

**DEPARTMENT
OF
DEVELOPMENTAL SERVICES
AUDIT
OF
WE ARE FAMILY, INC.**

Programs and Services:
Independent Living Program – HX0165
Supported Living Service – HX0404

(Audit Period: January 1, 2010 through January 31, 2011)

Audit Branch

Auditors Michael Masui, Chief of Vendor Audits
Alton Kitay, Audit Supervisor
Ermas Tecele, Lead Auditor

WE ARE FAMILY, INC.

TABLE OF CONTENTS

	Page(s)
Executive Summary	1
Background	2
Objective, Scope, and Methodology	2-3
Conclusion	4
Views of Responsible Officials.....	4
Restricted Use	4
Findings and Recommendations	5-9
Attachment A- Summary of Unsupported Billings.....	10
Attachment B- Misclassification of Employees as Independent Contractor	11
Attachment C- We Are Family, Inc.’s Response.....	12-18
Attachment D- DDS’ Evaluation of We Are Family, Inc.’s Response	19-21
Attachment E- Adjusted Summary of Unsupported Billings.....	22
Attachment F- Discrepancies in Employee Signatures.....	23-24
Attachment G- Discrepancies in Consumer Signatures	25-26

EXECUTIVE SUMMARY

The Department of Developmental Services (DDS) has audited We Are Family, Inc. (WAF). The audit was performed upon the Independent Living Program (ILP) and Supported Living Service (SLS) program for the period of January 1, 2010, through January 31, 2011.

The last day of fieldwork was March 3, 2011.

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

Finding 1: Independent Living Program (ILP) and Supported Living Service (SLS) Program - Unsupported Billings

The review of WAF's ILP, Vendor Number HX0165, for the period of January 1, 2010, through January 31, 2011, revealed that WAF had unsupported billings for services billed to the South Central Los Angeles Regional Center (SCLARC). The total of unsupported billings was \$248,356.67.

The review of WAF's SLS program, Vendor Number HX0404, for the period of January 1, 2010, through January 31, 2011, revealed a lack of supporting documentation for services billed to SCLARC. The total of unsupported billings was \$152,575.80.

The review of WAF's ILP and SLS program for the period of January 1, 2010, through January 31, 2011, revealed that WAF did not have appropriate and sufficient service records to present enough details for direct care services billed to SCLARC.

Finding 2: Misclassification of Employees as Independent Contractors

The review of WAF's bank statements, ADP Payroll Reports, Form W-2, and Form 1099-MISC revealed that WAF classified 13 staff as both employees and independent contractors.

Finding 3: Questionable Employee Income Verification

The review of WAF's personnel files revealed several instances of incorrect income verification to the *Housing Authority of the City of Los Angeles*, *Subsidized Housing Corporation*, and *Healthy Families/Medi-Cal for Families*.

The total unsupported billing discrepancies identified in this audit amount to \$400,932.47 due back to DDS. A detailed discussion of these findings is contained in the Findings and Recommendations 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 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 (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

The audit was conducted to determine whether WAF's ILP and SLS programs were compliant with the W&I Code, California Code of Regulations (CCR, title 17), State and Federal laws and regulations, and SCLARC's contract with WAF for the period of January 1, 2010, through January 31, 2011.

WAF was vendorized by SCLARC and provided services to SCLARC's consumers. Audit staff reviewed the programs and services provided to SCLARC consumers.

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 WAF, nor was this audit intended to express an opinion on the financial statements. The auditors limited the review of WAF'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 WAF complied with CCR, title 17. Also, any complaints that DDS' Audit Branch was aware of regarding noncompliance of laws and regulations were reviewed and followed-up during the course of the audit.

Day Program:

During the audit period, WAF operated one Day Program, ILP, Vendor Number HX0165, Service Code 520, which was audited. The initial review of WAF's ILP program consisted of a one month sample period (January 2011) selected from the audit period of January 1, 2010, through January 31, 2011. Within that month, the audit sample demonstrated a large percentage of unsupported billings due to the lack of supporting documentation in the form of timesheets or progress notes. As a result the testing sample was expanded to include the entire audit period from January 1, 2010, through January 31, 2011

The procedures performed at SCLARC, the vendoring regional center, and WAF included, but was 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 obtain prior vendor audit reports.
- Interviewed WAF's staff and management to gain an understanding of its accounting procedures and processes for the billings to SCLARC.
- Reviewed WAF's service/attendance records to determine if WAF had sufficient and appropriate, evidence to support the direct care services billed to SCLARC.
- Performed an analysis of WAF's payroll and attendance/service records to determine hourly rate.

Supported Living Service:

During the audit period, WAF operated one SLS program, Vendor Number HX0404, service code 896, which was audited. The initial review of WAF's SLS program consisted of a one month sample period (January 2011) selected from the audit period of January 1, 2010, through January 31, 2011. Within that month, the audit sample demonstrated a large percentage of unsupported billings due to the lack of supporting documentation in the form of timesheets or progress notes. As a result, the testing sample was expanded to include the entire audit period from January 1, 2010, through January 31, 2011.

The procedures performed at SCLARC, the vendoring regional center, and WAF included, but was 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 obtain prior vendor audit reports.
- Interviewed WAF's staff and management to gain an understanding of its accounting procedures and processes for the billings to SCLARC.
- Reviewed WAF's service/attendance records to determine if WAF had sufficient and appropriate evidence to support the direct care services billed to the regional centers.

CONCLUSION

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

VIEWS OF RESPONSIBLE OFFICIALS

The DDS issued the draft audit report on December 7, 2011. The findings in the draft report were discussed at an exit conference with Saadite Green, Chief Executive Officer, We Are Family, Inc. on December 22, 2011. In the response to the draft audit report dated January 13, 2012, Mr. Green questioned Finding 1 - Independent Living Program and Supported Living Service Program - Unsupported Billings.

RESTRICTED USE

This report is solely for the information and use of DDS, the Department of Health Care Services, SCLARC, and WAF. 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 1: Independent Living Program (ILP) and Supported Living Service (SLS) Program - Unsupported Billings

The review of WAF's ILP, Vendor Number HX0165, and SLS, Vendor Number HX0404, for the period of January 1, 2010, through January 31, 2011, revealed a lack of supporting documentation for 7,433.49 hours for ILP and 4,703.00 hours for SLS. The lack of documentation resulted in unsupported billings to SCLARC in the amount of \$248,356.67 for ILP and \$152,575.80 for SLS.

On February 7, 2011, DDS conducted an unannounced visit to WAF. During this visit, WAF was asked to provide the supporting documents for January 2011's consumer billings. This period was chosen to increase the likelihood that WAF had its supporting documentation available for review as it was the latest billing month.

The audit of WAF's billings began with a full understanding of WAF's billing procedures. Saadite Green, the owner of WAF, explained the process as follows: Employees are informed of the "daily notes schedule" which lists the dates employees are required to submit their proof of work documentation. This documentation included "consumer sign-in sheets" and "daily progress notes." The "consumer sign-in sheet" documented the consumer served, a brief description of the service provided, the date of service, and the employee's name. This document was to be completed at the consumer's home and also signed by the consumer. This document was then dropped off weekly to the office for processing. Additionally, the employee was required to complete a more detailed write-up which was included in the daily progress notes.

In accordance with the daily notes schedule, the daily progress notes were emailed to the "Wearefamily_inc@yahoo.com" mailbox. The office manager then compiled the "consumer sign-in sheets" and input the hours into an Excel "payroll spreadsheet" based on which WAF supported its ADP payroll. The more detailed "daily progress notes" were used as a cross check against the "consumer sign-in sheets" hours.

The review for the period of January 1, 2011, through January 31, 2011, revealed total unsupported billings of \$25,749.20 for ILP and SLS which was approximately 28% of the monthly billing. This prompted DDS to expand its audit sample period an additional twelve months and arrange for a second visit to WAF. On February 18, 2011, DDS began working on the expanded audit period.

Upon returning to WAF, Mr. Green provided two boxes of "consumer sign-in sheets" which were purported to be the supporting documents for the entire audit period of January 1, 2010, through January 31, 2011. Additional support for the initial sample period of January 1, 2011, through January 31, 2011, totaled 360.25 hours for ILP and 347.25 hours for SLS, which reduced the total unsupported billings from \$25,749.20 to \$4,586.62. Mr. Green also provided supporting documentation for the calendar

year of January 1, 2010, through January 31, 2011, with the exception of the excel payroll timesheets, which are the crucial supporting documentation tying hours of services provided as documented on the consumer sign-in sheets to the payroll. However, upon review of the additional documentation, DDS found a number of inconsistencies that lead to the disallowance of the documents provided during the second visit. The following are five examples of the inconsistencies identified that lead DDS to disallow the additional documents:

1. The Excel “payroll spreadsheet” that was provided during the first visit went missing for the additional audit period. WAF stated that the office manager, who was in charge of compiling the payroll timesheets, allegedly deleted all files and closed out the “Wearefamily_inc@yahoo.com” email account. However, WAF could not provide payroll checks, ADP payroll documents, or personnel files documenting that the office manager was ever employed by WAF.
2. Allowing the additional hours of documents indicated that staff was actually working for less than minimum wage. In addition, the number of hours documented for some employees did not appear to be reasonable.
3. Multiple consumers were served, by the same employee, at the same time, for services that were to be rendered at the consumer’s home at a 1:1 service ratio.
4. Employee signatures may have been signed by different people.
5. Many of the “consumer sign-in sheets” appeared to have been signed by an employee and not the consumer.

As a result, a total of \$400,932.47 is due back to DDS for the unsupported ILP and SLS billings. (See Attachment A.)

CCR, title 17, section 54326(a) states in part:

“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.”

Also, CCR, title 17, section 50604 states in pertinent 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:

WAF must reimburse to DDS the \$400,932.47 for the unsupported billings. In addition, WAF should develop and implement policies and procedures to ensure that proper documentation is maintained to support the amounts billed to SCLARC.

WAF should also develop policies and procedures to ensure it has appropriate controls and backup systems in place to ensure that crucial documentation supporting the hours and amounts billed to the SCLARC are secured, maintained, and readily available for review.

WAF's Response:

In response to this finding, WAF made the following arguments:

WAF disagreed with the draft audit report finding and provided additional documentation to refute the audit finding. The excel payroll spreadsheets, which are the crucial documents that support the hours of services provided to the payroll, was not available during fieldwork. In their response, WAF was somehow able to locate the payroll spreadsheets. Accordingly, WAF provided the payroll spreadsheet for the entire year of 2010.

With regards to DDS' analysis indicating that employees earned less than minimum wage as a result of the additional hours of support, Mr. Green stated that he would pay employees in cash or by check in addition to their salary.

In regards to DDS' observation of several instances where staff claimed to be at two locations at the same time providing services to two different consumers, WAF stated that WAF's program design for the ILS and ILP allows for services to be provided in group sessions.

See Attachment C for the full text of WAF's response and Attachment D for DDS' Evaluation of WAF's response.

Finding 2: Misclassification of Employees as Independent Contractors

The review of WAF's bank statements, ADP Payroll Reports, Form W-2, and Form 1099-MISC revealed that WAF classified 13 staff as both employees and independent contractors. These employees and independent contractors are paid as both employees and independent contractors and received a Form W-2 and Form 1099- MISC at the years end. The audit team noted canceled checks as well as ADP payroll checks for the same employees. In addition, WAF stated that ADP records and payroll data for the office manager is not available since the office manager was paid in cash and no payroll tax was withheld. (See Attachment B.)

Definition - Common-Law Employees

Under common-law rules, anyone who performs services for the employer is his or her employee if the employer has the right to control what will be done and how it

will be done. The employer has the right to control the details of how the services are performed.

Definition- Independent Contractors

The general rule is that an individual is an independent contractor if the person for whom the services are performed, has the right to control or direct *only* the result of the work and *not* the means and methods of accomplishing the result.

Internal Revenue Code, section 3402, Income tax collected at source, states:

“(a) Requirement of withholding.

(1) In general.

Except as otherwise provided in this section, every employer making payment of wages shall deduct and withhold upon such wages a tax determined in accordance with tables or computational procedures prescribed by the Secretary. Any tables or procedures prescribed under this paragraph shall -

(A) apply with respect to the amount of wages paid during such periods as the Secretary may prescribe, and

(B) be in such form, and provide for such amounts to be deducted and withheld, as the Secretary determines to be most appropriate to carry out the purposes of this chapter and to reflect the provisions of chapter 1 applicable to such periods.”

California has four State payroll taxes which are administered by the Employment Development Department (EDD). They are Unemployment Insurance (UI) and Employment Training Tax (ETT), which are employer contributions, and State Disability Insurance (SDI) and Personal Income Tax (PIT), which are withheld from employees' wages.

With certain exceptions, compensation for services performed by an employee is considered wages and subject to California PIT withholding. California wages include, but are not limited to, salaries, bonuses, commissions, fees, and payments in forms other than checks or cash. Wages in any form other than checks or cash are measured by the fair market value of the goods, lodging, meals, or other compensation given in payment for the employee's services.

The “underground economy” comprises those individuals and businesses that deal in cash and/or use other schemes to conceal their activities and their true tax liability from government licensing and taxing agencies. When businesses operate in the underground economy, they gain an unfair competitive advantage over businesses that comply with the law because they do not pay workers' compensation and State and Federal payroll taxes. This causes unfair competition in the marketplace and forces law-abiding businesses to pay higher taxes.

Recommendation:

WAF should follow and abide to State and Federal laws with respect to payroll tax withholdings as well as with the classification of its employees as employees and not as independent contractors.

WAF's Response:

WAF did not disagree with this finding.

See Attachment C for the full text of WAF's response and Attachment D for DDS' Evaluation of WAF's response.

Finding 3: Questionable Employee Income Verification

The review of WAF's personnel files revealed several instances of incorrect income verification to the *Housing Authority of the City of Los Angeles*, *Subsidized Housing Corporation*, and *Healthy Families/Medi-Cal for Families*. A comparison of the income certified by WAF to the agencies with the actual payroll checks and annual Form W-2 and Form 1099- MISC revealed that the employees and/or independent contractors were paid a higher amount than stated on the certification letter.

Los Angeles Housing Department - A Guide to Affordable Rental Housing in the City of Los Angeles - Income Eligibility:

For most programs, eligibility is based on a combination of tenant income, maximum rents allowable and the Area Median Income (AMI) calculated by HUD on an annual basis. Allowed rents for public housing and Section 8 housing depend on household incomes and usually cannot exceed 30 percent of adjusted earnings. Interested parties must contact the sponsoring agency, private owner or Management Company for additional program and specific income eligibility information.

Housing Authority of the City of Los Angeles Chapter 7.2.4 states:

"...third-party written verification is used to verify information directly from the source of income."

Recommendation:

WAF should follow and abide by the laws and regulations to ensure that income verification to local and State agencies are accurate to ensure that only persons meeting the income requirements and who are actually in need of subsidized housing can and will benefit from the program.

WAF's Response:

WAF did not disagree with this finding.

See Attachment C for the full text of WAF's response and Attachment D for DDS' Evaluation of WAF's response.

We are Family, Inc.
Summary of Unsupported Billings
January 1, 2010 through January 31, 2011

<i>Finding #</i>	<i>Vendor</i>	<i>Svc Code</i>	<i>Description</i>	<i>Audited Months</i>	<i>Total Billed</i>	<i>Supported Billing</i>	<i>Unsupported Billing</i>	Amount Due to DDS	
<i>1</i>	<i>Day Program</i>								
	HX0165	520	Independent Living Program	CY 2010	\$826,990.19	\$592,695.06	\$234,295.13		
	HX0165	520	Independent Living Program	Jan-11	\$54,926.68	\$40,865.14	\$14,061.54		
			Unsupported Billings for Independent Living Program					\$248,356.67	
	<i>Supported Living Services</i>								
	HX0404	896	Supported Living Service	CY 2010	\$387,892.73	\$247,004.59	\$140,888.14		
	HX0404	896	Supported Living Service	Jan-11	\$36,698.68	\$25,011.02	\$11,687.66		
			Unsupported Billings for Supported Living Service					\$152,575.80	
TOTAL UNSUPPORTED BILLINGS:								\$400,932.47	

We are Family, Inc.
Misclassification of Employees as Independent Contractors
Calendar Year (CY) 2010

<i>Finding #</i>	<i>Type of Compensation</i>	<i>Number of Staff classified as Independent Contractors</i>	<i>Number of Staff classified as Independent Contractors & Employees</i>	Total Number of Staff
2		6	13	19
	1099-MISC	\$75,306.50		
	W2 & 1099-MISC		\$603,414.21	
	Total W2 and 1099 Compensation for CY 2010:			<u><u>\$678,720.71</u></u>

**We Are Family, Inc. (WAF)
Response to Draft Report**

This section contains a copy of WAF's response to the draft report. However, certain documents provided by WAF as "Exhibits" to their response are not included in this report due to the detailed and confidential nature of the information.



RECEIVED
JAN 18 2012

January 13, 2012

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

Response to Findings

Finding 1: Independent Living (ILS) and Supported Living Services (SLS) Unsupported Billings

The Excel "payroll spreadsheet" that was provided during the first visit and which documented the number of hours the employee was being paid went missing for the additional audit period. WAF stated it could not retrieve the data from its computer and that it did not maintain a hard copy.

Corrective Action: The "payroll spreadsheet" has been submitted for the entire year of 2010. The "payroll spreadsheets" were found in my email "inbox." In the attached documents you will find a copy of the supporting email sent from [REDACTED] [REDACTED] to me along with payroll spreadsheets. See Attachment A

Allowing the additional hours of documents indicated that staffs were actually working for less than minimum wage. In addition, the number of hours documented for some employees did not appear reasonable.

Employees were paid a salary. At times I would pay employees cash. When employees submitted sign-in sheets late (after payroll was due), employees were given a percentage of their salary on payday and within 10 days employees would receive the remainder of their pay. This portion was paid in cash or by check.

Corrective Action: As of pay period beginning December 16, 2011 through December 31st 2011, when payroll is submitted, there is a clear distinction of what hourly pay is and what is overtime. All payroll spread sheets show a clear calculation of hourly time and overtime pay. See **Attachment B**

Two systems have been in place at We Are Family (WAF) that functions as service records for consumer's that receive financial assistance from WAF. They are Expense Reports and Petty Cash. These systems were created to help consumer's maintain their daily lives. Prior to January 1, 2011 WAF was not submitting Expense Reports or Petty Cash to SCLARC. However, these reports have been maintained in the office. This money has been used for the consumer's daily living. WAF has helped consumers by purchasing items that will help them survive on a daily basis. On average each consumer receives approximately \$800.00 a month which is well below poverty. With rent for a single/studio costing on an average of \$600.00 this leaves the consumer with \$200.00 to pay utilities (electric and gas), coin laundry, food, personal hygiene, cleaning products, house phone/cell phone, move in fees, appliances, and furniture. Without the help of WAF financial services the Consumer would suffer in several areas.

As of January 1, 2011, Expense Reports are submitted to SCLARC on a monthly basis detailing finances that are paid out by WAF to assist consumer's that cannot afford their household expenses and not receiving SSI because their benefits were delayed due to a various amount of reasons. Majority of the consumer's that receive services through WAF solely rely on their Social Security funds for survival. With recent budget cuts and the decreases to Social Security, the SSI benefit received was not enough for the population that we service on a daily basis. WAF has been a provider to those individuals who cannot sustain all of their monthly bills. WAF has taken the initiative that most vendors would not endure. As a service provider I try to the best of my ability to uphold to what is first to me in title 17 section 56843 (B) which is to "minimize risks of endangerment to the health, safety, and well-being of consumers." This includes living comfortably. Rent payments are sent directly to management companies on a monthly basis for those consumer's whom WAF provides money management skills. This avoids evictions and late payments.

Petty cash is logged in excel of all funds paid out to consumer's by WAF for assistance. Because of the financial obligation that WAF has carried out with the aim of providing help to better help consumers this is considered service provided. **See Attachment C**

Multiple consumers were served, by the same employee, at the same time, for services that were to be rendered at the consumer's home and at a 1 to 1 service ratio.

According to the WAF program design (submitted to SCLARC) page 2 and 3 for ILS/SLS staff to consumer ration will be 1:1, 1:2, or 1:3 depending on individual. When this is done, the service time is to be split between the consumers.

Corrective Action: Sign-ins is checked on a weekly basis. During that process employees are looking for overlaps in time, making sure time is split accurately during group instructions, employees and consumers sign in proper area on sign-in sheets, hours are added accurately and the sign-in sheets match the daily reports which are sent via email.

Employee signatures may have been signed by different people.

Once sign-in sheets/daily reports are reviewed by a staff member, if necessary corrections are made and administrator signed for the corrections made.

The password for the WAF email account was reportedly changed or lost which prevented the owner, Mr. Green, from accessing past emails which included all of the "payroll spreadsheet" which documented the number of hours the employee was being paid.

Corrective Action: The "payroll spreadsheet" has been submitted for the entire year of 2010. The "payroll spreadsheets" was found in my inbox email. In the attached documents you will find a copy of the supporting email sent from [REDACTED] to me. See Attachment A

Many of the "consumer sign-in sheets" appeared to have been signed by an employee and not consumer.

Quality Assurance (QA) [REDACTED] was in place during the year of 2010 to note and rectify discrepancies in consumer sign-in sheets. In many cases consumer's signatures varied from day to day and from month to month. On these occasions consumers were called or a home visit was made by (QA) to verify if services were performed and if they (the consumer) signed the sign-ins. You will find correspondence via email from Andrea Rolfe to Mr. Green of her findings. See Attachment D.

Corrective Action: As of February 2011, sign-ins is checked on a weekly basis. During that process employees are looking for overlaps in time, making sure time is split accurately during group instructions, employees and consumers sign in proper area on sign-in sheets, hours are added accurately and the sign-in sheets match the daily reports.

Finding 2: Misclassification of Employees as Independent Contractors

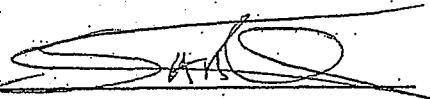
Employees were given 1099s at the end of the year. The reporting CPA did not recognize it to be a problem with how the employees were paid consequently Mr. Green did not deem a problem.

Corrective Action: According to your findings and an understanding of Common-Law Employees and Independent Contractors the misclassification of employees as independent contractors has been corrected. As of December 16, 2011 all full time employees' earnings are reported to ADP Payroll. As of January 12, 2012 all full time employees will receive W2s. If a manual check is given, proper deductions will be taken from that check.

Finding 3: Questionable Employee Income Verification

Employees have been informed that all wages will be reported consequently the *Los Angeles Housing Department, Subsidized Housing Corporation* and *Healthy Families/ Medi-Cal for Families* will be aware of employee's current income as well all employee income will be reported through ADP Payroll services.

Sincerely,

X 

Saadite Green

CEO/President

We Are Family Inc.

THE DEPARTMENT OF DEVELOPMENTAL SERVICES' EVALUATION OF WE ARE FAMILY, INC.'S RESPONSE

As part of the audit report process, We Are Family, Inc. (WAF) was afforded the opportunity to respond to the draft audit report and provide a written response to each finding identified therein. On January 13, 2012, WAF submitted a response to the draft audit report, which was received by DDS on January 18, 2012. The response included a six page letter, the excel payroll spreadsheets, email correspondence among WAF staff, Expense Reports and Petty Cash excel spreadsheets.

DDS evaluated WAF's written response to the draft audit report and determined that WAF disagreed with Finding 1 but did not disagree with Findings 2 and 3.

Finding 1: Independent Living Program (ILP) and Supported Living Service (SLS) Program – Unsupported Billings

For Finding 1 of the draft audit report, WAF expressed a number of arguments to findings that were identified during the audit that resulted in the disallowance of all of WAF's submitted documents. The following is WAF's response to those findings and DDS' subsequent evaluation of their response:

The excel payroll timesheets, which are the crucial supporting documentation tying hours of services provided as documented on the consumer sign-in sheets to the payroll were provided for the entire audit period. Mr. Green stated that the payroll spreadsheets were found in his email inbox.

The payroll spreadsheets provide a link from the source documents to the payroll. With this information, DDS was able to evaluate the number of hours of service that WAF's employees were being paid for. The additional information allowed DDS to reduce the finding from \$1,264,421.32 to \$400,932.47.

For hours of services that appeared to have been paid below the legal rate, Mr. Green stated that he paid employees also in cash or by check. In particular, if employees submitted the sign-in sheets after the payroll due date, Mr. Green would pay them only a percentage of their salary on payday. The remainder of their salary was paid within 10 days in cash or by check.

When DDS auditors analyze the wages, it is to determine the reasonableness of the numbers of hours billed to the regional center by comparing those hours to the number of hours paid by the WAF to the staff during the pay period. No audit finding was based on the wages of the WAF staff. However, the fact that employees of WAF are paid through payroll services, paid by check (reported on 1099s), and paid in cash substantiates DDS' contention that WAF's records are unreliable.

With regards to DDS' observation that WAF billed SCLARC on a 1:1 consumer ratio even though the services were provided on a 1:2 or 1:3 staff to consumer ratio, Mr.

THE DEPARTMENT OF DEVELOPMENTAL SERVICES' EVALUATION OF WE ARE FAMILY, INC.'S RESPONSE

Green stated that WAF's program design for ILS and ILP specifies services to be provided on a 1:1, 1:2, or 1:3 staff to consumer ratio depending on the individual. "When this is done, the service time is to be split between the consumers."

This response does not dispute that the WAF practice was to bill the regional center at a 1:1 staff to consumer ratio even when the service was provided at a 1:2 or 1:3 service ratio. WAF agrees to have implemented a new process to properly allocate the time provided.

In regards to DDS' observation that Employee signatures appear to have been signed by different people, Mr. Green stated that sign-in sheets and daily reports are reviewed by staff members. An administrator approves and signs off on necessary corrections made.

This response does not address the problem. Auditors observed the same signature with what appeared to be different handwriting instead of a second signature approving the corrections. (See Attachment F.) In addition, auditors did not observe any instances of an administrator approving and signing off on corrections made.

As to DDS' observation that "consumer sign-in sheets" appeared to have been signed by an employee and not the consumer, Mr. Green stated that Andrea Rolfe, Quality Assurance, was in place during the year of 2010 to note and rectify discrepancies in consumer sign-in sheets. "In many cases consumer's signatures varied from day to day and from month to month."

This response indicates that the vendor considers the variation in consumer's signatures to be normal and that they did some quality assurance work to verify that the services were performed. The response is not credible because if the signatures were of normal variation, there would have been no reason to verify that services were provided. (See Attachment G.)

In addition, when confronted with the number of hours of SLS billings that had no support, WAF provided documentation to demonstrate that it spent funds on the consumers in order for consumers to maintain their daily lives for which WAF then billed the regional center for hours of services to recoup the funds. Mr. Green stated that the majority of WAF's consumers solely rely on their Social Security funds for survival. WAF utilizes Expense Reports and Petty Cash excel spreadsheet to document the financial assistance expenses. Mr. Green also stated that Expense Reports or Petty Cash spreadsheets were not submitted to the regional center prior to January 2011 but are maintained at WAF's office. WAF submitted the Expense Reports and Petty Cash spreadsheets along with the response to the audit draft report. "Because of the financial obligation that WAF has carried out with the aim of providing help to better help consumers this is considered service provided."

THE DEPARTMENT OF DEVELOPMENTAL SERVICES' EVALUATION OF WE ARE FAMILY, INC.'S RESPONSE

The problems with this practice are as follows:

- WAF is vendored to provide SLS services, not to provide consumer's housing.
- There is no CCR, title 17 provisions for the practice of paying consumer's expenses and reimbursing oneself by billing for hours of service provided.
- The funds include payment of rent for the consumers. CCR, title 17 permits the regional centers to pay consumer's rent in certain circumstances. It must be for a limited time only and be with the express permission of the regional center's Executive Director.
- The consumer authorization is for hours of service and not for consumer rent, petty cash, and other expense reimbursements.
- When WAF submitted the turnaround invoice to the regional center for payment, it certified that it provided the billed hours.

Finding 2: Misclassification of Employees as Independent Contractors

WAF's response did not indicate disagreement with this finding. In absence of an exception to this finding, it is assumed that WAF is in agreement with the finding.

Finding 3: Questionable Employee Income Verification

WAF's response did not indicate disagreement with this finding. In absence of an exception to this finding, it is assumed that WAF is in agreement with the finding.

DDS' Conclusion:

DDS expected to receive original source documents for each consumer served during the audit period, which were to include the consumer name, service date, location, actual time, and nature of services provided. In WAF's response to Finding 1, the spreadsheets were provided that provided the connection between payroll and hours of service provided to the consumers. The additional information allowed DDS to reduce the finding from \$1,264,421.32 to \$400,932.47.

Therefore, based on the review of WAF's ILP and SLS programs, Vendor Numbers HX0165 and HX0404, and evaluation of WAF's response, DDS determined that WAF must reimburse DDS a total of \$400,932.47 for Finding 1.

Adjusted Summary of Unsupported Billings
 Audit Period: January 1, 2010 through January 31, 2011

Independent Living Program - SC 520
 Supported Living Service -SC 896

Vendor # HX0165 Independent Living Program - SC520

Audited Months	Vendor Number	A	B	C	D	E	F = C-E	G	H = D-G
		Hrs Per Initial Draft Report	Amount Per Initial Draft Report	Hrs Per Adjusted POS	Amount Per Adjusted POS	Additional Supported Hrs	Adjusted Hours	Adjusted Amount	Amount Due DDS (Final Audit Report)
Jan-10	HX0615	2,424.00	\$ 77,204.40	2,424.00	\$ 77,204.40	1,520.00	904.00	\$ 48,412.00	\$ 28,792.40
Feb-10		2,408.00	76,694.80	2,408.00	76,694.80	1,464.25	943.75	46,636.36	30,058.44
Mar-10		2,332.00	74,274.20	2,332.00	74,274.20	1,709.45	622.55	54,445.98	19,828.22
Apr-10		2,332.00	74,274.20	2,332.00	74,274.20	1,449.25	882.75	46,158.61	28,115.59
May-10		2,257.00	71,885.45	2,257.00	71,885.45	1,647.75	609.25	52,480.84	19,404.61
Jun-10		2,159.00	68,764.15	2,159.00	68,764.15	1,593.00	566.00	50,737.05	18,027.10
Jul-10		2,664.00	84,848.40	2,154.75	68,587.78	1,556.00	598.75	49,558.60	19,029.18
Aug-10		2,503.00	79,720.55	2,119.00	67,449.15	1,733.50	385.50	55,211.98	12,237.18
Sep-10		2,471.00	78,701.35	2,171.49	69,113.42	1,575.25	596.24	50,171.71	18,941.71
Oct-10		2,471.00	78,701.35	2,020.20	63,515.04	1,468.25	551.95	46,763.76	16,751.28
Nov-10		2,454.00	78,159.90	1,914.00	60,176.16	1,431.50	482.50	45,593.28	14,582.89
Dec-10		2,415.00	76,917.75	1,751.00	55,051.44	1,460.75	290.25	46,524.89	8,526.55
Jan-11	447.25	14,061.54		-		-	-	14,061.54	
SubTotal:		29,337.25	\$ 934,208.04	26,042.44	\$ 826,990.19	18,608.95	7,433.49	\$ 592,695.06	\$ 248,356.67 <i>a</i>

Vendor # HX0404 Supported Living Service - SC896

Audited Months	Vendor Number	A	B	C	D	E	F = C-E	G	H = D-G
		Hrs Per Initial Draft Report	Amount Per Initial Draft Report	Hrs Per Adjusted POS	Amount Per Adjusted POS	Additional Supported Hrs	Adjusted Hours	Adjusted Amount	Amount Due DDS (Final Audit Report)
Jan-10	HX0404	879.00	\$ 25,069.08	879.00	\$ 25,069.08	598.00	281.00	\$ 17,054.96	\$ 8,014.12
Feb-10		1,052.00	30,003.04	1,052.00	30,003.04	763.75	288.25	21,782.15	8,220.89
Mar-10		1,060.00	30,231.20	1,060.00	30,231.20	862.25	197.75	24,591.37	5,639.83
Apr-10		1,170.50	33,382.66	1,170.50	33,382.66	785.00	385.50	22,388.20	10,994.46
May-10		1,144.00	32,626.88	1,144.00	32,626.88	744.00	400.00	21,218.88	11,408.00
Jun-10		1,230.00	35,079.60	1,230.00	35,079.60	788.50	441.50	22,488.02	12,591.58
Jul-10		709.00	20,220.68	1,142.00	32,569.84	760.00	382.00	10,894.64	21,675.20
Aug-10		705.00	20,106.60	1,172.00	32,911.20	772.75	399.25	22,038.83	10,872.37
Sep-10		759.00	21,646.68	1,182.00	33,113.28	624.00	558.00	17,796.48	15,316.80
Oct-10		699.00	19,935.48	1,249.25	34,619.44	746.50	502.75	21,290.18	13,329.26
Nov-10		849.00	24,213.48	1,240.00	34,281.43	816.00	424.00	23,272.32	11,009.11
Dec-10		912.00	26,010.24	1,221.00	34,005.08	778.00	443.00	22,188.56	11,816.52
Jan-11	425.75	11,687.66		-		-	-	11,687.66	
SubTotal:		11,594.25	\$ 330,213.28	13,741.75	\$ 387,892.73	9,038.75	4,703.00	\$ 247,004.59	\$ 152,575.80 <i>b</i>

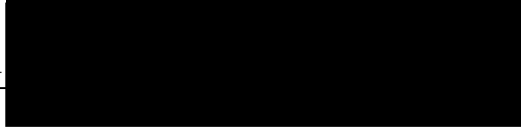
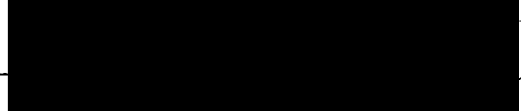
Grand Total:	40,931.50	\$ 1,264,421.32	39,784.19	\$ 1,214,882.92	27,647.70	12,136.49	\$ 839,699.65	\$ 400,932.47 <i>Σab</i>
---------------------	------------------	------------------------	------------------	------------------------	------------------	------------------	----------------------	---------------------------------



CONSUMER SIGN-IN SHEET

DAILY PROGRAM SCHEDULE

CONSUMER NAME: 

DATE	DAILY OBJECTIVE	TIME-IN	TIME-OUT	TOTAL DAILY HOURS	CONSUMER'S SIGNATURE
01-17-11	Personal Care=ILS Instructor Assisted Consumer with preparing her cloths for washing	1:15pm	4:15pm	3 Hours	
01-18-11	Personal Care=ILS Instructor Assisted Consumer with caring for her hair, Instructor. Wash, blowdried, press & curled	2:45pm	5:45pm	3 Hours	

ILS INSTRUCTOR'S SIGNATURE 

6



CONSUMER SIGN-IN SHEET
DAILY PROGRAM SCHEDULE

CONSUMER NAME: [REDACTED]

DATE	DAILY OBJECTIVE	TIME-IN	TIME-OUT	TOTAL DAILY HOURS	CONSUMER'S SIGNATURE
01-24 -11	Personal Responsibility = ILS Instructor Assist consumer with problem solving and decision making and exercising her individual rights	11:15am	2:15pm	3 Hours	[REDACTED]
01-25 -11	Shopping skills = ILS Instructor Assist consumer while shopping at each Department stores	7:00am	10:00am	3 Hours	[REDACTED]

ILS INSTRUCTOR'S SIGNATURE [REDACTED]

6



CONSUMER SIGN-IN SHEET
DAILY PROGRAM SCHEDULE

01/2011

CONSUMER NAME: _____

max 32 hrs authorized

DATE	DAILY OBJECTIVE	TIME-IN	TIME-OUT	TOTAL DAILY HOURS	CONSUMER'S SIGNATURE
01/04/2011	PERSONAL SAFETY	6:00	7:00	1	[Redacted Signature]
01/06/2011	PERSONAL SAFETY	3:00	6:30	3.5	[Redacted Signature]
01/11/2011	PERSONAL AND HEALTH SAFETY	3:00	7:00	4	[Redacted Signature]
01/13/2011	PERSONAL AND HEALTH	3:00	6:30	3.5	[Redacted Signature]
	filled 32 hrs				

ILS INSTRUCTOR'S SIGNATURE: _____

[Redacted Signature]

12

12

29 X



CONSUMER SIGN-IN SHEET
DAILY PROGRAM SCHEDULE

12/2010

CONSUMER NAME: [REDACTED]

DATE	DAILY OBJECTIVE	TIME-IN	TIME-OUT	TOTAL DAILY HOURS	CONSUMER'S SIGNATURE
12/16/ 2010	PERSONAL AND SAFETY	3:00	6:00	3	[REDACTED]
12/21/ 2010	PERSONAL AND HEALTH	3:00	6:00	3	[REDACTED]
12/23/ 2010	PERSONAL AND SAFETY	3:00	6:30	3.5	[REDACTED]
12/28/ 2010	PERSONAL AND HEALTH	3:00	6:30	3.5	[REDACTED]
12/30/ 2010	PERSONAL AND SAFETY	3:00	7:00	4	[REDACTED]
	total 22 hrs.				

ILS INSTRUCTOR'S SIGNATURE: [REDACTED]

17

9.5 / 7.5