

**DEPARTMENT
OF
DEVELOPMENTAL SERVICES'
AUDIT
OF
DK INDEPENDENT LIVING SERVICES, INC.**

Program:

Independent Living Program – HQ1013

October 27, 2017

Audit Period: July 1, 2013, through June 30, 2014

Audit Section

Auditors: Michael Masui, Chief of Vendor Audits
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DK INDEPENDENT LIVING SERVICES

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EXECUTIVE SUMMARY

The Department of Developmental Services (DDS) has audited DK Independent Living Services, Inc. (DKILS). The audit was performed upon the Independent Living Program (ILP) for the period of July 1, 2013, through June 30, 2014.

The audit disclosed the following issue of non-compliance:

Finding: Independent Living Program – Unsupported Billings and Failure to Bill

The review of DKILS' ILP, Vendor Number HQ1013, revealed that DKILS had both unsupported billings, as well as appropriate support for services that it failed to bill to San Diego Regional Center (SDRC). As a result, DKILS had a total of \$90,248 of unsupported billings and a total of \$182 for which it failed to bill.

The net total of unsupported billings identified in this audit amounts to \$90,066 and is due back to DDS. A detailed discussion of the finding is contained in the Finding and Recommendation section of this report.

BACKGROUND

DDS is responsible, under the Lanterman Developmental Disabilities Services Act, for ensuring that persons with developmental disabilities receive the services and supports they need to lead more independent, productive, and integrated lives. DDS contracts with 21 private, nonprofit regional centers that provide fixed points of contact in the community for serving eligible individuals with developmental disabilities and their families in California. In order for regional centers to fulfill their objectives, they secure services and supports from qualified service providers and/or contractors. Pursuant to the Welfare and Institutions (W&I) Code, Section 4648.1, DDS has the authority to audit those service providers and/or contractors that provide services and supports to persons with developmental disabilities.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

The audit was conducted to determine whether DKILS' ILP was in compliance with the W&I Code, California Code of Regulations (CCR), Title 17, and the regional center's contract with DKILS for the period of July 1, 2013, through June 30, 2014.

Scope

The audit was conducted in accordance with the Generally Accepted Government Auditing Standards (GAGAS) issued by the Comptroller General of the United States. The auditors did not review the financial statements of DKILS nor was this audit intended to express an opinion on the financial statements. The auditors limited the review of DKILS' internal controls to gain an understanding of the transaction flow and invoice preparation process, as necessary, to develop appropriate auditing procedures. The audit scope was limited to planning and performing audit procedures necessary to obtain reasonable assurance that DKILS complied with the W&I Code and CCR, Title 17. Also, any complaints that DDS' Audit Section was aware of regarding non-compliance with laws and regulations were reviewed and addressed during the course of the audit.

The audit scope was determined by reviewing the program and service provided to SDRC, which utilized DKILS' services during the audit period. In addition, DKILS provided one type of service, an ILP, which DDS audited. By analyzing the information received during a pre-audit meeting with the vendor, an internal control questionnaire, and a risk analysis, it was determined that a six-month sample period would be sufficient to fulfill the audit objectives. However, based on the significant unsupported billings found within the six-month sample, DDS expanded the audit to include the entire audit period.

Independent Living Program

During the audit period, DKILS operated one ILP. The audit included the review of DKILS' ILP, Vendor Number HQ1013, Service Code 520 and testing was done for the entire audit period of July 1, 2013, through June 30, 2014.

Methodology

The following methodology was used by DDS to ensure that the audit objectives were met. The methodology was designed to obtain reasonable assurance that the evidence provided was sufficient and appropriate to support the finding and conclusion in relation to the audit objectives. The procedures performed included, but were not limited to, the following:

- Review of vendor files for contracts, rate letters, program designs, Purchase of Service (POS) authorizations, and correspondence pertinent to the review.
- Interview of regional center staff for vendor background information and to obtain insight into the vendor's operations.
- Interview of vendor staff and management to gain an understanding of its accounting procedures and processes for regional center billing.
- Review of vendor service/attendance records to determine if the vendor had sufficient and appropriate evidence to support the direct care service billed to the regional center(s).
- Analysis of the vendor's payroll and attendance/service records to determine if the appropriate level of staffing was provided.

CONCLUSION

Based upon the item identified in the Finding and Recommendation section, DKILS had a finding of non-compliance with the requirements of CCR, Title 17.

VIEWS OF RESPONSIBLE OFFICIALS

DDS issued the draft audit report on December 5, 2016. The finding identified in the draft audit report was discussed with DKILS' management during the formal exit conference on December 14, 2016. On January 17, 2017, DDS received DKILS' response to the draft audit report.

RESTRICTED USE

This report is solely for the information and use of DDS, Department of Health Care Services, SDRC, and DKILS. This restriction is not intended to limit distribution of this report, which is a matter of public record.

FINDING AND RECOMMENDATION

Finding: Independent Living Program – Unsupported Billings and Failure to Bill

The review of DKILS' ILP, Vendor Number HQ1013, for the audit period July 1, 2013, through June 30, 2014, revealed that DKILS had both unsupported billings, as well as appropriate support for services that it failed to bill to SDRC.

Unsupported billings occurred due to a lack of appropriate documentation to support the units of service billed to SDRC. The failure to bill occurred when DKILS had appropriate supporting documentation, but it did not bill SDRC.

DKILS was not able to provide appropriate supporting documentation for 2,857 hours of service billed. The lack of documentation resulted in unsupported billings to SDRC in the amount of \$90,248. In addition, DKILS provided appropriate supporting documentation for 6 hours of service that were not billed to SDRC. This resulted in an unbilled amount of \$182, therefore, the net amount of \$90,066 (\$90,248 - \$182) is due back to DDS for the unsupported billings. (See Attachment A)

W&I Code, Section 4648.1(e)(1) states:

“(e) A regional center or the department may recover from the provider funds paid for services when the department or the regional center determines that either of the following has occurred:

- (1) The services were not provided in accordance with the regional center's contract or authorization with the provider, or with applicable state laws or regulations.”

CCR, Title 17, Section 54326(a)(3) and (10) state in part:

“(a) All vendors shall:

- (3) Maintain records of services provided to consumers in sufficient detail to verify delivery of the units of service billed:
- (10) Bill only for services which are actually provided to consumers and which have been authorized by the referring regional center...”

CCR, Title 17, Section 50604(d) and (e) states in part:

“(d) All service providers shall maintain complete service records to support all billing/invoicing for each regional center consumer in the program....

(e) All service providers’ records shall be supported by source documentation.”

Recommendation:

DKILS must reimburse DDS \$90,066 for unsupported billings. In addition, DKILS should develop and implement policies and procedures to ensure that proper documentation is maintained to support the amounts billed to SDRC.

DKILS’ Response:

In its response to the draft audit report, DKILS stated that they could not produce any further supporting documentation. Nevertheless, DKILS did not expressly agree or disagree with the draft audit finding.

See Attachment B for the full text of DKILS’ response to the draft audit report and Attachment C for DDS’ evaluation of DKILS’ response.

DK Independent Living Services
Finding: Summary of Unsupported Billings and Failure to Bill
Audit Period: July 1, 2013, through June 30, 2014

Vendor	Svc Code	Description	Sub Code	Unit Type	Unsupported Billings		Failure to Bill		Amount Due to DDS
					Units ¹	Amount ¹	Units ¹	Amount ¹	Net ¹
<u>Independent Living Program</u>									
HQ1013	520	Independent Living Program SDRC-Fiscal Year 2013-2014							
		July 2013	Q1	Hours	191	\$ 6,039	-	-	\$ 6,039
		<i>Sub Total</i>			191	\$ 6,039	-	-	\$ 6,039
		August 2013	Q1	Hours	251	\$ 7,921	-	-	\$ 7,921
			01UNF	Hours	45	\$ 1,405	-	-	\$ 1,405
		<i>Sub Total</i>			296	\$ 9,326	-	-	\$ 9,326
		September 2013	Q1	Hours	223	\$ 7,067	-	-	\$ 7,067
			01UNF	Hours	58	\$ 1,811	-	-	\$ 1,811
		<i>Sub Total</i>			281	\$ 8,878	-	-	\$ 8,878
		October 2013	Q1	Hours	211	\$ 6,688	-	-	\$ 6,688
			01UNF	Hours	43	\$ 1,342	-	-	\$ 1,342
		<i>Sub Total</i>			254	\$ 8,030	-	-	\$ 8,030
		November 2013	Q1	Hours	166	\$ 5,241	-	-	\$ 5,241
			01UNF	Hours	47	\$ 1,467	-	-	\$ 1,467
		<i>Sub Total</i>			213	\$ 6,708	-	-	\$ 6,708
		December 2013	Q1	Hours	342	\$ 10,814	-	-	\$ 10,814
			01UNF	Hours	10	\$ 312	-	-	\$ 312
		<i>Sub Total</i>			352	\$ 11,126	-	-	\$ 11,126

DK Independent Living Services
Finding: Summary of Unsupported Billings and Failure to Bill
Audit Period: July 1, 2013, through June 30, 2014

Vendor	Svc Code	Description	Sub Code	Unit Type	Unsupported Billings		Failure to Bill		Amount Due to DDS
					Units ¹	Amount ¹	Units ¹	Amount ¹	Net ¹
<u>Independent Living Program</u>									
HQ1013	520	Independent Living Program SDRC-Fiscal Year 2013-2014							
		January 2014	Q1	Hours	190	\$ 6,008	-	-	\$ 6,008
		<i>Sub Total</i>			<u>190</u>	<u>\$ 6,008</u>	<u>-</u>	<u>-</u>	<u>\$ 6,008</u>
		February 2014	Q1	Hours	402	\$ 12,703	-	-	\$ 12,703
			01UNF	Hours	10	\$ 312	-	-	\$ 312
		<i>Sub Total</i>			<u>412</u>	<u>\$ 13,016</u>	<u>-</u>	<u>-</u>	<u>\$ 13,015</u>
		March 2014	Q1	Hours	191	\$ 6,047	-	-	\$ 6,047
		<i>Sub Total</i>			<u>191</u>	<u>\$ 6,047</u>	<u>-</u>	<u>-</u>	<u>\$ 6,047</u>
		April 2014	Q1	Hours	205	\$ 6,474	-	-	\$ 6,474
		<i>Sub Total</i>			<u>205</u>	<u>\$ 6,474</u>	<u>-</u>	<u>-</u>	<u>\$ 6,474</u>
		May 204	Q1	Hours	130	\$ 4,103	-	-	\$ 4,103
		<i>Sub Total</i>			<u>130</u>	<u>\$ 4,103</u>	<u>-</u>	<u>-</u>	<u>\$ 4,103</u>
		June 2014	Q1	Hours	130	\$ 4,119	6	\$ 182	\$ 3,937
			01UNF	Hours	12	\$ 375			\$ 375
		<i>Sub Total</i>			<u>142</u>	<u>\$ 4,493</u>	<u>6</u>	<u>\$ 182</u>	<u>\$ 4,312</u>
TOTAL UNSUPPORTED BILLINGS:					<u>2857</u>	<u>\$ 90,248</u>	<u>6</u>	<u>\$ 182</u>	<u>\$ 90,066</u>

DKILS' Response to Draft Report

As part of the audit report process, DDS afforded DKILS the opportunity to respond to the draft audit report and provide a written response to the finding identified. On January 10, 2017, DKILS submitted a response to the draft audit report, which was received by DDS' Audit Section on January 17, 2017. This was within the period DKILS had requested to provide its response to the draft audit report.

The response included a three-page letter. The following pages contain DKILS' written response.

DK Independent Living Services, Inc.

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January 10, 2017

Edward Yan, Manager
Department of Development Services
Audit Branch
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Sacramento, CA 95814

Dear Mr. Yan,

The following information is provided in response to your letter dated December 5, 2016 and our subsequent conversation on December 14, 2016 related to the findings of the audit of DK Independent Living Services for the review period July 1, 2013-June 30, 2014. Thank you for the opportunity to provide information regarding your findings.

Finding 1: Independent Living Program-Unsupported Billings and Failure to Bill

The review of DKILS' ILP, Vendor Number HQ1013 revealed that DKILS had both unsupported billings, as well as appropriate support for services that it failed to bill to San Diego Regional Center (SDRC). As a result, DKILS had a total of \$90,248 of unsupported billings and a total of \$182 for which it failed to bill.

Recommendation:

DKILS must reimburse to DDS \$90,066 for the unsupported billings. In addition, DKILS should develop and implement policies and procedures to ensure that proper documentation is maintained to support the amounts billed to SDRC.

Response:

Prior to the complaint filed with the Department of Developmental Services that subsequently resulted in the above referenced audit, DKILS had already taken significant steps to improve its policies and documentation procedures. Those steps included but were not limited to the following:

- DKILS temporarily hired someone with an accounting background to review documents and client files for accuracy (February 2014) after the owner developed concerns that the program manager [REDACTED] was possibly mismanaging documentation

DK Independent Living Services, Inc.

- DKILS hired an administrator (March 2014) with the intention to make sure the company was in full compliance
- DKILS conducted its own internal record review and immediately modified documentation procedures and policies as needed:
 - Supporting documentation submission requirements changed to bi-monthly
 - Discontinued practice of accepting source documentation by email to minimize formatting errors that might result in discrepancies
 - Created charting guidelines and provided additional staff training as needed
 - Updated all its source documentation to improve consistency, processing efficiency, and storage management

As stated in the communication dated June 25th, 2015 (addressed to Jennifer Bernard and Alton Kitay) it was during the time frame in February when the first review began that ██████████ removed files from the office. She did so without the knowledge or permission of the company owner. She was asked to return the files and complete whatever work she claimed needed to be done in the office. Several excuses were offered for the delay in doing so until on February 28th she was in a car accident that resulted in her vehicle being impounded. The owner's hands were somewhat tied at that point since ██████████ claimed the files were in the trunk of her car which had been rear ended and could not be accessed. On March 13th the 'files were returned' after the trunk of the car was cut open at her home by her husband. When it was discovered that there was still a large amount of documentation missing ██████████ claimed it 'must have been stolen'—from the vehicle that couldn't be accessed for 2 weeks and had to have the trunk cut open. She eventually changed that claim to she 'must have lost it.' Her employment arrangements with DKILS were severed on April 21, 2014 when she didn't show up to a meeting following her 3-day suspension while a complaint from an SDRC coordinator was being investigated.

DKILS does not draw your attention to the above to divert ultimate responsibility from the owner and director for the agency's practices, policies, and staffing methods. On the contrary, the owner of DKILS takes full and complete responsibility not only for any monies owed to DDS, but also for having placed unwarranted trust in an individual who didn't deserve it. Instead, we draw your attention to this matter for the following reasons:

- One clearly cannot provide additional supporting documentation if said documentation was, in fact, stolen
 - See payroll records—staff was paid for the hours the owner believed to be served
- It is readily obvious that the owner of a brand new rapidly growing agency trying to serve the needs of her clients began taking corrective measures as soon as she knew there was a problem
- It is equally obvious that ██████████ intended to cause the agency and its owner harm (see documentation provided during audit: Employment Development Department communications regarding ██████████ separation from the agency, Pre-Audit Minutes Addendum Notations, Internal Control Questionnaire Admin Item 9 and DDS communication dated June 25th, 2015)
- It is clear ██████████ was in collusion with the owner's previous employer who made numerous efforts to tarnish this owner's reputation and interfere with the success of

DK Independent Living Services, Inc.

her agency (see Separation Letter dated November 15, 2012, Statements from former employee, DDS communication dated June 25th, 2015)

- The audit team readily acknowledged the efforts that had been made by the agency (again, prior to the complaint) to recover, improve and maintain compliance with DDS regulations

With little recourse and yet all the responsibility for the actions of the agency's former staff, the best we can hope for at this point is to make sure, by means of our response, that DDS, SDRC, our current / future staff and clientele can see for themselves what circumstances led to the audit and what measures were taken long before your team arrived on the scene.

No rational person expects that administrative and calculation errors aren't made while conducting a business with so many numbers, dates, times and places. But the atrocity of intentionally causing harm to an individual and an agency by stealing supporting documentation and then "anonymously" reporting said agency is beyond understanding—and one would think worthy of consideration when coming to a final determination. At the very least, that act should be known by our peers within the industry by means of our response. It is very disheartening to imagine her being rewarded for her bad behavior by succeeding in tarnishing the reputation of DKILS. (Failure on our part to respond fully might result in exactly that.) She has already been compensated for the services she provided (see payroll records) and to give her any more than that sets a bad precedent under the whistle blower policy as it stands.

With that said, the information in your report obviously does not spell out which hours were disallowed and, as you know, we have already provided you with everything we had. So, despite having paid out wages for hours the owner believes were, in fact, served we cannot produce any further source documentation to support that belief. However, we would like to request further clarification regarding the summary of unsupported billings (page 7 & 8 of Audit Report Draft). With the understanding that "all figures have been rounded to the nearest whole number or dollar," was the same hourly rate used for all the "unsupported" hours? See example of kinds of clarification needed below:

- May 2014 130 hours \$4103
- June 2014 130 hours \$4119

No disrespect is intended and we, of course, are not auditors. But there are several of those figures that don't add up when multiplied by the rate during the time of audit. Can someone help us to understand these calculations?

We thank you for your time and clarifications and again, appreciate the respectful manner with which the entire audit was conducted.

In gratitude,

DK Independent Living Services, Inc.

THE DEPARTMENT OF DEVELOPMENTAL SERVICES' EVALUATION OF DKILS' RESPONSE

DDS evaluated DKILS written response to the draft audit report and determined that DKILS did not expressly disagree with the draft audit finding. Provided below are excerpts from DKILS' response and DDS' evaluation of DKILS' response. (See Attachment B to the final audit report for the full text of DKILS's response.)

Finding: Independent Living Program – Unsupported Billings and Failure to Bill

DKILS argues the following in response to this finding:

DKILS stated, "...the information in your report obviously does not spell out which hours were disallowed and, as you know, we have already provided you with everything we had. So, despite having paid out wages for hours the owner believes were, in fact, served we cannot produce any further source documentation to support that belief. However, we would like to request further clarification regarding the summary of unsupported billings (page 7 & 8 of Audit Report Draft)."

The information in the draft audit report is a summary of the total audit finding. DDS did not spell out hours found to be unsupported in the draft audit report because of the confidentiality of the consumers or staff involved. However, details of the unsupported hours were discussed throughout the audit fieldwork and during the formal exit conference on December 14, 2016.

With regard to Attachment A, the Summary of Unsupported Billings and Failure to Bill (Pages 7 and 8), the auditors communicated to DKILS' management that the unsupported billings identified in the draft audit report represented billings that have no supporting documentation. In addition, there were instances where DKILS had supporting documentation; however, DKILS did not comply with the approved staffing ratio of one staff to one consumer (1:1), which caused overlapping hours that should have not been billed.

Furthermore, providing payroll records for the staff hours does not validate that direct care services have been provided. Some session notes indicated staff and consumers did not meet during the time specified yet there were payroll hours for the staff. DDS disallowed hours that were billed to SDRC derived from the staff's calendar without payroll records, session notes, or mileage logs to substantiate that actual direct care services were provided. DDS' auditors cannot accept the owner proclamation that the owner or salaried staff performed all of the unsupported hours undocumented.

DDS allowed credit for all of the verifiable hours identified through the source documentation provided by DKILS.

**THE DEPARTMENT OF DEVELOPMENTAL SERVICES'
EVALUATION OF DKILS' RESPONSE**

DKILS stated "With the understanding that 'all figures have been rounded to the nearest whole number or dollar,' was the same hourly rate used for all the unsupported hours?"

May 2014	130 hours	\$4103
June 2014	130 hours	\$4119

No disrespect is intended and we, of course, are not auditors. But there are several of those figures that don't add up when multiplied by the rate during the time of the audit. Can someone help us to understand these calculations?"

The numbers are rounded up to the next whole number if the number behind the decimal point is .5 or more. The numbers are rounded down to the next whole number if the number behind the decimal point is 4 or less:

Actual Calculation:

May 2014	129.75 hours	multiply by	\$31.62	= \$4,102.70
June 2014	130.25 hours	multiply by	\$31.62	= \$4,118.51

Reported on Attachment A:

May 2014	130 hours	\$4,103
June 2014	130 hours	\$4,119

Attachment A, the Summary of Unsupported Billings and Failure to Bill (Pages 7 and 8), was calculated accordingly with the applicable rates per the sub codes DKILS utilized during the audit period.

DDS' Conclusion:

DDS has evaluated DKILS' response to the draft audit report and finds that no new information or source documentation was provided to refute the audit finding. Therefore, DKILS must reimburse DDS the total amount of \$90,066 for the unsupported billings.