

**Tri-Counties Regional Center
Home and Community-based Services Waiver
Follow-up Review Report**

Conducted by:

**Department of Developmental Services
and
Department of Health Care Services**

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INTRODUCTION

The Department of Developmental Services (DDS) and the Department of Health Care Services (DHCS) conducted a collaborative federal compliance monitoring review of the Home and Community-based Services (HCBS) Waiver from August 7-17, 2006, at Tri-Counties Regional Center (TCRC). A final report including review findings and TCRC's written responses to the findings was provided to TCRC on April 20, 2007.

DDS and DHCS conducted a follow-up review on August 21, 2007, to ensure that issues raised during the collaborative review had been addressed. The monitoring team selected ten consumer records for the HCBS Waiver follow-up review for the period of June 1, 2006 – May 31, 2007. In addition, the team reviewed a supplemental sample of ten records of consumers who had special incidents reported to DDS during this review period.

Purpose of the Follow-up Review

DDS contracts with 21 private, not-for-profit corporations to operate regional centers, which are responsible under state law for coordinating, providing, arranging or purchasing all services needed for eligible individuals with developmental disabilities in California. All HCBS Waiver services are provided through this system. It is the responsibility of DDS to ensure, with the oversight of DHCS, that the HCBS Waiver is implemented by regional centers in accordance with Medicaid statute and regulation. As stipulated in the HCBS Waiver application approved by the Centers for Medicare & Medicaid Services (CMS), the monitoring review process is a two year cycle, with a collaborative review in the first year, and a smaller, focused review in the second year addressing issues raised during the collaborative review.

Overview of the HCBS Waiver Federal Follow-up Review

The collaborative monitoring review protocol is composed of sections/components designed to determine if the consumer's needs and program requirements are being met and that services are being provided in accordance with the consumer's individual program plan. Specific criteria have been developed that are derived from federal/state statutes and regulations and from CMS directives and guidelines relating to the provision of the HCBS Waiver services.

The DDS and DHCS monitoring report from the August 2006, collaborative review requested TCRC to provide clarification or follow-up to the report findings and recommendations. TCRC submitted a response to DDS on April 3, 2007. Based on the report recommendations and TCRC's response, the monitoring team evaluated supporting documents to determine the degree and completeness of the implementation process. Specifically, the team reviewed, evaluated and made determinations based on the selected HCBS Waiver eligible consumers' records and discussions with TCRC personnel.

Summary of Follow-up Review Findings

The August 2007, follow-up review indicated that TCRC has implemented most of the recommendations from the collaborative review for those criteria selected for this review. However, further action is needed to ensure that 1) HCBS Waiver level of care determinations are made consistent with current guidelines and, 2) special incidents are reported by vendors within the required timeframes.

SECTION I

REGIONAL CENTER CONSUMER RECORD REVIEW

Summary of the August 2006 Monitoring Review Findings and Recommendations

1. The August 2006 monitoring review included findings related to appropriately identifying HCBS Waiver level of care qualifying conditions on the "Medicaid Waiver Eligibility Record" (DS 3770.) Specifically, there was either no supporting information in some of the consumers' records that described the identified qualifying conditions, or the records contained information that conflicted with the determination that the identified conditions were of sufficient severity to meet the level of care requirements. As a result of these findings, a recommendation was made for TCRC to determine what steps were necessary to ensure that level of care determinations are made and documented in accordance with the March 2002, program advisory, and that the review of available information in the record supports the selection of qualifying conditions.
2. The August 2006 monitoring review also including findings regarding missing or incomplete quarterly progress reports for consumers living in community out-of-home settings.

Summary of the August 2007 Follow-up Review

1. Six of the ten sample consumer records selected for the follow-up review identified qualifying conditions that were consistent with information found elsewhere in the record.

As indicated in the March 2002 program advisory regarding level of care determinations, results, or scores, from the Client Development Evaluation Report (CDER) cannot be the sole basis for identifying qualifying conditions. An assessment must be made about how the CDER scores apply to each individual. However, in four consumer records it was not apparent that this assessment took place since the DS 3770 forms automatically identified qualifying conditions based solely on CDER scores. As a result, there was either no supporting information (IPP, progress reports, vendor reports, etc.) in the consumers' records that described the need for services and supports for some of the identified conditions, or the records contained information that conflicted with the determination that all the identified conditions represented substantial limitations for the following consumers:

- Consumer #X – The DS 3770 form identified a number [REDACTED]

- Consumer #X – [REDACTED]

- Consumer #X – [REDACTED]

- Consumer #XX – [REDACTED]

2. Three of the six applicable consumer records contained all of the required quarterly reports of consumer progress. However, the records for consumers #X, #X, and #X were missing one or more of the required progress reports

Further Action Needed

- 1.a. TCRC should review the records for consumers #X, #X, #X, and #XX to determine if the issues identified above are appropriately documented as qualifying conditions. Any issues that do not represent substantial limitations (e.g. require services and supports) for the consumers, should no longer be identified as qualifying conditions on the consumers' DS 3770 forms.
- 1.b. TCRC should review its current processes and take steps as necessary to ensure that level of care determinations are documented in accordance with the current program advisory. Specifically, DS 3770 forms should only identify issues that represent substantial limitations (qualifying conditions) for consumers.
2. TCRC should ensure that future reports of progress are completed each quarter for consumers living in community out-of-home settings.

SECTION II

SPECIAL INCIDENT REPORTING

Summary of the August 2006 Monitoring Review Recommendations

TCRC should ensure that vendors report special incidents within the required timeframes.

Scope of the August 2007 Follow-up Review

1. Special incident reporting of deaths by TCRC was reviewed by comparing deaths entered into the Client Master File for the review period with special incident reports (SIRs) of deaths received by the Department of Developmental Services (DDS).
2. The records of the ten consumers selected for the Home and Community-based Services (HCBS) Waiver sample were reviewed to determine that all required special incidents were reported to DDS during the review period.
3. A supplemental sample of ten consumers who had special incidents reported to DDS within the review period was assessed for timeliness of reporting and documentation of follow-up activities. The follow-up activities were assessed for being timely, appropriate to the situation, and resulting in an outcome that ensures the consumer is protected from adverse consequences, and that risks are either minimized or eliminated.

Results of the August 2007 Follow-up Review

1. TCRC reported all deaths during the review period to DDS.
2. TCRC reported all SIRs in the sample of ten records selected for the HCBS Waiver review to DDS.
3. TCRC's vendors reported six of the ten (60%) special incidents within the required timeframes.
4. TCRC subsequently reported all ten of the special incidents to DDS within the required timeframes.
5. TCRC's follow-up activities on consumer incidents were appropriate for the severity of the situations.

Findings

Consumer #XX: The incident occurred on May 22, 2007. However, the vendor did not report the incident to TCRC until June 4, 2007.

Consumer #XX: The incident occurred on November 5, 2006. However, the vendor did not report the incident to TCRC until December 12, 2006.

Consumer #XX: The vendor became aware of the incident on October 4, 2006. However, the incident was not reported to TCRC until October 11, 2006.

Consumer #XX: The incident occurred on May 11, 2007. However, the vendor did not submit a written report of the incident to TCRC until May 16, 2007.

Further Action Needed

TCRC should determine what steps may be necessary to ensure that vendors report special incidents within the required timeframes.

SAMPLE CONSUMERS

HCBS Waiver Review Consumers

#	UCI
1	XXXXXX
2	XXXXXX
3	XXXXXX
4	XXXXXX
5	XXXXXX
6	XXXXXX
7	XXXXXX
8	XXXXXX
9	XXXXXX
10	XXXXXX

SIR Review Consumers

#	UCI	Vendor
11	XXXXXXXXXX	XXXXXX
12	XXXXXXXXXX	XXXXXX
13	XXXXXXXXXX	XXXXXX
14	XXXXXXXXXX	XXXXXX
15	XXXXXXXXXX	XXXXXX
16	XXXXXXXXXX	XXXXXX
17	XXXXXXXXXX	XXXXXX
18	XXXXXXXXXX	XXXXXX
19	XXXXXXXXXX	XXXXXX
20	XXXXXXXXXX	XXXXXX