

**DEPARTMENT
OF
DEVELOPMENTAL SERVICES
AUDIT
OF
LOS ANGELES SPEECH & LANGUAGE THERAPY CTR. INC.
(Center)**

Day Program:
Infant Development Program (IDP) – HX0251

(Audit Period: July 1, 2005 through June 30, 2010)

Audit Branch

Auditors: Michael Masui, Chief of Vendor Audits
Alimou Diallo, Audit Supervisor
Wilfredo Golez, Auditor

The Center

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EXECUTIVE SUMMARY

The Department of Developmental Services (DDS) has conducted a limited scope audit of The Los Angeles Speech and Language Therapy Center (Center). The audit was performed upon the Center's Infant Development Program (IDP) rates for the period of July 1, 2005 through June 30, 2010.

The limited scope audit was conducted to determine the amount of overpayment made to the Center for the five fiscal years reviewed.

The results of the audit disclosed the following issue of non-compliance:

Finding: Infant Development Program (IDP) – Overpayment Due to Incorrect Reimbursement Rate

The review of the Center's rates for the Infant Development Program (IDP), Vendor Number HX0251, for fiscal years of July 1, 2005 through June 30, 2010 revealed that the Center was incorrectly paid at a higher rate for five consecutive fiscal years. As a result of the incorrect rate of reimbursement, the Center was overpaid \$1,472,338.01.

The total overpayment billing discrepancies identified in this audit amounts to \$1,472,338.01. This amount must be reimbursed to DDS. A detailed discussion of this finding is contained in the Finding and Recommendation 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, non-profit 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 METHODOLOG

The audit was conducted to determine the overpayment amount paid to the Center for the fiscal years of July 1, 2005 through June 30, 2010. The audit scope was limited to the Center's Infant Development program rates approved by DDS on December 14, 2005. This limited scope audit does not prohibit DDS management from conducting a full scope audit if it deems necessary.

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 the Center, nor was this audit intended to express an opinion on the financial statements. The auditors limited the review of the Center'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 the Center complied with the DDS approved rates.

Infant Development Programs (IDP)

During the audit period, the Center operated one IDP vendored by SCLARC, Vendor Number HX0251, Service Code 805, which was audited based on the rate approved by DDS:

The procedures performed at SCLARC, the vendoring regional center, and the Center included, but not limited to, the following:

- Reviewed SCLARC's vendor files for contracts, rate letters, program designs, purchase of service authorizations, and correspondence pertinent to the review.
- Interviewed SCLARC's staff for vendor background information and to gain an understanding of the billing processes.
- Reviewed SCLARC's audit team work papers
- Interviewed the Center's president and Consultant/Accountant to gain an understanding of its accounting procedures and processes for billings.
- Reviewed the correspondences from the Center's legal team

- Reviewed the Center's payments and invoices.
- Reviewed the POS expenditures paid to the Center during the five fiscal years under review and the amount that was paid for each fiscal year.

CONCLUSION

Based upon items identified in the Findings and Recommendation section, the Center did not comply with the requirements of CCR, title 17.

VIEWS OF RESPONSIBLE OFFICIALS

DDS issued a draft audit report on October 10, 2011. The finding in the report was discussed at the exit conference with Dr. Wiley on October 13, 2011. The Audit Branch received the Center's response to the draft audit report via email on November 10, 2011. In its written response to the draft, the Center disagreed with the finding identified therein.

RESTRICTED USE

This report is solely for the information and use of the Department of Developmental Services (DDS), Department of Health Care Services (DHCS), South Central Los Angeles Regional Center, and the Los Angeles Speech and Language Center. This restriction is not intended to limit distribution of this report, which is a matter of public record.

FINDING AND RECOMMENDATION

Finding: Infant Development Program (IDP) – Overpayment due to Incorrect Reimbursement Rate

The review of the Center’s rates for the Infant Development Program (IDP), Vendor Number HX0251, for fiscal years of July 1, 2005 through June 30, 2010 revealed that the Center was incorrectly paid at a higher rate for five consecutive fiscal years.

On December 14, 2005, DDS issued a rate letter to the Center for vendor number HX0251, Service Code 805 and Staffing Ratio of 1:2. This rate letter indicated that the Center’s temporary payment rate was \$57.45 per consumer per hour for a “center based” program. This rate was effective October 7, 2005 through July 6, 2007. However, the Center received a rate of \$76.01 which was not approved by DDS. The Center continued to receive this substantially inflated rate from October 2005 to June 30, 2010.

The Center was receiving a rate that was approved for vendor number HX0193. This program was a “home based” program and had a staffing ratio of 1:1. Since the Center’s rate was based on a 1:1 staffing ratio instead of the 1:2 staffing ratio, the Center was inappropriately receiving the higher rate associated with the 1:1 staffing ratio.

The higher rate for the five fiscal years reviewed resulted in an overpayment to The Center as listed below:

1. FY 2005-06	\$103,490.56
2. FY 2006-07	\$315,556.48
3. FY 2007-08	\$377,285.40
4. FY 2008-09	\$369,923.58
5. <u>FY 2009-10</u>	<u>\$306,081.99</u>
Total	\$1,472,338.01

The Center was paid in excess of \$1,472,338.01 and this amount is due back to DDS. (See Attachment A.)

CCR, title 17, section 54326 states in pertinent part that:

- (a) “All vendors shall:
 - (12) Agree to accept the rate established, revised or adjusted by the Department as payment in full for all authorized services provided to consumers...”

Recommendation:

The Center must reimburse DDS the \$1,472,338.01 in overpayment. In addition, the Center should develop and implement policies and procedures to ensure that its billings to SCLARC and other regional center(s) are based on DDS approved rates. The Center should also have the rate letters on file to ensure it is being paid the correct rate.

The Center's Response:

The Center stated that "If the Department determines that there was an incorrect rate applied, the Department and SCLARC should be estopped from making a claim for overpayment."

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

Los Angeles Speech & Language Therapy Center, Inc.
Summary of Overpayments
Payment Data for Five Fiscal Years: 2005-06 Through 2009-10

Finding #	Vendor	Svc Code	Description	Audited FY	Units Billed Using the Incorrect Rates				Total Units Paid	Total
					Units @ \$76.01	Units @ \$78.29	Units @ \$75.94	Units @ \$57.45		
1	Infant Development Program									
	HX0251	805	Infant Development	2005-06	5,576.00					
				2006-07		16,504.00				
				2007-08		19,732.50				
				2008-09		11,403.00				
				2008-09			8,193.00			
				2009-10			16,506.00	1,215.00		
					5,576.00	47,639.50	24,699.00	1,215.00	79,129.50	
			Rate Paid in Error		\$ 76.01	78.29	75.94	57.45		
					\$ 423,831.76	3,729,696.45	1,875,642.06	69,801.75		\$ 6,098,972.02 a

					Computation according to DDS Rates				
					Units @ \$57.45	Units @ \$59.17	Units @ \$57.40	Total Units Paid	
				2005-06	5,576.00				
				2006-07*		16,504.00			
				2007-08		19,732.50			
				2008-09		11,403.00			
				2008-09*			8,193.00		
				2009-10			17,721.00		
					5,576.00	47,639.50	25,914.00	79,129.50	
			DDS Approve Rate		\$ 57.45	59.17	57.40		
					\$ 320,341.20	2,818,829.21	1,487,463.60		4,626,634.01 b

TOTAL OVERPAYMENTS:	\$ 1,472,338.01 Σa-b
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Fred Main
 Manatt, Phelps & Phillips, LLP
 Direct Dial: (916) 552-2360
 E-mail: fmain@manatt.com

November 10, 2011

BY HAND DELIVERY

Mr. Edward Yan
 Manager Audit Branch
 California Department of Developmental Services
 Department of Audits
 1600 9th Street, Room 230, MS 2-10
 Sacramento, CA 95814

**Re: Vendor No HX0251 Service Code 805
 Los Angeles Speech and Language Center**

Dear Mr. Yan:

The Department of Developmental Services (Department) conducted a limited scope audit of our client the Los Angeles Speech and Language Center (Center) and has presented a preliminary draft of the audit findings in a letter dated October 10, 2011. The letter asks The Center to comment on the audit findings within 30 days from the exit interview on October 13, 2011. The Center strongly disagrees with the finding of the audit and believes there is no basis on which to recover payments made to the Center. The Center had a valid contract with the South Central Los Angeles Regional Center (SCLARC) to provide Infant Development Services at rates determined by SCLARC and the Center provided those services in areas that are otherwise underserved at the request of the Early Start Unit.

The Center has provided speech, language, and developmental services to the community since 1979. The Center has been an approved vendor for a number of different programs. In 2005, the Center was vendored to provide Infant Development services according to Service Code 805 with a staffing ratio of 1:2. On October 16, 2007 at approximately 4:00 pm, Dr. Pamela Wiley, President of the Center, contacted a [REDACTED] in the Department to inquire about submitting cost statements to obtain the permanent rate. Dr. Wiley was told that rates were frozen and that the Center would be paid the existing rate until notified.

A permanent rate was established by letter from SCLARC dated May 22, 2008 (attached). The transmittal letter asked the Center to sign the Attached Rate Letter, "Rate is the same." The Rate Letter dated May 20, 2008, contained a rate of \$78.29 per hour, and stated that it was a "Fee negotiated with the Regional Center." It should be noted that the Rate Letter did not indicate that the fee was established by the Department.

SCLARC notified the Center in a letter dated June 24, 2010 that an audit of SCLARC indicated that the Center was not being paid the rate approved in a December 14, 2005 letter

California Department of Developmental Services

November 10, 2011

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from the Department to the Center and that the rate was being reduced to \$54.74, an hour retroactive to 2005. [REDACTED] responded in a letter dated July 1, 2010 that she was unaware of any such letter, and stated she had attempted to contact the Department regarding the Center's rates. SCLARC has made a demand that the Center liquidate the amount in dispute.

The Center has followed all of the requirements to have entered a valid contract. The Center was vendorized and was provided a Rate Sheet. The Center's rate was negotiated with SCLARC as evidenced by the communications dated May 20, 2008. Title 28 Section 57322 California Code of Regulations provide that the rate shall be determined based on the rate schedule subject to the negotiated rates with the regional center.

The Preliminary Audit Letter, Attachment A, footnote 1, states the payments were authorized by the RC(s), but was paid using the Incorrect Rates. The Center was providing services based on the rate which was authorized by SCLARC. In SCLARC's response, dated August 10, 2010, to an audit conducted by the California Office of the Inspector General, it states that the problem of incorrect rates "was exacerbated by the fact that the DDS letter was never received by either the service provider or the regional center."

If the Department determines that there was an incorrect rate applied, the Department and SCLARC should be estopped from making a claim for overpayment. Equitable estoppel is appropriate against a public entity when the public entity knew of the facts, intended that the other party would act on the conduct of the governmental entity, the other party must be ignorant of the true set of facts, and relied to their injury. *Lentz v. McMahon* (1989) 49 Cal.3d 393. The Department and SCLARC sent the Center rate letters with rates the Center should be able to rely on. The Center provided the Infant Development services that SCLARC engaged them to provide. The Center had no information to indicate the rates could not be relied on. During the time period in question, the Center was routinely reviewed by SCLARC regarding the service levels provided and no issues were presented to the Center regarding the rates or levels of service. The Center attempted to determine what the permanent rate was by contacting the Department. The Center provided the services, therefore, the Center and the clients served, would suffer great injury if they are forced to refund any payment.

If the Center is unable to provide Infant Development services to the underserved populations it works with, the public policy of the state to provide developmental services would be undercut. There are very few providers that work in the communities served by the Center. The program in question serves a population that is 98 percent Hispanic and it is underserved even today.

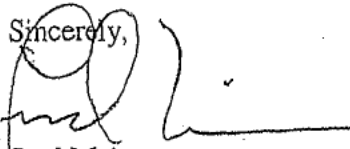
The Center has been a vendor to SCLARC and the Department for many years. They would like to resolve this in an expeditious manner. The evidence that has been presented to the

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California Department of Developmental Services
November 10, 2011
Page 3

Department clearly shows that the Center had a valid contract and should owe no repayments. The demand for repayment, based on the Departments current position, creates the real risk that the clients currently receiving needed services will face a loss of access to those services.

Thank you for your attention to this matter.

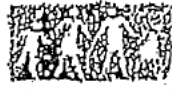
Sincerely,

Fred Main

FLM:kb

cc: Dr. Pamela Wiley, President, Los Angeles Speech and Language Center
Dexter A Henderson, South Central Los Angeles Regional Center (SCLARC)
The Honorable Curren Price, California State Senate

300948138.1

MAY 27 2008



SCLARC
South Central Los Angeles
Regional Center
In partnership with the Department of Education, LA

Los Angeles Speech & Language Therapy Center
c/o Pamela Wiley, Ph. D.
4764 Tweedy Blvd.
South Gate, CA 90280

May 22, 2008

Dear Dr. Wiley:

Please sign the attached Rate Letter for vendor number HX0251, service code 805. Rate is the same, but we need a Rate Letter in your vendor chart to support the rate being paid.

Return the document to:

South Central L.A. Regional Center (SCLARC)
c/o Susana Hermosillo, Vendor Support Assistant
Community Services Division
650 W. Adams Blvd. 4th Floor
Los Angeles, CA 90007

Thank you for your cooperation.

Sincerely,

Vendor Support Assistant
(213)744-8458



SCLARC

650 W. Adams Blvd., Suite 400
Los Angeles, California 90007
Ph: 213.744.7000
Info Line: 1.866.4.sclarc
TTY: 213.763.5634
www.sclarc.org

South Central Los Angeles Regional Center
for persons with developmental disabilities, Inc.

Los Angeles Speech & Language Therapy Ctr.
c/o Pamela Wiley, Ph. D.
4764 Tweedy Blvd.
South Gate, CA 90280

May 20, 2008

Dear Dr. Wiley:

The following is an agreement between the SOUTH CENTRAL LOS ANGELES REGIONAL CENTER and the following provider of services:

Los Angeles Speech & Language Therapy Center
Name of Service Provider

In reference to the level of payment for the following program/service:

<u>Infant Development Program</u>	<u>HX0251</u>	<u>805</u>
Name of Program/Service	Vendor Number	Service Code

The provider agrees to accept the following rate(s) of payment for the service above which is provided to any regional center consumer(s): \$78.29 per hour, per consumer.

These fees are based on:

- Medi-Cal Schedule of Maximum Allowances (SMA)
- Usual and Customary Charge to the General Public (Attach copy of fee schedule you give to the general public)
- XXX Fee negotiated with the Regional Center
- Fee established from the Department of Developmental Services
- Other: _____

The provider agrees to accept the above rate(s) as payment in full from the Regional Center for this service. Provider affirms that the rate of payment charged to the Regional Center does not exceed the rate of payment that the provider charges any other person for this service.

The effective dates of this rate are July 1, 2006 through June 30, 2009.

Signing and returning this original letter to the attention of SCLARC, Community Services Division, 650 West Adams Blvd., Suite 400, Los Angeles, CA 90007, indicates agreement with the above rate(s).

Signed:

Pamela Wiley, Ph.D.
Provider/Authorized Representative

Date: 5/27/08

South Central Los Angeles Regional Center Representative

Date: _____

OUR COMMITMENT:
"To educate, empower and advocate."

**DEPARTMENT OF DEVELOPMENTAL SERVICES
EVALUATION OF
LOS ANGELES SPEECH & LANGUAGE THERAPY CENTER, INC's Response**

As part of the audit process, The Los Angeles Speech and Language Therapy Center, Inc. (Center) was afforded the opportunity to respond to the draft audit report and provide a written response to each finding identified therein. The draft audit report was issued on October 10, 2011. The Audit Branch received the Center's response via email on November 10, 2011.

DDS evaluated the Center's written response to the draft audit report upon receipt and determined that the Center strongly disagreed with the audit finding. Provided below are excerpts from the Center's response and DDS's evaluation of the response. (See attachment B to the final audit report for the full text of the Center's response)

Finding: Infant Development Program (IDP) – Overpayment Due to Incorrect Reimbursement Rate

The Center argues the following in response to this finding:

Valid Contract

Dr. Wiley stated that, "The Center had a valid contract with the South Central Los Angeles Regional Center (SCLARC) to provide Infant Development Services at rates determined by SCLARC and the Center provided those services in areas that are otherwise underserved at the request of the Early Start Unit."

The Center states it had a valid contract with SCLARC. Unfortunately the document provided by the Center (See Attachment D) is an agreement that does not comply with title 17 Section 57300, which states:

Title 17, Section 57300 (d), Rate – Setting Requirements Applicable to all Nonresidential Service Vendors:

"For those vendors for whom the Department establishes a rate, once the vendor has received notice of the rate established by the Department, any regional center, or its designee, purchasing or intending to purchase services from the vendor may negotiate with the vendor the level of payment for services provided to its consumers for a specified period of time. The level of payment may be less than but shall not exceed the maximum reimbursement possible during the period specified, using the rate established by the Department and the units of service used by the vendor to charge and invoice the regional center for services provided to consumers as the basis for determining the maximum reimbursement possible."

The regulation allows a regional center to negotiate with a vendor the level of payment for services provided to its consumers that may be less than but cannot be more than the rate set by DDS. The Center was issued a rate letter from DDS dated December 14, 2005

**DEPARTMENT OF DEVELOPMENTAL SERVICES
EVALUATION OF
LOS ANGELES SPEECH & LANGUAGE THERAPY CENTER, INC's Response**

for Vendor Number HX0251, Service Code 805, Staffing Ratio of 1:2 and for a temporary payment rate of \$57.45, but was paid a rate of \$78.29.

The Center states that "On October 16, 2007 at approximately 4:00 pm, Dr. Pamela Wiley, President of the Center, contacted a [REDACTED] in the Department to inquire about submitting cost statements to obtain the permanent rate. Dr. Wiley was told that rates were frozen and that the Center would be paid the existing rate until notified.

A permanent rate was established by letter from SCLARC dated May 22, 2008."

As of July 1, 2003, the Welfare and Institutions Code (W&I), Section 4691.6 (b), prevented DDS from issuing permanent payment rates for any community-based day program. The W&I, Section 4691.6 (c) also prevented any regional center from approving program design modification or re-vendorization for community-based day program that would result in an increase in the rate approved by DDS. Therefore, the Center's payment rate was frozen at \$57.45 as of October 7, 2005 through July 6, 2007, as stated in the December 14, 2005 DDS rate letter (Attachment E).

Equitable Estoppel

DDS does not recognize the Center's basis for applying the doctrine of equitable estoppel for this audit finding. Therefore, DDS finds no reason to revise the audit recommendation.

DDS' Conclusion:

The rate paid to the Center of \$78.29 was above the DDS rate of \$57.45 which is not in compliance with Title 17, Section 57300 (d). Therefore, DDS will make no adjustment and the Center must reimburse DDS the \$1,472,338.01 paid by SCLARC in excess of the DDS rate.



SCLARC

650 W. Adams Blvd., Suite 400
 Los Angeles, California 90007
 Ph: 213.744.7000
 Info Line: 1.866.4.sclarc
 TTY: 213.763.5634
 www.sclarc.org

South Central Los Angeles Regional Center
for persons with developmental disabilities, Inc.

Los Angeles Speech & Language Therapy Ctr.
 c/o Pamela Wiley, Ph. D.
 4764 Tweedy Blvd.
 South Gate, CA 90280

May 20, 2008

Dear Dr. Wiley:

The following is an agreement between the SOUTH CENTRAL LOS ANGELES REGIONAL CENTER and the following provider of services:

Los Angeles Speech & Language Therapy Center
 Name of Service Provider

In reference to the level of payment for the following program/service:

<u>Infant Development Program</u>	<u>HX0251</u>	<u>805</u>
Name of Program/Service	Vendor Number	Service Code

The provider agrees to accept the following rate(s) of payment for the service above which is provided to any regional center consumer(s): \$78.29 per hour, per consumer.

These fees are based on:

Medi-Cal Schedule of Maximum Allowances (SMA)
 Usual and Customary Charge to the General Public (Attach copy of fee schedule you give to the general public)
XXX Fee negotiated with the Regional Center
 Fee established from the Department of Developmental Services
 Other: _____

The provider agrees to accept the above rate(s) as payment in full from the Regional Center for this service. Provider affirms that the rate of payment charged to the Regional Center does not exceed the rate of payment that the provider charges any other person for this service.

The effective dates of this rate are July 1, 2006 through June 30, 2009.

Signing and returning this original letter to the attention of SCLARC, Community Services Division, 650 West Adams Blvd., Suite 400, Los Angeles, CA 90007, indicate agreement with the above rate(s).

Signed:

Pamela Wiley, Ph.D.
 Provider/Authorized Representative

Date: 5/27/08

 South Central Los Angeles Regional Center Representative

Date: _____

OUR COMMITMENT:

"To educate, empower and advocate."

DEPARTMENT OF DEVELOPMENTAL SERVICES

Attachment E

1600 NINTH STREET, ROOM 310, MS 3-21
SACRAMENTO, CA 95814
TDD 654-2054 (For the Hearing Impaired)
(916) 654-1961



December 14, 2005 2H/T, 4A1/2, 2I/15

VENDOR NAME : Los Angeles Speech &
Language Therapy Center.,
Inc.
VENDOR NUMBER : HX0251
SERVICE CODE : 805
STAFFING RATIO : 1:2
REGIONAL CENTER: South Central Los Angeles
Regional Center

Los Angeles Speech & Language Therapy Center., Inc.
Pamela Wiley, Ph.D.
5761 Buckingham Parkway
Culver City, CA 90230

Dear Ms. Wiley,

The Department received your request to establish a temporary payment rate on December 5, 2005. Your request compiles with the requirements contained in Section 58033 of Title 17, California Code of Regulations (CCR). Therefore, in accordance with Section 58122 of the regulations, the temporary payment rate is authorized at \$57.45 per consumer per hour. This rate shall be effective October 7, 2005 through July 6, 2007.

TO:

4A1/3, 2, 4
1E/1, 2I/15,
10/9, 7

Your temporary payment rate is based on the average rate computed for all Infant Development Programs with an approved staffing ratio of 1:2.

Pursuant to Section 57431(a) (1), you are required to submit actual allowable cost information prior to the expiration of your temporary payment rate. The date for submission of the required information is no later than April 7, 2007. Failure to submit the required information within the specified time shall result in suspension of your rate, effective April 7, 2007. A cost statement form is enclosed for your convenience.

"Building Partnerships, Supporting Choices"

Ms. Wiley
December 14, 2005
Page Two

Cordially,



John Mendoza, Chief
Community Rate Section

Enclosure

cc: Kim Bowie
South Central Los Angeles Regional Center