



**AUDIT OF THE
CENTRAL VALLEY REGIONAL CENTER
FOR FISCAL YEARS 2004-05, 2005-06, and 2006-07**

Department of Developmental Services

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EXECUTIVE SUMMARY

The fiscal compliance audit of Central Valley Regional Center (CVRC) revealed that CVRC was in substantial compliance with the requirements set forth in California Code of Regulations Title 17, the California Welfare and Institutions (W&I) Code, the Home and Community Based Services (HCBS) Waiver for the Developmentally Disabled, and the contract with the Department of Developmental Services. The audit indicated that, overall, CVRC maintains accounting records and supporting documentation for transactions in an organized manner. This report identifies some areas where CVRC's administrative and operational controls could be strengthened, but none of the findings were of a nature that would indicate systemic issues or constitute major concerns regarding CVRC's operations.

- I. The following findings need to be addressed, but do not significantly impair the financial integrity of CVRC or seriously compromise its ability to account for or manage State funds.

Finding 1: Transportation Stipends

The review of the Transportation vendor payments revealed that CVRC paid transportation stipends totaling \$1,216,884.48 from its Purchase of Service (POS) fund to 12 Transportation vendors from the Fiscal Year (FY) 2004-05 budget. The one-time stipend paid to each vendor was based on 10 percent of the estimated annual billings of each transportation vendor. POS funds are only to be used to pay for direct services provided to consumers. This is not in compliance with the Welfare and Institutions Code (January 2005), Section 4648.4 and Title 17, Sections 58510(a) and 54326(a).

Finding 2: Over-Stated Claims

A detailed review of the Operational Indicator Reports revealed 12 instances in which CVRC over claimed expenses to the State. The overpayments were due to duplicate payments. The total overpayment was \$11,186.53. This is not in compliance with Title 17, Section 54326 (a)(10).

Finding 3: Client Trust Funds Used to Offset Purchase of Service (POS) Claims

The review of the Client Trust disbursements revealed that consumers with excessive balances had their funds used to offset POS claims for their Day Program, Respite, and Independent Living services. These excessive funds were an accumulation from the consumer's monthly Social Security Income (SSI) benefit. It was found that a total of \$81,555 from 69 Consumer Trust accounts for FY 2005-06 and a total of \$60,385 from 72 Consumer Trust accounts for FY 2006-07 were used to offset POS claims. The SSI benefit is designated for the consumers' personal expenses and residential board and care services. The consumers' Personal and Incidental (P&I) portion is intended for their own

personal use and should not be used to relieve any outstanding POS claims that are to be paid by CVRC.

Finding 4: Residential Vendors Providing Multi-Level Services

The sample review of the Residential vendor payments found five Residential vendors were reimbursed at a service level rate that is higher than the service level rate the respective Residential vendors are authorized to be reimbursed. This resulted in each of the Residential vendors using multiple service codes for the billing of services for consumers at a higher service level than the vendors are authorized to receive. This is not in compliance with W& I Code (January 2005), Section 4681.5 and Title 17, Section 56902(d).

Finding 5: Deleted

CVRC provided additional information to DDS on February 26, 2009. Based upon the additional information, it was determined this issue was not a reportable condition. Therefore, this finding has been deleted.

II. The following findings were identified during the audit, but have since been addressed and corrected by CVRC.

Finding 6: Lack of Reporting on New Equipment

CVRC has not been completing the required Equipment Acquired Under Contract form (DS 2130), for newly purchased equipment since March 2004. This is not in compliance with Article IV, Section 4, of the contract with DDS and the State's Equipment Management Systems Guidelines issued by DDS.

CVRC has taken corrective action to resolve this issue by completing and providing the DS 2130 forms for equipment acquisitions to DDS' Customer Support Section.

BACKGROUND

The Department of Developmental Services (DDS) is responsible, under the Lanterman Developmental Disabilities Services Act (Lanterman Act), for ensuring that persons with developmental disabilities (DD) receive the services and supports they need to lead more independent, productive and normal lives. To ensure that these services and supports are available, DDS contracts with 21 private, nonprofit community agencies/corporations that provide fixed points of contact in the community for serving eligible individuals with DD and their families in California. These fixed points of contact are referred to as regional centers. The regional centers are responsible under State law to help ensure that such persons receive access to the programs and services that are best suited to them throughout their lifetime.

DDS is also responsible for providing assurance to the Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) that services billed under California's Home and Community-Based Services (HCBS) Waiver program are provided and that criteria set forth for receiving funds have been met. As part of DDS' program for providing this assurance, the Audit Branch conducts fiscal compliance audits of each regional center no less than every two years, and completes follow-up reviews in alternate years. Also, DDS requires regional centers to contract with independent Certified Public Accountants (CPA) to conduct an annual financial statement audit. The DDS audit is designed to wrap around the independent CPA's audit to ensure comprehensive financial accountability.

In addition to the fiscal compliance audit, each regional center will also be reviewed by DDS' Federal Programs Operations Section staff to assess overall programmatic compliance with HCBS Waiver requirements. The HCBS Waiver compliance monitoring review will have its own criteria and processes. These audits and program reviews are an essential part of an overall DDS monitoring system that provides information on regional centers' fiscal, administrative and program operations.

DDS and Central Valley Regional Center, Inc., entered into contract, HD049002, effective July 1, 2004, through June 30, 2009. The contract specifies that Central Valley Regional Center, Inc. will operate an agency known as the Central Valley Regional Center (CVRC) to provide services to persons with DD and their families in the Fresno, Kings, Madera, Mariposa, Merced, and Tulare Counties. The contract is funded by State and federal funds that are dependent upon the CVRC performing certain tasks, providing services to eligible consumers, and submitting billings to DDS.

This audit was conducted at CVRC from December 17, 2007, through January 18, 2008, and was conducted by DDS' Audit Branch.

AUTHORITY

The audit was conducted under the authority of the W&I Code Section 4780.5, and Article IV, Provision Number 3 of CVRC's contract.

CRITERIA

The following criteria were used for this audit:

- California W&I Code
- "Approved Application for the Home and Community-Based Services Waiver for the Developmentally Disabled"
- California Code of Regulations Title 17
- Federal Office of Management Budget (OMB) Circular A-133
- CVRC's contract with the DDS

AUDIT PERIOD

The audit period was from July 1, 2004, through June 30, 2007, with follow-up as needed into prior and subsequent periods.

OBJECTIVES, SCOPE, AND METHODOLOGY

This audit was conducted as part of the overall DDS monitoring system that provides information on regional centers' fiscal, administrative, and program operations. The objectives of this audit are:

- To determine compliance to California Code of Regulations Title 17,
- To determine compliance to the provisions of the HCBS Waiver for the Developmentally Disabled, and
- To determine that costs claimed were in compliance to the provisions of the CVRC's contract with DDS.

The audit was conducted in accordance with Generally Accepted Government Auditing Standards issued by the Comptroller General of the United States. However, the procedures do not constitute an audit of CVRC's financial statements. We limited our scope to planning and performing audit procedures necessary to obtain reasonable assurance that CVRC was in compliance with the objectives identified above. Accordingly, we examined transactions, on a test basis, to determine whether CVRC was in compliance with Title 17, the HCBS Waiver for the Developmentally Disabled, and the contract with DDS.

Our review of the CVRC's internal control structure was limited to gaining an understanding of the transaction flow and the policies and procedures as necessary to develop appropriate auditing procedures.

We reviewed the annual audit report that was conducted by an independent accounting firm for:

- FY 2004-05, issued October 17, 2005
- FY 2005-06, issued October 24, 2006

The review was performed to determine the impact, if any, upon our audit and as necessary, develop appropriate audit procedures.

The audit procedures performed included the following:

I. Purchase of Service

We selected a sample of POS claimed and billed to DDS. The sample included consumer services, vendor rates, and consumer trust accounts. The sample also included consumers who were eligible for the HCBS Waiver. For POS, the following procedures were performed:

- We tested the sample items to determine if the payments made to service providers were properly claimed and could be supported by appropriate documentation.
- We selected a sample of invoices for service providers with daily and hourly rates, standard monthly rates, and mileage rates to determine if supporting attendance documentation was maintained by CVRC. The rates charged for the services provided to individuals were reviewed to ensure that the rates paid were set in accordance with the provisions of Title 17.
- We selected a sample of individual trust accounts to determine if there were any unusual activities, and if any individual account balances were not over the \$2,000 resource limit as required by the Social Security Administration (SSA). In addition, we determined if any retroactive Social Security benefit payments received were not longer than nine months. We also reviewed these accounts to ensure that the interest earnings were distributed quarterly, personal and incidental funds were paid before the tenth of each month, and that proper documentation for expenditures are maintained.
- The Client Trust Holding Account, an account used to hold unidentified consumer trust funds, is not used by CVRC. An interview with CVRC staff revealed that CVRC has procedures in place to determine the correct recipient of unidentified consumer trust funds. If the correct recipient cannot be determined, the funds are returned to SSA (or other source) in a timely manner.
- We selected a sample of Uniform Fiscal Systems (UFS) reconciliations to determine if any accounts were out-of-balance or if there were any outstanding reconciling items.
- We analyzed all of CVRC's bank accounts to determine if the DDS had signatory authority as required by the contract with the DDS.
- We selected a sample of bank reconciliations for Operations and Consumer Trust bank accounts to determine if the reconciliations are properly completed on a monthly basis.

II. Regional Center Operations

We audited CVRC's operations and conducted tests to determine compliance to the contract with DDS. The tests included various expenditures claimed for administration to ensure that the accounting staff was properly inputting data, transactions were being recorded on a timely basis, and to ensure that expenditures charged to various operating areas were valid and reasonable. These tests included the following:

- A sample of the personnel files, time sheets, payroll ledgers and other support documents was selected to determine if there were any overpayments or errors in the payroll or the payroll deductions.
- A sample of operating expenses, including, but not limited to, purchases of office supplies, consultant contracts, insurance expenses, and lease agreements was tested to determine compliance to Title 17 and the contract with DDS.
- A sample of equipment was selected and physically inspected to determine compliance with requirements of the contract with DDS.
- We reviewed CVRC's policies and procedures for compliance to the Title 17 Conflict of Interest requirements and selected a sample of personnel files to determine if the policies and procedures were followed.

III. Targeted Case Management and Regional Center Rate Study

The Targeted Case Management (TCM) rate study is the study that determines the DDS rate of reimbursement from the Federal Government. The last rate study to determine the TCM rate was performed in May 2004 which was reviewed in the last DDS biannual audit. As a result, there was no rate to review for this audit period.

IV. Service Coordinator Caseload Study

Under the W&I Code Section 4640.6, regional centers are required to provide service coordinator caseload data to DDS annually. Prior to January 1, 2004, the survey required regional centers to have service coordinator-to-consumer ratio of 1:62 for all consumers who had not moved from developmental centers to the community since April 14, 1993, and a ratio of 1:45 for all consumers who had moved from developmental centers to the community since April 14, 1993. However, commencing January 1, 2004, the following service coordinator-to-consumer ratios apply:

- A. For all consumers that are three years of age and younger and for consumers that are enrolled on the HCBS Waiver, the required average ratio shall be 1:62.

- B. For all consumers who have moved from a developmental center to the community since April 14, 1993, and have lived in the community continuously for at least 12 months, the required average ratio shall be 1:62.
- C. For all consumers who have not moved from the developmental centers to the community since April 14, 1993, and who are not covered under 'A' above, the required average ratio shall be 1:66.

We also reviewed the Service Coordinator Caseload Survey methodology used in calculating the caseload ratio to determine reasonableness and that supporting documentation is maintained to support the survey and the ratios as required by W& I Code Section 4640.6.

V. Early Intervention Program (Part C Funding)

For the Early Intervention Program, there are several sections contained in the Early Start Plan. However, only the Part C section was applicable for this review.

For this program, we reviewed the Early Intervention Program, including the Early Start Plan and Federal Part C funding to determine if the funds were properly accounted for in CVRC's accounting records.

VI. Family Cost Participation Program

The Family Cost Participation Program (FCPP) was created for the purpose of assessing cost participation to parents based on income level and dependents. The family cost participation assessments are only applied to respite, day care, and camping services that are included in the child's individual program plan. To determine whether the regional center is in compliance with Title 17 and the W& I Code, we performed the following procedures during our audit review.

- Reviewed the parents' income documentation to verify their level of participation based on the Family Cost Participation Schedule.
- Reviewed copies of the notification letters to verify the parents were notified of their assessed cost participation within 10 working days.
- Reviewed vendor payments to verify the regional center is paying for only its assessed share of cost.

VII. Other Sources of Funding

Regional centers may receive many other sources of funding. For the other sources of funding identified for CVRC, we performed sample tests to ensure that the accounting staff was inputting data properly, and that transactions were properly recorded and

claimed. In addition, tests were performed to determine if the expenditures were reasonable and supported by documentation. The other sources of funding identified for this audit are:

- Start Up Programs
- Medicare Moderation Act (Part D Funding)
- Wellness Programs
- Foster Grand Parents Program

VIII. Follow-up Review on Prior DDS's Audit Findings

As an essential part of the overall DDS monitoring system, a follow-up review of the prior DDS audit findings was conducted. We identified prior audit findings that were reported to CVRC and reviewed supporting documentation to determine the degree and completeness of CVRC's implementation of corrective actions taken.

CONCLUSIONS

Based upon the audit procedures performed, we have determined that except for the items identified in the Findings and Recommendations Section, CVRC was in substantial compliance to applicable sections of Title 17, the HCBS waiver, and the terms of the CVRC's contract with DDS for the audit period July 1, 2004, through June 30, 2007.

Except for those items described in the Findings and Recommendations Section, the costs claimed during the audit period were for program purposes and adequately supported.

From the review of prior audit issues, it has been determined that CVRC has taken appropriate corrective actions to resolve all prior audit issues.

VIEWS OF RESPONSIBLE OFFICIALS

We issued a draft report on February 11, 2009. The findings in the report were discussed at an exit conference with CVRC on February 24, 2009. At the exit conference, we stated that the final report will incorporate the views of responsible officials.

RESTRICTED USE

This report is solely for the information and use of the Department of Developmental Services, Department of Health Care Services, the Centers for Medicare and Medicaid Services, and the Central Valley Regional Center. It is not intended and should not be used by anyone other than these specified parties. This restriction does not limit distribution of this report, which is a matter of public record.

FINDINGS AND RECOMMENDATIONS

The findings of this report have separated into the two categories below.

- I. These findings need to be addressed, but do not significantly impair the financial integrity of the CVRC or seriously compromise its ability to account for or manage State funds.

Finding 1: Transportation Stipends

Our review identified a letter dated June 21, 2005, that CVRC sent to its transportation vendors. This letter states that CVRC is aware of the extraordinary fiscal pressures placed upon the vendors “due to rising costs and the prohibition against renegotiating rates.” The letter offers the transportation vendors a one-time stipend equal to ten percent of the estimated payments for transportation services provided from July 1, 2004, through June 30, 2005. This letter indicated to be eligible for this one-time stipend, the vendors must be in full compliance with their CVRC transportation contract and agree with the terms for five items listed in the letter.

Upon further review, it was determined that in order to receive this one-time stipend, the transportation vendors would have to simply comply with the requirements of their existing contracts with CVRC. CVRC issued this letter and made the offer of the stipends at the end of the contract term.

From this offer, it was identified that CVRC paid 12 transportation vendors stipends totaling \$1,216,884.84, which were paid from POS funds for FY 2004-05 under a miscellaneous service code. CVRC could not provide any formal written authorization from DDS to approve these stipend payments. (See Attachment A)

These transportation stipends are not in compliance with the W&I Code which restricted all regional centers to pay for services at rates that were in effect on June 30, 2004. In addition, POS funds should only be used to pay for direct services provided to consumers.

W&I Code (January 2005), Section 4648.4 states in part:

“Notwithstanding any other provisions of law or regulation, during the 2004-05 fiscal year, no regional center may pay any provider of the following services or supports a rate that is greater than the rate that is in effect on or after June 30, 2004, unless the increase is required by a contract between the regional center and the vendor that is in effect on June 30, 2004, or the regional center demonstrates that the approval is necessary to protect the consumer’s health and safety and the department has granted prior written authorization:

(b) Transportation, including travel reimbursement...”

Title 17, Section 58510(a) states in part:

“(a) The regional center shall purchase transportation service only when:

- (1) The transportation service is included in the consumer’s IPP;
- (2) The vendor has a rate approved by the Department or the Regional Center;”

In addition, Title 17, Section 54326(a) states:

“All vendors shall:

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

Recommendation:

CVRC should discontinue the practice of issuing stipends to service providers. CVRC should develop and implement policies and procedures to comply with the provisions of the W& I Code and Title 17, which requires all vendors to be paid at approved billing rates for services actually provided to consumers.

Finding 2: Over-Stated Claims

A review of the CVRC’s Operational Indicator reports revealed 12 instances in which CVRC over claimed expenses to the State. The 12 instances of overpayments totaling \$11,186.53 were due to duplicate payments. (See Attachment B)

Title 17, Section 54326(a) states:

“All vendors shall:

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

In addition, for good business and internal control practices, CVRC should generate and monitor the Operational Indicator reports periodically to detect and correct any overpayments that may have occurred in the course of doing business with its vendors.

Recommendation:

CVRC should recover the improper overpayments made to the respective vendors and reimburse DDS for the amount \$11,186.53 overpaid to the vendors. In

addition, CVRC should develop and implement procedures to ensure the staff is monitoring the operational indicator reports and rate letters to more efficiently detect duplicate payments, and correct any over payments that may have occurred in the course of doing business with the vendors.

Finding 3: Client Trust Funds Used to Offset Purchase of Service (POS) Claims

The review of the Client Trust disbursements revealed that consumers with excessive balances had their funds used to offset POS claims for their Day Program, Respite, and Independent Living services. These excessive funds were an accumulation from the consumer's monthly Social Security Income (SSI) benefit. CVRC utilized these funds from consumers with excessive balances in an effort to keep their client trust account balances under the Social Security resource limit.

It was found that a total of \$81,555 from 69 Consumer Trust accounts for FY 2005-06 and a total of \$60,385 from 72 Consumer Trust accounts for FY 2006-07 were used to offset POS claims. The SSI benefit is designated for the consumers' personal expenses and residential board and care services. The consumers' Personal and Incidental (P&I) portion is intended for their own personal use and should not be used to relieve any outstanding POS claims that are to be paid by CVRC. (See Attachment C)

Per the legal opinion from the Department of Developmental Services, which sought guidance from the California Attorney General's Office in May 1990, it states:

“Based on the Attorney General's Opinion and our review of the analysis in that opinion, we conclude that a client's P&I funds may not be used for the cost of a client's board and care nor for the cost of other services provided by the regional center.”

Also, per the court decision in the case of *Clemente v. Amundson* (1998) 70 Cal. App.4th 1094, regional centers may not impose a copayment in the absence of statutory authorization.

Recommendation:

CVRC should reimburse the consumers' P&I funds that were used to offset POS claims. In addition, CVRC should discontinue the practice of using consumers' excess funds to offset POS claims.

Finding 4: Residential Vendors Providing Multi-Level Services – Payments Exceed Vendor Service Level Rate

The sample review of the Residential vendor payments found five Residential vendors were reimbursed at a service level rate that is higher than the service level rate the respective Residential vendors are authorized to be reimbursed. This resulted in each of the Residential vendors using multiple service codes for the billing of services for the consumers at a higher service level than the vendors are vendorized to receive. (See Attachment D)

This is not in compliance with Title 17, which requires that once a vendor is notified of the maximum rate for payment, the regional center can only negotiate for a level of payment that is lower than the rate established.

W& I Code (January 2005), Section 4681.5 states:

“Notwithstanding any other provisions of law or regulation, during the 2004-05 fiscal year, no regional center may approve any service level for a residential service provider, as defined in Section 56005 of the Title 17 of the California Code of Regulation, if the approval would result in an increase in the rate to be paid to the provider that is greater than the rate that is in effect on or after June 30, 2004, unless the regional center demonstrates that the approval is necessary to protect the consumer’s health and safety and the department has granted prior written authorization”

Title 17, Section 56902(d) states:

“Once the vendor has received notice of the maximum rate established by the Department for the facility’s approved service level, each regional center, or its designee, which has placed consumers in the facility may negotiate with the vendor a level of payment for its consumer(s) that is lower than the rate established by the Department.”

Recommendation:

CVRC should implement policies and procedures to ensure that Residential vendors are only reimbursed at their authorized vendor service level unless a lower service level is negotiated per Title 17, Section 56902(d).

For current Residential vendors that are being reimbursed at a higher service level than they were vendorized, CVRC should discontinue this practice and also inform the affected vendors of the discontinuation of this practice.

Finding 5: Deleted

CVRC provided additional information to DDS on February 26, 2009. Based upon the additional information, it was determined this issue was not a reportable condition. Therefore, this finding has been deleted.

II. The following findings were identified during the audit, but have since been addressed and corrected by CVRC.

Finding 6: Lack of Reporting on New Equipment

During the review of the equipment purchasing process, it was found that CVRC has not been completing the required Equipment Acquired Under Contract form (DS 2130), for newly purchased equipment since March 2004.

Article IV, Section 4a of the contract between DDS and CVRC states in part:

“Contractor shall comply with the State’s Equipment Management System Guidelines for regional center equipment and appropriate directions and instructions which the State may prescribe as reasonably necessary for the protection of State of California property.”

Section III (B), of the State’s Equipment Management Systems Guidelines, dated February 1, 2003, states in part:

“RCs will also provide the Department of Developmental Services’ (DDS) Customer Support Section (CSS) with a list of all state owned, nonexpendable and sensitive equipment received during each calendar quarter. This information is to be provided to CSS quarterly, utilizing the Equipment Acquired Under Contract form (DS 2130), or suitable electronic alternative.”

CVRC has taken corrective action to resolve this issue by completing and providing the DS 2130 forms for equipment acquisitions to DDS’s Customer Support Section.

Recommendation:

CVRC should develop policies and procedures to ensure compliance to the State’s Equipment Management Systems Guidelines as required by its contract with DDS. The policies and procedures should include requirements to complete and file all required forms with DDS.

EVALUATION OF RESPONSE

As part of the audit report process, CVRC is provided with a draft report and is requested to provide a response to each finding. CVRC's response dated April 3, 2009, is provided as Appendix A. This report includes the complete text of the findings in the Findings and Recommendation section and a summary of the findings in the Executive Summary section.

DDS's Audit Branch has evaluated CVRC's response. Except as noted below, CVRC's response addressed the audit findings and provided reasonable assurance that corrective action would be taken to resolve the issues. DDS's Audit Branch will confirm CVRC's corrective actions identified in the response during the follow-up review of the next scheduled audit.

Finding 1: Transportation Stipends

CVRC paid one time stipends totaling \$1,216,884.84 to 12 transportation vendors from POS funds budgeted for fiscal year 2004-05. CVRC states in its response that it serves six largely rural counties and relies heavily on transportation vendors to serve its clients. It was stated that this was a one-time payment to cover the transportation vendors' costs for additional safety requirements which was not a contractual requirement at that time. CVRC provided documentation that shows the former Executive Director of CVRC sought and received consultation from DDS on covering the costs for the additional safety requirements. Based on the communication with DDS, CVRC proceeded with the payment of the stipends to the 12 transportation vendors under the pretext that DDS had approved this method of payment. Therefore, since CVRC based its actions upon this understanding, DDS will not seek reimbursement for the transportation stipends, but expects CVRC to discontinue the practice of issuing stipends to service providers. A follow-up review will be performed in the next scheduled audit to ensure if CVRC has discontinued this practice.

Finding 2: Over-Stated Claims

CVRC provided additional information in its response to support additional funding given to six consumers residing in residential facilities and one consumer that was mistakenly counted twice by the DDS auditors. Therefore, based on the additional information provided by CVRC, DDS has revised the recommendation in the Findings and Recommendation section. The revised recommendation reduces the total amount CVRC needs to reimburse DDS from \$15,675.49 to \$11,186.53. The remaining outstanding balances will be followed up in the next scheduled DDS audit to determine if the remaining payments have been addressed or recovered and that procedures are in place to ensure proper monitoring of the Operational Indicator reports.

Finding 3: Client Trust Funds Used to Offset Purchase of Service (POS) Claims

As of July 2008, CVRC ceased the practice of using client funds to pay for POS services and has provided additional information for the correct amounts owed to the 127 consumers identified in the audit. Based on the analysis of the additional information provided by CVRC, DDS concurs and has revised the recommendation in the Findings and Recommendation section. The revised recommendation reduces the total amount that CVRC needs to reimburse its consumers from \$148,652 to \$141,940.

Further, CVRC states in its response that it disagrees with the cited case of *Clemente v. Amundson* (1998) 70 Cal. App. 4th 1094 regarding the use of P&I funds to reimburse POS services. CVRC believes that the cited case is not applicable to the current issue because the client funds used to offset POS services are not co-payments that are required every time a service is provided. Also, CVRC states that as the representative payee, the practice was to reimburse for services when the client's funds approached the \$2,000 resource limit so as to avoid jeopardizing the clients' benefits. Though, DDS agrees that the P&I funds are not a co-payment required every time a service is provided, DDS's legal office interpreted this case as a precedent to not use excess client funds to pay for services that are provided by the regional center. In addition, a legal opinion from the Attorney General issued on May 24, 1990, supports the argument that excess client funds may not be used to offset the cost of the client's services. This legal opinion has been included in the criteria of the finding. Therefore, the finding remains unchanged and CVRC should reimburse the clients' P&I funds used to offset POS claims and discontinue this practice. A follow-up review will be performed in the next scheduled audit to determine if this issue has been resolved.

Finding 5: Missing Start-Up Documentation

CVRC provided additional information to DDS on February 26, 2009, which shows that the requested documentation was available at the time of the fieldwork, but was misplaced due to the installation of a new automated filing system. Based upon the additional information, it was determined this issue was not a reportable condition. Therefore, this finding has been deleted.

**Central Valley Regional Center
Transportation Stipends
Fiscal Year 2004-05**

	Vendor Number	Vendor Name	Authorization Number	Check Number	Check Date	Amount
1	HC0001	Access	05206809	1999	10/7/05	\$17,046.00
2	HC0226	ARC Fresno	05206901	773124	3/9/06	\$6,616.00
3	H00898	Kings Rehabilitation	05206810	743351	10/13/05	\$53,299.20
4	H01109	Porterville Sheltered Workshop	05206799	2179	10/7/05	\$123,897.72
5	H02148	Kings View	05206800	2121	10/7/05	\$89,971.32
6	H08539		05206555	731056	8/19/05	\$15,310.08
7	H08701	Social Vocational Services	05206452	1482	8/9/05	\$320,359.00
8	H08728	CIWP	05206768	737218	9/20/05	\$221,142.00
9	H08762	ARC Fresno	05206900	773140	3/9/06	\$13,987.00
10	H27679	ARC Fresno	05206899	773123	3/9/06	\$28,565.00
11	H27797	EOC	05206710	733613	9/8/05	\$289,284.16
12	H90298		05206442	728668	8/9/05	\$37,407.00
Total						<u>\$1,216,884.48</u>

**Central Valley Regional Center
Over Stated Claims
Fiscal Years 2004-05, 2005-06 & 2006-07**

	Unique Client Identification Number	Vendor Number	Vendor Name	Service Code	Authorization Number	Payment Period	Overpayment Amount
Overpayments due to Duplicate Payments/Same Authorizations							
1		H08725	CIWP	510	07207685	Aug-06	\$1,147.30
2		HC0218		915	06206840	Nov-05	\$743.14
3		H27669		400	06120609	Dec-05	\$56.00
4		HC0529		915	07213118	Jul-06	\$1,304.00
5		HC0532	Star Center - ADP	510	06215064	Dec-05	\$857.40
6		HC0532	Star Center - ADP	510	06215066	Dec-05	\$457.28
7		HC0128	SVS	510	06207940	Dec-05	\$330.12
8		H08734		915	06086714	Mar-06	\$101.16
9		HC0476		915	06200586	Jul-05	\$1,546.00
10		HC0161		113	07214227	Dec-06	\$30.00
11		HC0055		915	06111018	Oct-05	\$867.17
12		H08704		905	06216127	Jan-06	\$3,746.96
Total Overpayments due to Duplicate Payments/Same Authorizations							\$11,186.53

**Central Valley Regional Center
Client Trust Funds Used to Offset POS Claims
Fiscal Years 2005-06 and 2006-07**

	Unique Client Identification Number	Fiscal Year	
		2005-06 Total	2006-07 Total
1		\$144.00	
2		\$260.00	
3			\$400.00
4			\$1,378.00
5		\$600.00	
6		\$2,450.00	\$1,872.00
7		\$400.00	
8		\$500.00	
9			\$1,750.00
10			\$2,919.00
11		\$900.00	
12			\$1,893.00
13		\$144.00	\$1,000.00
14			\$653.00
15		\$1,300.00	\$900.00
16		\$3,200.00	
17			\$400.00
18		\$1,500.00	
19			\$241.00
20		\$500.00	\$500.00
21		\$1,000.00	\$1,300.00
22			\$1,500.00
23		\$1,384.00	
24		\$600.00	
25			\$100.00
26			\$150.00
27			\$500.00
28		\$300.00	
29			\$2,114.00
30		\$600.00	
31		\$500.00	
32		\$500.00	
33			\$1,000.00
34			\$773.00
35		\$255.00	\$395.00

**Central Valley Regional Center
Client Trust Funds Used to Offset POS Claims
Fiscal Years 2005-06 and 2006-07**

	Unique Client Identification Number	Fiscal Year	
		2005-06 Total	2006-07 Total
36			\$2,264.00
37			\$263.00
38			\$602.00
39		\$600.00	
40			\$328.00
41		\$500.00	
42		\$500.00	
43		\$500.00	
44		\$600.00	
45		\$500.00	
46		\$4,089.00	
47			\$100.00
48		\$3,271.00	
49			\$500.00
50			\$3,800.00
51			\$200.00
52			\$1,000.00
53			\$300.00
54			\$300.00
55		\$396.00	
56		\$700.00	
57		\$800.00	
58		\$300.00	\$1,000.00
59			\$283.00
60		\$300.00	
61		\$1,789.00	\$1,200.00
62		\$17,404.00	
63		\$750.00	
64		\$350.00	
65			\$1,000.00
66		\$3,620.00	\$35.00
67		\$500.00	
68		\$812.00	
69			\$500.00
70			\$1,059.00

**Central Valley Regional Center
Client Trust Funds Used to Offset POS Claims
Fiscal Years 2005-06 and 2006-07**

	Unique Client Identification Number	Fiscal Year	
		2005-06 Total	2006-07 Total
71		\$1,928.00	
72			\$100.00
73		\$500.00	
74		\$900.00	\$500.00
75			\$476.00
76			\$100.00
77		\$2,300.00	
78		\$1,650.00	
79		\$100.00	\$500.00
80		\$1,150.00	
81		\$550.00	
82			\$1,164.00
83			\$200.00
84		\$150.00	
85			\$200.00
86			\$336.00
87			\$281.00
88			\$695.00
89		\$100.00	
90		\$700.00	
91			\$639.00
92			\$472.00
93			\$300.00
94		\$4,680.00	\$1,938.00
95			\$200.00
96			\$1,200.00
97			\$200.00
98		\$1,367.00	
99			\$219.00
100		\$760.00	
101			\$300.00
102			\$1,000.00
103		\$1,451.00	
104		\$800.00	
105		\$500.00	

**Central Valley Regional Center
Client Trust Funds Used to Offset POS Claims
Fiscal Years 2005-06 and 2006-07**

	Unique Client Identification Number	Fiscal Year	
		2005-06 Total	2006-07 Total
106		\$2,100.00	\$1,000.00
107			\$100.00
108		\$260.00	
109			\$1,400.00
110			\$300.00
111		\$750.00	
112			\$3,100.00
113			\$550.00
114			\$2,889.00
115		\$900.00	
116		\$389.00	
117		\$100.00	\$300.00
118			\$1,354.00
119		\$250.00	
120			\$1,500.00
121		\$500.00	
122			\$100.00
123		\$500.00	
124		\$202.00	
125			\$300.00
126		\$500.00	
127		\$200.00	
Totals		\$81,555.00	\$60,385.00

**Central Valley Regional Center
Residential Vendors Providing Multilevel Services
Fiscal Years 2004-05, 2005-06 & 2006-07**

	Vendor Number	Vendor Name	Service Code	Vendorized Level of Service	Level of Service Being Provided
1	HC0017		920	L4A	L4E
2	HC0361		920	L4D	L4I
3	H27935		915	L4D	L4H
4	H90275		910	L4D	L4G
5	H90286		915	L4D	L4I

APPENDIX A

CENTRAL VALLEY REGIONAL CENTER

RESPONSE

TO AUDIT FINDINGS

Certain documents provided by CVRC as attachments to its response are not included in this report due to the detailed and sometimes confidential nature of the information.

CENTRAL VALLEY REGIONAL CENTER INC.

Main Office: 4615 N. Marry • Fresno, California 93722-7818

Phone: (559) 276-4300, Fax (559) 276-4360 - TDD (559) 276-4111



April 3, 2009

Karyn Meyreles, Acting Deputy Director
Department of Developmental Services
Administration division
1600 Ninth St.
Sacramento, CA 95814

Dear Ms. Meyreles:

The accompanying document has been created in response to the Draft Audit of the Central Valley Regional Center for fiscal years 2004-2005, 2005-2006 and 2006-2007. The audit began in November 2007 and on-site field work was completed in January 2008.

Budget years 2004-05 and 2005-06 are now closed and some of the findings were for the first two years' respectively. In the event our responses are not persuasive and refunds to DDS are required, CVRC will have to utilize purchase of service funds from FY 2006-07. It is our understanding that these funds, independent of the outcome of the audit, must be returned by May 20, 2009. Therefore, we are asking that you respond to us prior to the May 20th date.

If you have any questions regarding our proposals, please call me at (559) 276-4324 or Darryll Walker at (559) 276-4316.

Sincerely,

Robert Riddick
Executive Director

RR:eo

Attachments

CVRC's Responses to: Findings and Recommendations for Fiscal Years: 2004-2005, 2005-2006 and 2006-2007

* Finding 1: Transportation Stipends

DDS Recommendation: CVRC should reimburse DDS the \$1,216,884.48 for the transportation stipends paid to the 12 transportation vendors. In addition, CVRC should discontinue the practice of issuing stipends to service providers. CVRC should develop and implement policies and procedures to comply with the provisions of the W&I Code and Title 17, which requires all vendors to be paid at approved billing rates for services actually provided to consumers.

CVRC's Response: CVRC serves six largely rural counties and, as such, transportation is essential to providing day program services to our clients. We rely heavily upon vendors because of the lack of public and generic transportation resources. As noted in the audit finding, CVRC did not have a practice of routinely using stipends to fund service providers; the finding of the audit team is singular. The use of stipends was an unfortunate use of a word to describe our intent. Former CVRC Director, David Riester, sought and received consultation from the Deputy Director of Community Services and Supports at DDS on June 8, 2005 (See Exhibit A). Mr. Riester was seeking consultation to cover transporters' costs for additional safety requirements. The service code utilized was '024 (Purchase Reimbursement). The agreement between CVRC and transportation vendors called for a drug and alcohol prevention program which was not a contractual requirement at that time. Another option might have been to seek a "health and safety waiver," but we elected to proceed as described above.

A related transportation issue occurred during this time period. CVRC served as a pilot center for the capture of federal waiver dollars available if transportation vendors could provide monthly individual billings which was also not a contractual requirement at that time. The vendors who received the funding participated in the process of making the individualized billing system viable. According to our records, vendors began billing individually in November 2003. The budget act of 2006 allocated a 1% rate increase to transportation vendor rates for vendors who had not yet implemented the daily attendance billing system (See Exhibit B). The vendors who received the "stipend" did not receive this rate adjustment. The number of clients transported by these vendors during the pilot numbered over 2,500. By our rough calculation, the State of California received reimbursement far in excess of the stipend as a result of these vendors participating in the pilot project.

* Finding 2: Over-Stated Claims

DDS Recommendation: CVRC should recover the improper overpayments made to respective vendors and reimburse DDS for the amount of \$15,675.49 overpaid to vendors. In addition, CVRC

¹ 024-PURCHASE REIMBURSEMENT - 65070 OR 65100

SERVICE DESCRIPTION: Reimbursement for purchases to meet consumers IPP objectives.

CVRC's Responses to Findings and Recommendations
for: FY 2004-05, 2005-06 and 2006-07

should develop and implement procedures to ensure the staff is monitoring the operational indicator reports, and rate letters to more efficiently detect duplicate payments and correct any overpayments that may have occurred in the course of doing business with the vendors.

CVRC's Response: During the audit, CVRC was made aware of the existence of a UFS Operational Indicator report which identifies potential double-payments. CVRC was instructed how to run this report by the audit staff. We concur with the recommendation that CVRC staff utilize this report. We will immediately institute a procedure, where on a monthly basis, the POS Manager will execute, review and monitor this report.

CVRC reviewed Attachment B from the draft audit and did an analysis of each audit finding. The attached chart denotes which of the findings we agree or disagree with, along with a comment and our actual or proposed treatment of each finding (See Exhibit C).

Summary of our findings which shows the net adjustment. If the audit team concurs with the analysis we will pursue collection.

Line	Code	Vendor	Vendor Name	Serv Code	Amount	Amount
1		HC0534		400	07228195	-137.00
3		HC0586		400	07225592	-117.00
4		H08704		915	06216127	-3,746.96
5		H27677		400	07209105	-117.00
9		H27802		400	06217729	-137.00
13		HC0509		400	07230909	-117.00
19		PC0019		400	06189312	-117.00
			Total CVRC Recommends backing out			(4,488.96)
				Auditors Total		15,675.49
				Net Total		11,186.53

* Finding 3: Client Trust Funds Used to Offset Purchase of Service (POS) Claims

DDS Recommendation: CVRC should reimburse the consumers' P&I funds that were used to offset POS claims. In addition, CVRC should discontinue the practice of using consumers' excess funds to offset POS claims.

CVRC's Response: The draft audit report cites the case of *Clemente v. Amundson* (1988) 70 Cal. App. 4th 1094. We do not believe that this citation is applicable, primarily because we believe the payments made do not meet the definition or criteria of a co-pay. Please refer to **Exhibit D** as it demonstrates how infrequently payments were made, as compared to a co-pay that is required to be paid every time a service is provided or rendered.

CVRC's Responses to Findings and Recommendations
for: FY 2004-05, 2005-06 and 2006-07

CVRC is representative payee, and, on occasion the practice was to reimburse for services when the client neared the \$2,000 resource limit. It was our intent not to jeopardize the clients' benefits, i.e. SSI and Medi-Cal services. We have terminated this practice as of July 2008. If we find no relief from this finding, we are requesting that CVRC be allowed to reimburse clients' accounts over time as not to jeopardize their continued receipt of benefits.

According to CVRC's calculation, the total dollar amount owed to the 127 clients in the audit is \$141,940.19. Please refer to Exhibit E. The amount owed, according to DDS, is \$148,652.00. The discrepancy lies with a specific client, [REDACTED] UCI number [REDACTED]. We conclude that the amount owed to this client is \$1,000.00. DDS findings indicate the clients is owed \$7,712.00.

Out of the above population, a total of 28 clients exceed the resource limit of \$2,000.00. The amount owed to the 28 clients total \$81,989.59.

If our rationale is not persuasive, we would be prepared to deposit funds into the clients' trust accounts for those who are under the resource limit. For example, there would be 99 clients who would have a total of \$59,950.60 deposited in their trust accounts. From this amount CVRC would deposit \$18,678.91 into trust accounts for clients who have closed cases (See Exhibit E, Column 9). For the clients who exceed \$2,000.00, the average amount owed per client is \$3,500.00. Instead of a lump sum payment, if these clients were to receive from CVRC \$500.00/per month, the average time for CVRC to pay off the amount owed would be 7 months. This payment plan would not jeopardize their benefits.

For those clients who have closed cases, funds may be deposited into the clients' trust accounts and then subsequently those funds will be forwarded to the state controller's office.

Finding 4: Residential Vendors Providing Multi-Level Services - Payments Exceed Vendor Service Level Rate

DDS Recommendation: CVRC should implement policies and procedures to ensure that Residential vendors are only reimbursed at their authorized vendor service level unless a lower service level is negotiated per Title 17, Section 56902(d).

For current Residential vendors that are being reimbursed at a higher service level than they were vendored for, CVRC should discontinue this practice and also inform the affected vendors of the discontinuation of this practice.

CVRC's Response: CVRC will only reimburse providers at the service level for which they are vendored. Parenthetically, the use of facilities with mixed rates has been a practice of CVRC since the ARM rate system was instituted.

Finding 5: Missing Start-Up Documentation

***DDS Recommendation:** CVRC should enforce its current billing procedures for Start-up services to ensure billed invoices are available for review and supported by source documents before reimbursing vendors for services. This will ensure CVRC's compliance with the State contract.*

CVRC's Response: The two missing [REDACTED] start-up payment documents were faxed to DDS, via fax on February 26, 2009. Ed Yan confirms receipt of the faxed documents. The receipts were on-site at the time of the audit, but were temporarily misplaced due to the installation of our new automated filing system.

Finding 6: Lack of Reporting on New Equipment

***DDS Recommendation:** CVRC should develop policies and procedures to ensure compliance to the State's Equipment Management Systems Guidelines as required by its contract with DDS. The policies and procedures should include requirements to complete and file all required forms with DS.*

CVRC's Response: Central Valley Regional Center has always completed and kept on file the Equipment Acquired Under Contract form (DS 2130) for state equipment purchases. A copy has always been sent to DDS Customer Support Section. The practice was suspended by the Customer Support Section in 2004.

In compliance with auditor recommendations, the procedure of sending a PDF copy of Regional Center equipment purchases to DDS Customer Support Section has been reinstated effective January 2008 as stated in the State's Equipment Management System Guidelines.

The following is a section of CVRC's Equipment Management Policy and Procedures which addresses the finding:

- 3.1 **NEW EQUIPMENT:** The Administrative Project manager shall report monthly to DDS any new equipment acquired with State funds based on the list produced in 2.1. The State form DS2130 Equipment Acquired Under Contract shall be filled out according to the information requested including the contract number and fiscal year being reported. Retain a copy for CVRC records.
- 3.2 The State form DS2130 Equipment Acquired Under Contract, when completed, shall be sent to the DDS Customer Support Services for updated their records.
- 3.3 **DISPOSITIONED EQUIPMENT:** Approval and instruction of disposition of equipment must be received from the Department of General Services Procurement Division (NORTH) prior to disposal. The Director of Administrative Services determines the need for disposing of equipment.

**CVRC's Responses to Findings and Recommendations
for: FY 2004-05, 2005-06 and 2006-07**

Note:

If we do not find financial relief from findings #1, #2 and #3, we are requesting that DDS be reimbursed from POS budget year 2006-07.