

**DEPARTMENT
OF
DEVELOPMENTAL SERVICES
AUDIT
OF
ESPERANZA CHARITIES, INC.**

Day Program:

Independent Living Program (ILP) – HE0069

Supported Living Service:

Supported Living Services (SLS) – H26289

(Audit Period: July 1, 2008 through June 30, 2009)

Audit Branch

Auditors: Michael Masui, Chief of Vendor Audits
Alimou Diallo, Audit Supervisor
Mubashshir Ahmad, Lead Auditor
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ESPERANZA CHARITIES, INC.
(ECI)
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EXECUTIVE SUMMARY

The Department of Developmental Services (DDS) has audited Esperanza Charities, Inc. (ECI). The audit was performed upon the following services operated by ECI: Supported Living Services (SLS) and Independent Living Program (ILP) for the period of July 1, 2008 through June 30, 2009.

The last day of fieldwork was July 23, 2010.

The results of the audit disclosed the following issue of noncompliance:

Finding: Day Program (ILP) – Incorrect Billing

The review of ECI's Day Program for Vendor Number HE0069 revealed that administrative functions were incorrectly billed by ECI as direct care hours. ECI incorrectly billed Eastern Los Angeles Regional Center (ELARC) and San Gabriel Pomona Regional Center (SGPRC) 669.25 hours of administrative duties as ILP direct care hours. Administrative duties are not billable to the regional centers because the vendor rate of payment includes administrative duties and other costs. As a result, ECI was paid \$28,777.75 for 669.25 hours of direct care not provided to consumers.

The total of the incorrect billing discrepancies identified in this audit amounts to \$28,777.75 due back to DDS. A detailed discussion of this finding is contained in the Findings and Recommendations section of this report.

BACKGROUND

The Department of Developmental Services (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 normal 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. Per Welfare and Institutions Code, Section 4648.1, DDS has the authority to audit those service providers and/or contractors that provide services and supports to the developmentally disabled.

OBJECTIVE, SCOPE, AND METHODOLOGY

The audit was conducted to determine whether ECI's Supported Living and Independent Living Programs were in compliance with the applicable Welfare and Institutions (W&I) Code, California Code of Regulations Title 17 (Title 17), and ELARC and SGPRC contracts with ECI for the period of July 1, 2008 through June 30, 2009.

The audit was conducted in accordance with the Generally Accepted Government Auditing Standards issued by the Comptroller General of the United States. The auditors did not review the financial statements of ECI, nor was this audit intended to express an opinion on the financial statements. The auditors limited the review of ECI's internal controls to gaining 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 ECI complied with required regulations.

Supported Living Services

During the audit period, ECI operated one Supported Living Program, Vendor Number H26289, Service Code 896, which was audited.

The procedures performed at ELARC, the vendoring regional center, SGPRC, the user regional center, and ECI included, but were not limited to, the following:

- Reviewed ELARC and SGPRC's vendor files for contracts, rate letters, program designs, purchase of service authorizations, and correspondence pertinent to the review.
- Interviewed ELARC and SGPRC staff for vendor background information and to obtain prior vendor audit reports.
- Interviewed ECI's staff and management to gain an understanding of its accounting procedures and processes for regional center billings.

- Reviewed ECI's service/attendance records to determine if ECI had sufficient and appropriate evidence to support the direct care services billed to the regional centers.

Day Programs

During the audit period, ECI operated one Day Program, Vendor Number HE0069, Service Code 520, which was audited:

The procedures performed at ELARC, the vendoring regional center, SGPRC, the user regional center, and ECI included, but were not limited to, the following:

- Reviewed ELARC and SGPRC's vendor files for contracts, rate letters, program designs, purchase of service authorizations, and correspondence pertinent to the review.
- Interviewed ELARC and SGPRC's staff for vendor background information and to gain an understanding of the billing processes.
- Interviewed ECI's staff and management to gain an understanding of its accounting procedures and processes for billings.
- Reviewed ECI's service/attendance records to determine if ECI had sufficient and appropriate evidence to support the direct care services billed to the regional centers.

CONCLUSION

Based upon the procedures performed, we have determined that except for the items identified in the Finding and Recommendation section, ECI has complied with the requirements of Title 17.

VIEWS OF RESPONSIBLE OFFICIALS

The DDS issued a draft audit report on September 22, 2010. The findings in the report were discussed at an exit conference with ECI's Executive Director/CEO Evie P. Romero, on October 4, 2010. ECI conveyed in their response dated October 25, 2010 that it does not dispute the fact that non-direct service billings occurred during the audit period for services provided to ELARC and SGPRC. However, ECI requires further clarification with respect to DDS' interpretation of Title 17, California Code of Regulations, Section 54301 (a) (26).

RESTRICTED USE

This report is solely for the information and use of the Department of Developmental Services, Department of Health Care Services, ELARC, SGPRC, and ECI. This report is not intended and should not be used by anyone other than those specified parties. This restriction is not intended to limit distribution of this report, which is a matter of public record.

FINDINGS AND RECOMMENDATIONS

Finding: Day Program (ILP) – Incorrect Billing

The review of ECI’s Day Program, Vendor Number HE0069, for the sample months of August and September 2008, revealed that administrative duties were incorrectly billed by ECI as direct care hours.

The non direct service billings occurred due to lack of adequate billing procedures to ensure only services actually provided to consumers are included in the monthly billings to ELARC and SGPRC. The following is the discrepancy identified:

ECI incorrectly billed ELARC and SGPRC 669.25 hours of administrative duties as direct ILP care hours. Administrative duties are not billable to the regional centers. As a result, ECI was paid \$28,777.75 for 669.25 hours of direct care not provided to consumers. (See Attachment A.)

Title 17, Section 54326 (a) states:

“All vendors shall:

(10) Bill only for services which are actually provided to consumers and which have been authorized by the referring regional center.”

Also, Title 17, Section 54302 (a) (26) states:

“Direct Care Staff means staff who personally provide direct services to consumers. Personnel who are responsible for other staff functions may be considered direct care staff only during that time when they are providing direct services to consumers or are involved in program preparation functions.”

Recommendation:

ECI should reimburse to DDS the \$28,777.75 for the 669.25 of administrative hours billed as direct care. In addition, ECI should develop and implement policies and procedures to ensure that only direct service hours provided to consumers are billed to the regional center, as required by Title 17.

Auditee’s Response:

ECI concurs with said finding of fact, but requests that additional information be provided by DDS prior to the inclusion of these findings in any final report that is of public record.

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

**Esperanza Charities, Inc.
Summary of Incorrect Billing
Fiscal Year- 2008-09**

| <i>Finding #</i> | <i>Vendor</i> | <i>Svc Code</i> | <i>Description</i> | <i>Sample Months</i> | <i>RC</i> | A | | B | | C=A*B | | Amount Due to DDS |
|---------------------------------|--------------------------|-----------------|----------------------------|----------------------|-----------|-------------|---------------|--------------------------------------|--|---------------|--|--------------------------|
| | | | | | | <i>Rate</i> | <i>Units</i> | Incorrect Billing¹ | | <i>Amount</i> | | |
| 1 | Day Program (ILP) | | | | | | | | | | | |
| | HE0069 | 520 | Independent Living Program | Aug-08 | 373 | 43.00 | 258.50 | \$11,115.50 | | | | |
| | | | | | 379 | | 50.50 | \$2,171.50 | | | | |
| | | | | | | | 309.00 | \$13,287.00 | | | | \$13,287.00 |
| | | | | Sep-08 | 373 | | 291.75 | \$12,545.25 | | | | |
| | | | | | 379 | | 68.50 | \$2,945.50 | | | | |
| | | | | | | | 360.25 | \$15,490.75 | | | | \$15,490.75 |
| | | | | | | | 669.25 | \$28,777.75 | | | | \$28,777.75 |
| TOTAL INCORRECT BILLING: | | | | | | | | | | | | \$28,777.75 |

¹These payments were paid to the vendor for non direct services.

RC# 373 East Los Angeles Regional Center

RC# 379 San Gabriel Pomona Regional Center

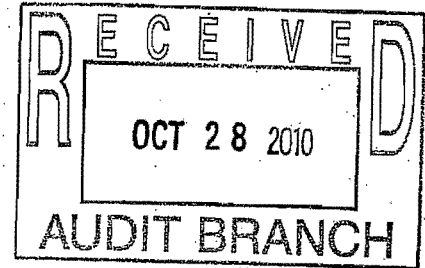
**Esperanza Charities, Inc.
Response to the Draft Report**

In responding to the draft audit report, Esperanza provided a response dated October 25, 2010. The following two pages embody Esperanza's full and complete response to the audit report.



ESPERANZA

Independent and Supportive Living Services



October 25, 2010

Via U.S. Priority Mail

Tracking No. 9405503699300381237551

Edward Yan, Manager
Department of Developmental Services
Audit Branch
1600 Ninth Street, Room 230, MS 2-10
Sacramento, CA 95814

RE: Reply to Correspondence of September 22, 2010
Department of Developmental Services Audit of Esperanza Charities, Inc.

Mr. Yan:

Esperanza Charities, Inc. (hereinafter "ECI") is in receipt of your letter of September 22, 2010 and the attached Department of Developmental Services (hereinafter "DDS") audit of ECI for the review period commencing on July 1, 2008 and ending on June 30, 2009 (hereinafter the "Audit"). This letter shall constitute ECI's formal reply to the findings of the Audit.

Regarding the Audit's findings with respect to ECI's Supported Living Program (hereinafter "SLP") program, ECI concurs with said findings and does not dispute any specific finding of fact.

Regarding the Audit's findings with respect to ECI's Independent Living Program (hereinafter "ILP"), ECI does not dispute any specific finding of fact, but requests that additional information be provided by DDS prior to the inclusion of these findings in any final report of public record.

ECI does not dispute the fact that non-direct service billings occurred during the Audit period for services provided to the Eastern Los Angeles Regional Center (hereinafter "ELARC") and the San Gabriel/Pomona Regional Center (hereinafter "SGPRC").

However, ECI requires further clarification with respect to DDS' interpretation of Title 17, California Code of Regulations, Section 54301(a)(26) which states, in relevant part:

"Direct Care Staff means staff who personally provide direct services to consumers. Personnel who are responsible for other staff functions may be considered direct care staff only during that time when they are providing direct services to consumers or are involved in program preparation functions." (Emphasis added.)

Mr. Edward Yan
Esperanza Charities, Inc. Response
October 25, 2010
Page Two of Two


Specifically, ECI is requesting clarification with regard to program managers and direct support staff who may have billed for hours which could be, characterized as "program preparation functions." While ECI was advised by DDS that such program preparation functions were not billable to ELARC and SGPRC due to the fact that they were not performed on a face-to-face basis, ECI requests clarification as to whether some or all of the hours which were determined by the Audit to be "incorrectly billed" fall within the scope of the plain meaning of the statute which allows for the billing of program preparation functions. ECI would respectfully request that DDS elucidate this particular issue and provide a framework to determine when hours performed in program preparation functions on a non-face-to-face basis would either qualify or not qualify for payment from the authorizing Regional Center. This type of guidance is necessary and essential to ECI's implementation of proper policies and procedures with respect to ILP billings to vendoring Regional Centers. From a basic reading of the applicable statutes, it would appear that hours performed on a non-face-to-face basis could have the potential to be properly billed to the authorizing Regional Center so long as those hours constituted involvement in program preparation functions. Further clarification is also requested with respect to DDS' interpretation of the meaning of the term "program preparation functions."

In the interim, ECI has updated its policies and procedures and is currently billing zero hours which do not constitute the face-to-face provision of direct services; pursuant to the specific direction and instructions of DDS. Additionally, ECI's Board of Directors has authorized the payment of \$28,777.75 to DDS in connection with the Audit findings, contingent on the adequate clarification with respect to the definition of "program preparation functions" pursuant to Title 17, California Code of Regulations, Section 54301(a)(26).

Irrespective, ECI would like to extend its heartfelt appreciation to the auditors who conducted the Audit, as their professionalism and courtesy was appreciated by all of ECI's staff. ECI has every confidence that DDS will respond to this inquiry/response with the same level of professionalism that ECI has now come to expect from the Department.

This correspondence shall not constitute a waiver of any rights by ECI. We thank you for the time and consideration expended during the course of this Audit, and we look forward to working with DDS towards a final and meaningful resolution of this matter.

Respectfully submitted,



Evie P. Romero
Executive Director/CEO



ESPERANZA

**DEPARTMENT OF DEVELOPMENTAL SERVICES
EVALUATION OF ESPERANZA CHARITIES' RESPONSE**

As part of the audit process, Esperanza Charities, Inc. (ECI) was afforded the opportunity to respond to the draft audit report and provide a written response to any of the finding(s). The Audit Branch received ECI's response, dated October 25, 2010, to the draft audit report. Within the response, ECI states the following, in relevant part:

- “Regarding the Audit’s findings with respect to ECI’s Supported Living Program (hereinafter “SLP”) program, ECI concurs with said findings and does not dispute any specific finding of fact.”

DDS was unable to audit this program due to the poorly written contract language. DDS will request that ELARC amend its contract with ECI to ensure the contract contains measurable expectation for this program.

- “Regarding the Audit’s findings with respect to ECI’s Independent Living Program (hereinafter “ILP”), ECI does not dispute any specific finding of fact, but requests that additional information be provided by DDS prior to the inclusion of these findings in any final report of public record.”

“...ECI requires further clarification with respect to DDS’ interpretation of Title 17, California Regulations, Section 54301(a)(26) [sic] which states, in relevant part:

Direct Care Staff - means staff who personally provide direct services to consumers. Personnel who are responsible for other staff functions may be considered direct care staff only during that time when they are providing direct services to consumers or are involved in program preparation functions;”
(Emphasis added.)

ECI is requesting clarification with regard to program managers and direct support staff who may have billed for hours which could be, characterized as “program preparation functions.”

To clarify, the regulation above is only a definition of a “Direct Care Staff” person. The regulation allows, for example, a secretary to be considered a Direct Care Staff if he or she is involved in program preparation functions. However, the above regulation does not state a vendor can bill for those program preparation functions. Only in certain circumstances, can Esperanza bill for a “Direct Care Staff” person’s time; that is when the Direct Car Staff person is actually providing “hands-on training” or services to a consumer as is stated in the following regulations.

**DEPARTMENT OF DEVELOPMENTAL SERVICES
EVALUATION OF ESPERANZA CHARITIES' RESPONSE**

California Code of Regulations (CCR), Section 54302 (a)(27) states:

“Direct Services - means hands-on training provided by the vendor in accordance with the requirements of the consumer's Individual Program Plan and the provisions of Section 56720 of these regulations;” and (Emphasis added.)

CCR, Section 54326 (a) states:

“All vendors shall:

(10) Bill only for services which are actually provided to consumers and which have been authorized by the referring regional center.” (Emphasis added.)

Conclusion

DDS will only allow program managers' and direct support staff's hours as billable hours when the program managers or support staff are directly involved in delivering hands-on training in accordance with the requirements of the consumer's Individual Program Plan (IPP). The fact that a staff person is conducting what is characterized as “program preparation functions” only allows that person to be defined as a Direct Care Staff and does not necessarily allow ECI to bill for staff hours.

Therefore, DDS has made no adjustments to the report. ECI needs to reimburse DDS the \$28,777.75 for the 669.25 hours of non-billable services.