensive regional or statewide travel. In addition, SERT responsibilities require that employees remain on-call 24 hours a day, seven days per week.

According to NCGS § 143-341(8)i.7a "every individual who uses a State-owned passenger motor vehicle, pick-up truck, or van to drive between the individual's official work station and his or her home, shall reimburse the State for these trips at a rate computed by the Department of Administration." State law also requires:

- The rate of reimbursement shall approximate the benefit derived from the use of the vehicle as prescribed by federal law
- Reimbursement shall be for 20 days per month regardless of how many days the individual uses the vehicle to commute during the month

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- Reimbursement shall be made by payroll deduction each month from the employee's check
- Reimbursement shall be deposited as a refund of expenditure to the fund/center and account where the motor fleet bill is paid.

We determined through our review of applicable federal regulations that these employees accrued a taxable fringe benefit for the personal use of their assigned state vehicles. The derived benefit should have been computed using the federal government's "commuting rule." Internal Revenue Service (IRS) Publication 15-B, *Employer's Guide to Taxable Fringe Benefits*, defines this rule and its application.

The Office of Emergency Medical Services did not request reimbursement based on its understanding that no reimbursement was necessary because the vehicles were used to perform required job duties that included on-call status 24 hours a day, seven days per week. However, North Carolina General Statute 143-341(8)i.7a states that no State employee shall be exempt from paying a commuting fee except as provided by state law.

State law provides specific exclusions for certain employees meeting specific criteria. For example, commuting does not apply to those individuals whose office is in their home, as determined by Motor Fleet Management. Other exclusions include clearly marked police and fire vehicles and certain vehicles exempted by IRS regulations. A recent change by the IRS, effective May 19, 2010, **exempted "clearly marked public safety officer vehicles**, when the employee is required to use the vehicle for commuting and is on call at all times. A public safety officer vehicle is clearly marked if, through painted insignia or words, it is readily apparent that the vehicle is a public safety officer vehicle."

We determined that none of the 24 employees worked out of an office in their home and their state vehicles were not clearly marked with "Office of Emergency Medical Services" decals or insignias. Upon notification of the statutory requirements, the Office of Emergency Medical Services agreed with our determination and is in the process of clearly marking all 31 of their state vehicles (agency and individual) with "Office of Emergency Medical Services" decals.

**Recommendation:** Management should ensure that all assigned state vehicles are properly marked as emergency vehicles to comply with federal and state statutory requirements. Management should also consult with legal counsel concerning state and employee liability for the taxable fringe benefits accrued during the period of noncompliance.

**DHHS Response:** *The Department concurs with the finding and recommendation. Management within the Office of Emergency Medical Services (OEMS) was not aware of all of the statutory requirements regarding the use of state assigned vehicles by state employees. As noted in the report, the vehicles were used primarily for State Emergency Response Team (SERT) functions and other required agency activities by staff on-call 24 hours a day, 7 days a week.*

*In addition to the SERT responsibilities, staff used the assigned vehicles daily for travel to meetings with EMS system administrators and EMS educational institutions such as community colleges. The staff also used the assigned vehicles to conduct required ambulance inspections, attend Hospital Preparedness Program meetings for preparation for disaster response, attend trauma center site visits, etc. It was never the intention of the agency to promote an unwritten policy granting permission for state assigned vehicles to be used for commuting from home to office. The vast amount of travel for the activities described earlier are completed either prior to arrival or after the departure from the office.*

*Notwithstanding the agency intent, the agency is in agreement with the audit finding and recommendation. OEMS management immediately took action to clearly mark all agency vehicles with a*

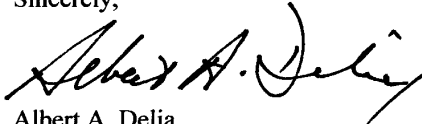
Beth A. Wood  
June 25, 2012  
Page 3 of 3

*permanently affixed decal on both sides that reads "North Carolina Office of EMS." The decals include an insignia of the nationally recognized "Star of Life" for emergency medical services vehicles.*

*Further, OEMS management is consulting with legal counsel concerning the taxable fringe benefits that may have been accrued and has appointed the Assistant Chief-Administration of the division to serve as the agency's liaison for Motor Fleet Management; to ensure all applicable laws and rules are complied with and agency staff are informed of the requirements.*

We appreciate the assistance and professionalism provided by your staff in the performance of this audit. If you need any additional information, please contact Monica Hughes at (919) 855-3720.

Sincerely,



Albert A. Delia

AAD:mh

cc: Dan Stewart, Assistant Secretary for Finance and Business Operations  
Beth Melcher, Deputy Secretary for Health Services  
Drexdal Pratt, Director of Health Service Regulation  
Regina Goddette, Chief of Emergency Medical Services  
Laketha Miller, Controller  
Thomas Edward Berryman, Director of Internal Audit  
John Dervin, Chief of Staff

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## ORDERING INFORMATION

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Copies of this report may be obtained by contacting the:

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2 South Salisbury Street  
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