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**The Council of the City of New York**

**BRIEFING PAPER OF THE HUMAN SERVICES DIVISION**

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**COMMITTEE ON GENERAL WELFARE**

*Honorable Stephen Levin, Chair*

**November 21, 2019**

**Oversight: Food Access, Quality and Inspections at DHS Shelters**

1. **Introduction**

 On November 21, 2019, the Committee on General Welfare, chaired by Council Member Stephen Levin, will hold the following hearing: Food Access, Quality and Inspections at DHS Shelters. Expected to testify are representatives from the Department of Social Services and the Department of Health and Mental Hygiene, advocates for the homeless, individuals impacted by these policies and other concerned members of the community.

1. **Regulatory Requirements for Food in Shelters**

According to a 2018 audit by the New York State Comptroller, there are 100 homeless shelters overseen by the New York City Department of Homeless Services (DHS) that either cook food on site or have food catered in New York City.[[1]](#footnote-1) During 2017, over 18 million meals were served in homeless shelters in the city.[[2]](#footnote-2) According to the New York State Office of Temporary and Disability Assistance (OTDA) regulations, a shelter operator must provide meals that are balanced, nutritious and adequate in amount and content to meet the dietary needs of residents.[[3]](#footnote-3) For operators of adult facilities, at a minimum, breakfast and an evening meal are required to be served at regularly scheduled times, but shelters run by a local department of social services must serve three meals a day.[[4]](#footnote-4) For family shelters, provision must be made to ensure that residents can conveniently obtain three well-balanced meals daily.[[5]](#footnote-5) In addition, special medically-prescribed dietary or nutritional needs for adults or children must be accommodated.[[6]](#footnote-6)

According to a 2008 Executive Order, City agencies are responsible for ensuring that all meals purchased, prepared or served in agency programs comply with Food Standards created by the Commissioner of the New York City Department of Health and Mental Hygiene (DOHMH) and the Food Policy Coordinator (later renamed Director) within the Office of the Deputy Mayor for Health and Human Services.[[7]](#footnote-7) Regardless of where it is prepared, all food served in City shelters must comply with these standards, which set minimum nutrition requirements in an effort to reduce the prevalence of chronic diseases, such as obesity, diabetes and cardiovascular disease.[[8]](#footnote-8) According to the Food Standards, three daily meals combined must meet the daily standards for calories, sodium, fat and fiber.[[9]](#footnote-9) Additionally, all beverages served must contain fewer than 25 calories (with the exception of 100% fruit juice), milk must be non- or low-fat and deep-frying is prohibited.[[10]](#footnote-10) Exceptions are made for programs that regularly serve fewer than 200 people per meal.[[11]](#footnote-11)

DHS is responsible for ensuring that homeless shelters in New York City meet the above standards and regulations.[[12]](#footnote-12) In order to meet these requirements, DHS conducts semiannual inspections to assess the adequacy and appropriateness of the shelters’ food services.[[13]](#footnote-13) During the 2018 New York State Comptroller Audit, DHS officials told the Comptroller’s office that while there are no laws or regulations requiring the agency to conduct semiannual inspections, it does so to ensure shelter operators comply with applicable laws, regulations and contractual obligations.[[14]](#footnote-14) DOHMH is required to inspect any establishment—including homeless shelters—that serves food, whether it is cooked on site or catered.[[15]](#footnote-15) DOHMH’s policy is to perform an on-site inspection of every shelter at least once a year.[[16]](#footnote-16) DOHMH’s inspections focus on food safety, not nutritional quality.[[17]](#footnote-17) DOHMH’s process for suspected food-related illness may require the operator of the establishment to submit a report in response to the complaint to inform the investigation to be done by the DOHMH [[18]](#footnote-18) Sufficient access to food, as well as other basic necessities, persists for those residing in hotels. Many hotels don’t have adequate facilities for individuals and families to prepare and assemble their own meals.[[19]](#footnote-19) Further, the benefits offered in place of meals in some hotels, such as Supplemental Nutrition Assistance Program (SNAP) and the cash assistance restaurant allowance, which allows for the purchase of certain prepared foods and groceries, are often insufficient in ensuring access to quality, nutritious food.[[20]](#footnote-20)

1. **Comptroller Audit**

In October 2018, the New York State Office of the State Comptroller released an audit of homeless shelter food services and found that OTDA, DHS and DOHMH did not provide adequate food services oversight for certified homeless shelters.[[21]](#footnote-21) The audit found there was not sufficient documentation to determine whether the sampled meals met State regulations and Food Standards.[[22]](#footnote-22) Overall, the audit found a lack of written policies and procedures relating to food nutrition for both OTDA and DHS.[[23]](#footnote-23) On average, only 59% of the food inspections by the three agencies were completed for the 15 shelters sampled.[[24]](#footnote-24) DHS only completed 18%.[[25]](#footnote-25) The audit found that DHS’ nutrition monitoring was virtually non-existent during 2015 and 2016 due to a nutritionist not being on staff until November 2016.[[26]](#footnote-26) At the time of the audit, DHS officials advised that they had drafted food and nutrition policies and procedures, which were undergoing executive-level review at DHS for issuance in October 2018.[[27]](#footnote-27)

The Comptroller’s office obtained the menus that were submitted to DHS by the shelters and compared them to what was actually being served during a site visit.[[28]](#footnote-28) They found that the meals served at 7 of the 15 shelters did not match the menu that they received from DHS.[[29]](#footnote-29) The submitted menus and other documentation (e.g., nutrient analysis reports) were missing essential nutritional data, such as calories, serving size, recipes and the brand names of the ingredients.[[30]](#footnote-30) Of the 315 food items reviewed in the audit, 23 (7%) exceeded the allowable sodium content per serving, some by nearly double.[[31]](#footnote-31) Another 46 items (15%) had no labels and, therefore, no nutritional information was available.[[32]](#footnote-32) DHS informed the Comptroller’s office that it would require all shelters to submit recipes to ensure a more exact nutrient analysis and also submit items or brand names to verify the food items meet standards.[[33]](#footnote-33) There was also no policy in place to ensure that donated food met nutritional standards.[[34]](#footnote-34)

Below are the key recommendations from the audit:[[35]](#footnote-35)

* Enhance monitoring and oversight of food services by performing inspections in accordance with applicable regulations and policies.
* Finalize and implement formalized shelter food inspection policies and procedures.
* Require shelter providers and caterers to submit menus and other supporting documentation that clearly denote nutritional information for all individual food items served, including nutritional fact labels, recipes, and food brand names, in order to properly verify the nutritional content of meals.
* Ensure that each shelter that serves food has the required food establishment permit.

DHS and DOHMH agreed to most of the recommendations and had either implemented them or were in the process of implementing them at the time of the audit release.[[36]](#footnote-36) One exception was the recommendation that food service workers remain current with tuberculosis (TB) testing, as required under OTDA regulations for adult shelters.[[37]](#footnote-37) TB is not transmitted through food and DOHMH does not have TB testing requirements for food service workers.[[38]](#footnote-38) DSS said it would work with OTDA to update the regulation to evidence-based practices.[[39]](#footnote-39)

1. **Conclusion**

This hearing seeks to explore DHS’ and DOHMH’s food quality and safety standards, the inspection process for both agencies and the quality assurance measures put in place to ensure access to nutritious food at City-operated and provider-run shelters. The Committee would like to hear what progress has been made since the New York State Comptroller’s audit a year ago found inadequate food services oversight for homeless shelters. Ensuring that proper food safety measures are in place is especially timely given the recent Daily News report that 6 people at the Auburn Family Residence in Fort Greene became violently ill from suspected food poisoning.[[40]](#footnote-40) The Daily News reports allegations that expiration dates were covered with false labels containing later expiration dates.[[41]](#footnote-41) Mayor Bill de Blasio has announced that the incident is currently under investigation.[[42]](#footnote-42)

1. NY State Office of the State Comptroller, “Oversight of Certified Homeless Shelter Food Services: Office of Temporary and Disability Assistance, New York City Department of Social Services, New York City Department of Health and Mental Hygiene, Oct. 2018, *available at* <https://www.osc.state.ny.us/audits/allaudits/093019/sga-2019-17s53.pdf> (hereinafter “Comptroller’s Audit”). [↑](#footnote-ref-1)
2. *Id.* [↑](#footnote-ref-2)
3. NYCRR Title 18, Parts 491.9 and 900.13 [↑](#footnote-ref-3)
4. NYCRR Title 18, Part 491.9 [↑](#footnote-ref-4)
5. NYCRR Title 18, Part 900.13 [↑](#footnote-ref-5)
6. NYCRR Title 18, Part 900.13 [↑](#footnote-ref-6)
7. New York City Executive Order No. 122, Sept. 19, 2008 [↑](#footnote-ref-7)
8. *Id.* [↑](#footnote-ref-8)
9. The NYC Food Standards can be found at <https://www1.nyc.gov/site/foodpolicy/initiatives/procurement.page> [↑](#footnote-ref-9)
10. *Id.* [↑](#footnote-ref-10)
11. *Id.* [↑](#footnote-ref-11)
12. Comptroller’s Audit, *supra* note 1 [↑](#footnote-ref-12)
13. *Id.* [↑](#footnote-ref-13)
14. *Id.* [↑](#footnote-ref-14)
15. *Id.* [↑](#footnote-ref-15)
16. *Id.* [↑](#footnote-ref-16)
17. *Id.* [↑](#footnote-ref-17)
18. NYC Code of Health Article 81.43 [↑](#footnote-ref-18)
19. Rosner, Elizabeth, Priscilla DeGregory and Bruce Golding, “Homeless People Living in FiDi Hotels Can’t Afford Food” New York Post, July 31, 2017 <https://nypost.com/2017/07/31/homeless-people-living-in-fidi-hotels-cant-afford-food/> [↑](#footnote-ref-19)
20. Surico, John “Life Inside the Hotels for New York’s Homeless” *Vice,* Jun 28, 2016 *available at* <https://www.vice.com/en_us/article/exk4b4/homeless-hotels-new-york-city> [↑](#footnote-ref-20)
21. Comptroller’s Audit, *supra* note 1 [↑](#footnote-ref-21)
22. *Id.* [↑](#footnote-ref-22)
23. *Id.* [↑](#footnote-ref-23)
24. *Id.* [↑](#footnote-ref-24)
25. *Id.* [↑](#footnote-ref-25)
26. *Id.* [↑](#footnote-ref-26)
27. *Id.* [↑](#footnote-ref-27)
28. *Id.* [↑](#footnote-ref-28)
29. *Id.* [↑](#footnote-ref-29)
30. *Id.* [↑](#footnote-ref-30)
31. *Id.* [↑](#footnote-ref-31)
32. *Id.* [↑](#footnote-ref-32)
33. *Id.* [↑](#footnote-ref-33)
34. *Id.* [↑](#footnote-ref-34)
35. *Id.* [↑](#footnote-ref-35)
36. *Id.* [↑](#footnote-ref-36)
37. *Id.* [↑](#footnote-ref-37)
38. *Id.* [↑](#footnote-ref-38)
39. *Id.* [↑](#footnote-ref-39)
40. Trevor Boyer, Graham Rayman, Erika Martinez, “Chicken salad surprise: NYC shelter served rotten chicken salad, sickening at least six people,” Daily News, Oct. 31, 2019, *available at* https://www.nydailynews.com/new-york/nyc-crime/ny-food-poisoning-brooklyn-shelter-20191031-36yvo6nn4vcy5hgfmho5yx4i5e-story.html [↑](#footnote-ref-40)
41. *Id.* [↑](#footnote-ref-41)
42. Graham Rayman and Shant Shahrigian, “Mayor de Blasio promises investigation into homeless shelter’s sickening servings of rotten food after Daily News investigation,” Oct. 31, 2019, *available at* https://www.nydailynews.com/news/politics/ny-food-poisoning-brooklyn-shelter-lawsuit-20191031-2tvoqdljwreidk25mdzumvqere-story.html [↑](#footnote-ref-42)