

**DEPARTMENT
OF
DEVELOPMENTAL SERVICES
AUDIT
OF
LISTEN FOUNDATION, INC.**

Services:

Supported Living Services – Z18807

Audit Period: January 1, 2014, through December 31, 2014

Audit Branch

Auditors: Michael Masui, Chief of Vendor Audits
Grace Gwarada, Supervisor
Famwa Saechao, Auditor

LISTEN FOUNDATION, INC.

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EXECUTIVE SUMMARY

The Department of Developmental Services (DDS) has audited Listen Foundation, Inc. (LF). The audit was performed upon the Supported Living Services (SLS) for the period of January 1, 2014, through December 31, 2014.

The audit disclosed the following issues of non-compliance:

Finding 1: Supported Living Services – Unsupported Billings

The review of LF's SLS program, Vendor Number Z18807, revealed that LF had unsupported billings to San Andreas Regional Center (SARC). As a result, LF had a total of \$402,513 of unsupported billings.

Finding 2: Supported Living Services – Incorrect Staffing Ratio

The review of LF's SLS program staffing ratios revealed a lack of supporting documentation for its required direct care staffing hours. This resulted in a shortage of direct care staffing of 23,973 hours for the amount stated in finding 1 due back to DDS.

The net total of unsupported billings identified in this audit amounts to \$402,513 and is due back to DDS. A detailed discussion of these findings is contained in the Findings and Recommendations section.

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 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. 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 LF's SLS program was compliant with the W&I Code, California Code of Regulations (CCR), Title 17, and the regional center's contracts with LF for the period of January 1, 2014, through December 31, 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 auditor did not review the financial statements of LF, nor was this audit intended to express an opinion on the financial statements. The auditor limited the review of LF's 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 LF complied with W&I Code and CCR, Title 17. Also, any complaints that DDS' Audit Branch was aware of regarding non-compliance with laws and regulations were reviewed and followed-up on during the course of the audit.

The audit scope was determined by reviewing the programs and services provided to one regional center that utilized LF's services during the audit period. DDS audited services provided to SARC. In addition, LF provided one type of service which DDS audited. By analyzing the information received from the vendor and internal control questionnaire, it was determined that an audit period of one full year would be sufficient to fulfill the audit objectives.

Supported Living Services

During the audit period, LF operated one SLS program. The audit included the review of this SLS program and testing was done for the audit period of January 1, 2014, through December 31, 2014. The program and vendor number audited is listed below:

- Supported Living Services, Vendor Number Z18807, Service Code 896

Methodology

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

- Reviewed vendor files for contracts, rate letters, program designs, purchase of service authorizations, and correspondence pertinent to the review.
- Interviewed regional center staff for vendor background information and to obtain insight into the vendor's operations.
- Interviewed vendor staff and management to gain an understanding of its accounting procedures and processes for regional center billing.
- Obtained and reviewed the vendor's internal control questionnaire.
- Reviewed vendor service/attendance records to determine if the vendor had sufficient and appropriate evidence to support the direct care services billed to the regional center.
- Analyzed the vendor's payroll and attendance/service records to determine if the appropriate level of staffing was provided.

CONCLUSION

Based upon items identified in the Findings and Recommendations section, LF had findings of non-compliance with the requirements of CCR, Title 17.

VIEWS OF RESPONSIBLE OFFICIALS

DDS issued a draft report on July 28, 2016. The findings in the audit report were discussed during an exit conference with Julie Thornton, LF's Executive Director on August 15, 2016. DDS subsequently received LF's response on August 29, 2016. Ms. Thornton stated that LF has no objections to the findings and agrees to refund DDS.

RESTRICTED USE

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

FINDINGS AND RECOMMENDATIONS

Finding 1: Supported Living Services – Unsupported Billings

The review of LF's SLS program, Vendor Number Z18807, for the audit period of January 1, 2014, through December 31, 2014, revealed that LF had unsupported billings to SARC.

Unsupported billings occurred due to a lack of appropriate documentation to support the units of service billed to SARC. LF was not able to provide appropriate supporting documentation for 23,973 hours of services billed.

The lack of documentation occurred due to billing for services that were not actually provided to the consumer. A review of the wages showed that the hours LF paid to its direct care employees did not substantiate the hours billed to SARC. This resulted in unsupported billings to SARC.

As a result, \$402,513 is due back to DDS for the unsupported billings.
(See Attachment A.)

W&I Code, Section 4648.1 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 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) states:

- “(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:

- “(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:

LF must reimburse to DDS \$402,513 for the unsupported billings. In addition, LF should develop and implement policies and procedures to ensure that proper documentation is maintained to support the amounts billed to SARC.

Finding 2: Supported Living Services – Incorrect Staffing Ratio

The review of LF’s SLS program, for the audit period of January 1, 2014, through December 31, 2014, revealed that LF did not meet the required staffing ratio of one-to-one for the SLS program, Vendor Number Z18807.

SARC’s contract with LF requires the vendor’s staffing ratio to be one-to-one. SARC confirmed by email that this was the only authorized staffing ratio for the SLS program. Per the Vendor Audit Questionnaire, LF stated that it was not in compliance with the contract; instead, the staffing ratio was one-to-three, one-to-two, and one to one as needed.

The total unsupported direct care staffing hours of 23,973 is included in the total amount stated in finding 1 which is due back to DDS. (See Attachment A.)

CCR, Title 17, Section 50606(b)(4) states:

“(b) Audits shall be performed to accomplish any or all of the following objectives as applicable to the specific service provider:

- (4) Verification through analysis of payroll and consumer service records that staff-to-consumer ratios required by regulation, contract, or agreement are met.

Recommendation:

LF should develop policies and procedures to ensure it has sufficient staffing to meet the direct care staffing ratio. In addition, LF should review records subsequent to calendar year 2014 to determine if adjustments are necessary.

LF’s Response:

Julie Thornton, LF’s Executive Director submitted a response on August 29, 2016, stating that LF will not dispute the dollar findings identified in the draft audit report.

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

Listen Foundation, Inc.
Summary of Unsupported Billings
Audit Period: January 1, 2014, through December 31, 2014

<i>Finding #</i>	<i>Vendor</i>	<i>Svc Code</i>	<i>Description</i>	Unsupported Billings		Due to DDS
				<i>Units</i>	<i>Amount</i>	<i>Amount</i>
<u>Supported Living Service (SLS)</u>						
1	Z18807	896	SLS - PAHA	20,867	\$ 350,155	\$ 350,155
			SLS - IH44	1,503	\$ 21,516	\$ 21,516
			SLS - PHISZ	1,603	\$ 30,842	\$ 30,842
				<u>23,973</u>	<u>\$ 402,513</u>	<u>\$ 402,513</u>

Listen Foundation's Response to Draft Report

As part of the audit report process, LF was afforded the opportunity to respond to the draft audit report and provide a written response to the findings identified. On August 20, 2016, LF submitted a response to the draft audit report, which was received by DDS on August 29, 2015. This was within the agreed upon 30-day response period.

ListenFoundation

A private, non-profit agency serving individuals with developmental disabilities

August 20, 2016

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

Dear Mr. Yan,

Listen is not appealing the decision of this audit but would like to clarify the nature of the error made.

Our original program design was written 20 years ago with the support of John Moise who was on loan from DDS to SARC at the time. At that time, the same flat rate was set for each consumer. This was reflective of the cost and staffing ratio of their original level 4i children's group home. At the time that the original budgets were negotiated between SARC and Listen we and our SARC service coordinators were unaware of the need to differentiate between levels of support. The design of our staffing structure of 1:1, 1:2 and 1:3 staffing ratios allows for a fluid response to the changing needs of the consumers.

Unfortunately, at some point in the last 20 years, unbeknown to our service coordinators, or us, this lack of differentiation of support level became an assumption of 1:1 support and the total number of hours for all consumers was entered into the system as 1:1. Thus, we were billing PAHA Hours not knowing they were being interpreted as 1:1 support hours while providing 1:1, 1:2 and 1:3 support hours. Listen has never hidden the fact from our SARC service coordinators or the Quality Assessment teams that we provide 1:1, 1:2 and 1:3. If we had known that PAHA hours were intended as strictly 1:1 support rather than a combination of 1:1, 1:2 and 1:3 we would have rectified it immediately. As soon as Listen and SARC became aware of this issue we worked together to find the appropriate rates and recalculated all Listen consumer budgets. This was an arduous process as it took a series of meetings with SARC before we discovered that there are already in place the appropriate PAHA2, PAHA3 and the applicable SLP2 and SLP3 rates available. We only wish that we, and our service coordinators had known this many years ago. Currently, all our consumers have the full range of support level rates and are billed accordingly. We are very appreciative of SARC's quick and supportive willingness to help solve this issue for us. We have yet to determine how this substantial reimbursement amount to DDS will affect the future of Listen Foundation.

Thank you for your patience,

Julie Thornton

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**THE DEPARTMENT OF DEVELOPMENTAL SERVICES'
EVALUATION OF LISTEN FOUNDATION'S RESPONSE**

LF's response, dated August 20, 2016, did not dispute the finding and accepts DDS' recommendation.