



**AUDIT OF THE  
REGIONAL CENTER OF THE EAST BAY  
FOR FISCAL YEARS 2019-20 AND 2020-21**

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**Department of Developmental Services**

**October 24, 2022**

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# EXECUTIVE SUMMARY

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The Department of Developmental Services (DDS) conducted a fiscal compliance audit of Regional Center of the East Bay (RCEB) to ensure RCEB is compliant with the requirements set forth in the Lanterman Developmental Disabilities Services Act and Related Laws/Welfare and Institutions (W&I) Code; the Home and Community-based Services (HCBS) Waiver for the Developmentally Disabled; California Code of Regulations (CCR), Title 17; Federal Office of Management and Budget (OMB) Circulars A-122 and A-133; and the contract with DDS. Overall, the audit indicated that RCEB maintains accounting records and supporting documentation for transactions in an organized manner.

The audit period was July 1, 2019, through June 30, 2021, with follow-up, as needed, into prior and subsequent periods. This report identifies some areas where RCEB'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 RCEB's operations. A follow-up review was performed to ensure RCEB has taken corrective action to resolve the findings identified in the prior DDS audit report.

## **Findings that need to be addressed.**

### **Finding 1: Overstated Claims Due To:**

#### **A. Incorrect Rates**

The sampled review of 149 POS vendor files revealed eight vendors were reimbursed at incorrect rates. RCEB reimbursed two Day program vendors at incorrect rates and six vendors at incorrect home health agency and registered nurse Schedule of Maximum Allowance (SMA) rates. This resulted in overpayments to the eight vendors totaling \$203,398.82 from May 2019 through February 2022. This is not in compliance with CCR, Title 17, Sections 57332(b)(10) and (c)(8)(A), 57500(a) and 57300(c)(2).

RCEB provided documentation with its response to the draft audit report indicating DDS approved H&S rates for RES Success, Vendor Numbers HB0740 and HB0822 which resolved the overpayments totaling \$202,797.57. However, by applying the newly approved H&S rates this created underpayments to Vendor Number HB0740. Therefore, RCEB must pay RES Success, Vendor Number HB0740 for the underpayments totaling \$10,943.16 from May 2019 through December 2021 and reimburse DDS for the remaining overpayments totaling \$601.25 for utilizing incorrect SMA rates.

## **B. Health and Safety Rates Used Without DDS Approval**

The sampled review of 149 POS vendor files revealed RCEB reimbursed three vendors – Elwyn CA Keith Home, Vendor Number PB2254, Service Code 109, and RES Success, Vendor Numbers PB1375 and PB1685, Service Code 55 – for services provided to 13 consumers using Health and Safety (H&S) rates that were not approved by DDS for these specific consumers. This resulted in overpayments totaling \$9,681.35 from March 2020 through December 2021. This is not in compliance with W&I Code, Section 4648.4(b), CCR, Title 17, Sections 57500(a) and 57300(c)(2).

RCEB provided documentation with its response to the draft audit report indicating DDS approved H&S rates for RES Success, Vendor Numbers PB1375 and PB1685, which resolved the overpayments totaling \$9,335.99; therefore, RCEB must reimburse DDS for the remaining overpayments totaling \$345.36.

### **Finding 2: Vendor Files Not Reviewed Biennially**

The review of 149 sampled POS vendor files revealed RCEB could not provide documentation indicating that the vendor files were reviewed biennially. 73 Applicant/Vendor Disclosure Statement (DS1891) Forms, 73 Office of Inspector General (OIG) exclusion search results and 84 Suspended and Ineligible (S&I) list search results were not current. This is not in compliance with CCR, Title 17, Section 54332(a)(1) and (b)(1) and the Applicant/Vendor Disclosure Statement General Instructions.

RCEB provided 48 updated DS1891 Forms, 46 OIG exclusion search results and 55 S&I List search results before the end of the audit. Therefore, 25 DS1891 Forms, 27 OIG exclusion search results and 29 S&I List search results are still outstanding.

## BACKGROUND

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DDS is responsible, under the W&I Code, for ensuring that persons with developmental disabilities (DD) receive the services and supports they need to lead more independent, productive, and integrated 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 (RCs). The RCs 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 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 Section conducts fiscal compliance audits of each RC no less than every two years, and completes follow-up reviews in alternate years. Also, DDS requires RCs to contract with independent Certified Public Accountants (CPAs) 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 RC will also be monitored by the DDS Federal Programs Operations Section to assess overall programmatic compliance with HCBS Waiver requirements. The HCBS Waiver compliance monitoring review has its own criteria and processes. These audits and program reviews are an essential part of an overall DDS monitoring system that provides information on RCs' fiscal, administrative, and program operations.

DDS and Regional Center of the East Bay, Inc. entered into State Contract HD199015, effective July 1, 2019, through June 30, 2026. This contract specifies that Regional Center of the East Bay, Inc. will operate an agency known as the RCEB to provide services to individuals with DD and their families in Alameda and Contra Costa Counties. The contract is funded by state and federal funds that are dependent upon RCEB performing certain tasks, providing services to eligible consumers, and submitting billings to DDS.

This audit was conducted remotely from January 31, 2022, through March 30, 2022, by the Audit Section of DDS.

## **AUTHORITY**

The audit was conducted under the authority of the W&I Code, Section 4780.5 and Article IV, Section 3 of the State Contract between DDS and RCEB.

## **CRITERIA**

The following criteria were used for this audit:

- W&I Code,
- “Approved Application for the HCBS Waiver for the Developmentally Disabled,”
- CCR, Title 17,
- OMB Circulars A-122 and A-133, and
- The State Contract between DDS and RCEB, effective July 1, 2019.

## **AUDIT PERIOD**

The audit period was July 1, 2019, through June 30, 2021, with follow-up, as needed, into prior and subsequent periods.

## OBJECTIVES, SCOPE, AND METHODOLOGY

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

- To determine compliance with the W&I Code,
- To determine compliance with the provisions of the HCBS Waiver Program for the Developmentally Disabled,
- To determine compliance with CCR, Title 17 regulations,
- To determine compliance with OMB Circulars A-122 and A-133, and
- To determine that costs claimed were in compliance with the provisions of the State Contract between DDS and RCEB.

The audit was conducted in accordance with the Generally Accepted Government Auditing Standards issued by the Comptroller General of the United States. However, the procedures do not constitute an audit of RCEB's financial statements. DDS limited the scope to planning and performing audit procedures necessary to obtain reasonable assurance that RCEB was in compliance with the objectives identified above. Accordingly, DDS examined transactions on a test basis to determine whether RCEB was in compliance with the W&I Code; the HCBS Waiver for the Developmentally Disabled; CCR, Title 17; OMB Circulars A-122 and A-133; and the State Contract between DDS and RCEB.

DDS' review of RCEB's internal control structure was conducted to gain an understanding of the transaction flow and the policies and procedures, as necessary, to develop appropriate auditing procedures.

DDS reviewed the annual audit report that was conducted by an independent CPA firm for Fiscal Year (FY) 2019-20, issued on February 4, 2021. It was noted that no management letter was issued for RCEB. This review was performed to determine the impact, if any, upon the DDS audit and, as necessary, develop appropriate audit procedures.



The audit procedures performed included the following:

**I. Purchase of Service**

DDS selected a sample of Purchase of Service (POS) claims billed to DDS. The sample included consumer services and vendor rates. The sample also included consumers who were eligible for the HCBS Waiver Program. For POS claims, the following procedures were performed:

- DDS tested the sample items to determine if the payments made to service providers were properly claimed and could be supported by appropriate documentation.
- DDS 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 RCEB. The rates charged for the services provided to individual consumers were reviewed to ensure compliance with the provision of the W&I Code; the HCBS Waiver for the Developmentally Disabled; CCR, Title 17, OMB Circulars A-122 and A-133; and the State Contract between DDS and RCEB.
- DDS selected a sample of individual Consumer Trust Accounts to determine if there were any unusual activities and whether any account balances exceeded \$2,000, as prohibited by the Social Security Administration. In addition, DDS determined if any retroactive Social Security benefit payments received exceeded the \$2,000 resource limit for longer than nine months. DDS also reviewed these accounts to ensure that the interest earnings were distributed quarterly, personal and incidental funds were paid before the 10th of each month, and proper documentation for expenditures was maintained.
- The Client Trust Holding Account, an account used to hold unidentified consumer trust funds, was tested to determine whether funds received were properly identified to a consumer or returned to the Social Security Administration in a timely manner. An interview with RCEB staff revealed that RCEB 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 the Social Security Administration or other sources in a timely manner.
- DDS selected a sample of Uniform Fiscal Systems (UFS) reconciliations to determine if any accounts were out of balance or if there were any outstanding items that were not reconciled.
- DDS analyzed all of RCEB's bank accounts to determine whether DDS had signatory authority, as required by the State Contract with DDS.

- DDS selected a sample of bank reconciliations for Operations (OPS) accounts and Consumer Trust bank accounts to determine if the reconciliations were properly completed on a monthly basis.

## **II. Regional Center Operations**

DDS selected a sample of OPS claims billed to DDS to determine compliance with the State Contract. The sample included various expenditures claimed for administration that were reviewed to ensure RCEB's accounting staff properly input data, transactions were recorded on a timely basis, and expenditures charged to various operating areas were valid and reasonable. The following procedures were performed:

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

## **III. Targeted Case Management (TCM) and Regional Center Rate Study**

The TCM Rate Study determines the DDS rate of reimbursement from the federal government. The following procedures were performed upon the study:

- Reviewed applicable TCM records and RCEB's Rate Study. DDS examined the months of April 2020 and April 2021 and traced the reported information to source documents.
- The last Case Management Time Study, performed in May 2019, was reviewed in the prior DDS audit that included FY 2018-19. As a result, there was no Case Management Time Study to review for this audit period.

#### **IV. Service Coordinator Caseload Survey**

Under the W&I Code, Section 4640.6(e), RCs are required to provide service coordinator caseload data to DDS. The following average service coordinator-to-consumer ratios apply per W&I Code Section 4640.6(c)(1)(2)(3)(A)(B)(C):

- “(c) Contracts between the department and regional centers shall require regional centers to have service coordinator-to-consumer ratios, as follows:
- (1) An average service coordinator-to-consumer ratio of 1 to 62 for all consumers who have not moved from the developmental centers to the community since April 14, 1993. In no case shall a service coordinator for these consumers have an assigned caseload in excess of 79 consumers for more than 60 days.
  - (2) An average service coordinator-to-consumer ratio of 1 to 45 for all consumers who have moved from a developmental center to the community since April 14, 1993. In no case shall a service coordinator for these consumers have an assigned caseload in excess of 59 consumers for more than 60 days.
  - (3) Commencing January 1, 2004, the following coordinator-to-consumer ratios shall apply:
    - (A) All consumers three years of age and younger and for consumers enrolled in the Home and Community-based Services Waiver program for persons with developmental disabilities, an average service coordinator-to-consumer ratio of 1 to 62.
    - (B) All consumers who have moved from a developmental center to the community since April 14, 1993, and have lived continuously in the community for at least 12 months, an average service coordinator-to-consumer ratio of 1 to 62.
    - (C) All consumers who have not moved from the developmental centers to the community since April 14, 1993, and who are not described in subparagraph (A), an average service coordinator-to-consumer ratio of 1 to 66.”

DDS also reviewed the Service Coordinator Caseload Survey methodology used in calculating the caseload ratios 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(e).

**V. Early Intervention Program (EIP; Part C Funding)**

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

**VI. Family Cost Participation Program (FCPP)**

The FCPP was created for the purpose of assessing consumer costs 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 (IPP)/Individualized Family Services Plan (IFSP). To determine whether RCEB was in compliance with CCR, Title 17, and the W&I Code, Section 4783, DDS performed the following procedures during the audit review:

- Reviewed the list of consumers who received respite, day care, and camping services, for ages 0 through 17 years who live with their parents and are not Medi-Cal eligible, to determine their contribution for the FCPP.
- Reviewed the parents' income documentation to verify their level of participation based on the FCPP Schedule.
- Reviewed copies of the notification letters to verify that the parents were notified of their assessed cost participation within 10 working days of receipt of the parents' income documentation.
- Reviewed vendor payments to verify that RCEB was paying for only its assessed share of cost.

**VII. Annual Family Program Fee (AFPF)**

The AFPF was created for the purpose of assessing an annual fee of up to \$200 based on the income level of families with children between the ages of 0 through 17 years receiving qualifying services through the RC. The AFPF fee shall not be assessed or collected if the child receives only respite, day care, or camping services from the RC and a cost for participation was assessed to the parents under FCPP. To determine whether RCEB was in compliance with the W&I Code, Section 4785, DDS requested a list of AFPF assessments and verified the following:

- The adjusted gross family income is at or above 400 percent of the federal poverty level based upon family size.
- The child has a DD or is eligible for services under the California Early Intervention Services Act.

- The child is less than 18 years of age and lives with his or her parent.
- The child or family receives services beyond eligibility determination, needs assessment, and service coordination.
- The child does not receive services through the Medi-Cal program.
- Documentation was maintained by the RC to support reduced assessments.

### **VIII. Parental Fee Program (PFP)**

The PFP was created for the purpose of prescribing financial responsibility to parents of children under the age of 18 years who are receiving 24-hour, out-of-home care services through an RC or who are residents of a state hospital or on leave from a state hospital. Parents shall be required to pay a fee depending upon their ability to pay, but not to exceed (1) the cost of caring for a child without DD at home, as determined by the Director of DDS, or (2) the cost of services provided, whichever is less. To determine whether RCEB is in compliance with the W&I Code, Section 4782, DDS requested a list of PFP assessments and verified the following:

- Identified all children with DD who are receiving the following services:
  - (a) All 24-hour, out-of-home community care received through an RC for children under the age of 18 years;
  - (b) 24-hour care for such minor children in state hospitals. Provided, however, that no ability to pay determination shall be made for services required by state or federal law, or both, to be provided to children without charge to their parents.
- Provided DDS with a listing of new placements, terminated cases, and client deaths for those clients. Such listings shall be provided not later than the 20th day of the month following the month of such occurrence.
- Informed parents of children who will be receiving services that DDS is required to determine parents' ability to pay and to assess, bill, and collect parental fees.
- Provided parents a package containing an informational letter, a Family Financial Statement (FFS), and a return envelope within 10 working days after placement of a minor child.
- Provided DDS a copy of each informational letter given or sent to parents, indicating the addressee and the date given or mailed.

## **IX. Procurement**

The Request for Proposal (RFP) process was implemented to ensure RCs outline the vendor selection process when using the RFP process to address consumer service needs. As of January 1, 2011, DDS requires RCs to document their contracting practices, as well as how particular vendors are selected to provide consumer services. By implementing a procurement process, RCs will ensure that the most cost-effective service providers, amongst comparable service providers, are selected, as required by the Lanterman Act and the State Contract. To determine whether RCEB implemented the required RFP process, DDS performed the following procedures during the audit review:

- Reviewed RCEB's contracting process to ensure the existence of a Board-approved procurement policy and to verify that the RFP process ensures competitive bidding, as required by Article II of the State Contract, as amended.
- Reviewed the RFP contracting policy to determine whether the protocols in place included applicable dollar thresholds and comply with Article II of the State Contract, as amended.
- Reviewed the RFP notification process to verify that it is open to the public and clearly communicated to all vendors. All submitted proposals are evaluated by a team of individuals to determine whether proposals are properly documented, recorded, and authorized by appropriate officials at RCEB. The process was reviewed to ensure that the vendor selection process is transparent and impartial and avoids the appearance of favoritism. Additionally, DDS verified that supporting documentation is retained for the selection process and, in instances where a vendor with a higher bid is selected, written documentation is retained as justification for such a selection.

DDS performed the following procedures to determine compliance with Article II of the State Contract for contracts in place as of January 1, 2011:

- Selected a sample of Operations, Community Placement Plan (CPP), and negotiated POS contracts subject to competitive bidding to ensure RCEB notified the vendor community and the public of contracting opportunities available.
- Reviewed the contracts to ensure that RCEB has adequate and detailed documentation for the selection and evaluation process of vendor proposals and written justification for final vendor selection decisions and that those contracts were properly signed and executed by both parties to the contract.

In addition, DDS performed the following procedures:

- To determine compliance with the W&I Code, Section 4625.5 for contracts in place as of March 24, 2011: Reviewed to ensure RCEB has a written policy requiring the Board to review and approve any of its contracts of two hundred fifty thousand dollars (\$250,000) or more before entering into a contract with the vendor.
- Reviewed RCEB Board-approved Operations, Start-Up, and POS vendor contracts of \$250,000 or more, to ensure the inclusion of a provision for fair and equitable recoupment of funds for vendors that cease to provide services to consumers; verified that the funds provided were specifically used to establish new or additional services to consumers, the usage of funds is of direct benefit to consumers, and the contracts are supported with sufficiently detailed and measurable performance expectations and results.

The process above was conducted in order to assess RCEB's current RFP process and Board approval for contracts of \$250,000 or more, as well as to determine whether the process in place satisfies the W&I Code and RCEB's State Contract requirements, as amended.

**X. Statewide/Regional Center Median Rates**

The Statewide and RC Median Rates were implemented on July 1, 2008, and amended on December 15, 2011 and July 1, 2016, to ensure that RCs are not negotiating rates higher than the set median rates for services. Despite the median rate requirement, rate increases could be obtained from DDS under health and safety exemptions where RCs demonstrate the exemption is necessary for the health and safety of the consumers.

To determine whether RCEB was in compliance with the Lanterman Act, DDS performed the following procedures during the audit review:

- Reviewed sample vendor files to determine whether RCEB is using appropriately vendorized service providers and correct service codes, and that RCEB is paying authorized contract rates and complying with the median rate requirements of W&I Code, Section 4691.9.
- Reviewed vendor contracts to ensure that RCEB is reimbursing vendors using authorized contract median rates and verified that rates paid represented the lower of the statewide or RC median rate set after June 30, 2008. Additionally, DDS verified that providers vendorized before June 30, 2008, did not receive any unauthorized rate increases, except in situations where required by regulation, or health and safety exemptions were granted by DDS.

- Reviewed vendor contracts to ensure that RCEB did not negotiate rates with new service providers for services which are higher than the RC's median rate for the same service code and unit of service, or the statewide median rate for the same service code and unit of service, whichever is lower. DDS also ensured that units of service designations conformed with existing RC designations or, if none exists, ensured that units of service conformed to a designation used to calculate the statewide median rate for the same service code.

#### **XI. Other Sources of Funding from DDS**

RCs may receive other sources of funding from DDS. DDS performed sample tests on identified sources of funds from DDS to ensure RCEB's accounting staff were 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 sources of funding from DDS identified in this audit are:

- CPP;
- Part C – Early Start Program; and
- Self Determination.

#### **XII. Follow-up Review on Prior DDS Audit Findings**

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



## CONCLUSIONS

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Based upon the audit procedures performed, DDS has determined that except for the items identified in the Findings and Recommendations section, RCEB was in compliance with applicable sections of the W&I Code; the HCBS Waiver for the Developmentally Disabled; CCR, Title 17; OMB Circulars A-122 and A-133; and the State Contract between DDS and RCEB for the audit period, July 1, 2019, through June 30, 2021.

The costs claimed during the audit period were for program purposes and adequately supported.

From the review of the two prior audit findings, it has been determined that RCEB has taken appropriate corrective action to resolve those findings.

## **VIEWS OF RESPONSIBLE OFFICIALS**

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DDS issued the draft audit report on July 27, 2022. The findings in the draft audit report were discussed at a formal exit conference with RCEB on August 4, 2022. The views of RCEB's responsible officials are included in this final audit report.

## **RESTRICTED USE**

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This audit report is solely for the information and use of DDS, CMS, Department of Health Care Services, and RCEB. This restriction does not limit distribution of this audit report, which is a matter of public record.

# FINDINGS AND RECOMMENDATIONS

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## Findings that need to be addressed.

### Finding 1: Overstated Claims Due To:

#### A. Incorrect Rates

The sampled review of 149 POS vendor files revealed eight vendors were reimbursed at incorrect rates. RCEB reimbursed two Day program vendors at incorrect rates and six vendors at incorrect home health agency and registered nurse SMA rates. The day program overpayments occurred when RCEB incorrectly authorized rate increases for two vendors without approval from DDS, while the overpayments to the remaining six vendors occurred because RCEB used an outdated SMA rate schedule. This resulted in overpayments totaling \$203,398.82 from May 2019 through February 2022. (See Attachment A)

RCEB provided documentation with its response to the draft audit report indicating DDS approved H&S rates for RES Success, Vendor Numbers HB0740 and HB0822 which resolved the overpayments totaling \$202,797.57. However, by applying the newly approved H&S rates this created underpayments to Vendor Number HB0740. Therefore, RCEB must pay RES Success, Vendor Number HB0740 for the underpayments totaling \$10,943.16 from May 2019 through December 2021 and reimburse DDS for the remaining overpayments totaling \$601.25 for utilizing incorrect SMA rates.

CCR, Title 17, Section 57332(b) and (c) states:

“(b) The maximum rate of reimbursement for the following medical services shall be in accordance with the Schedule of Maximum Allowance (SMA): ...

(10) Home Health Agency – Service Code 854.”

“(c) The maximum rate of reimbursement for the following medical services shall be as specified below: ...

(8) Registered Nurse – Service Code 744.

(A) The rate of reimbursement shall be in accordance with the Schedule of Maximum Allowance (SMA)

for the Home and Community-Based Services, In-Home Medical Care Waiver Program.”

CCR, Title 17, Section 57500(a) states:

“(a) The methodology for computing permanent payment rates is based on program, cost, vendor income, and as applicable, regional center payment information submitted by all vendors receiving permanent payment rates. The Department shall use each vendor's program, cost, vendor income, and as applicable, regional center payment information to establish that vendor's permanent payment rate pursuant to this methodology.”

CCR, Title 17, Section 57300(c)(2) states:

“(c) Regional Centers shall not reimburse vendors:

(2) For services in an amount greater than the rate established pursuant to these regulations.”

### **Recommendation:**

RCEB must pay RES Success, Vendor Number HB0740 for the underpayments totaling \$10,943.16 from May 2019 through December 2021. In addition, RCEB must reimburse DDS for the remaining overpayments totaling \$601.25 for utilizing incorrect SMA rates and correct the vendors' payment rates.

### **B. Health and Safety Rates Used Without DDS Approval**

The sampled review of 149 POS vendor files revealed three vendors – Elwyn CA - Keith Home, Vendor Number PB2254, Service Code 109, and RES Success, Vendor Numbers PB1375 and PB1685, Service Code 55 – for services provided to 13 consumers using H&S rates that were not approved by DDS for these specific consumers. The overpayments occurred because RCEB applied approved H&S rates for existing consumers to 13 new consumers that were not approved by DDS. This resulted in overpayments totaling \$9,681.35 from March 2020 through December 2021. (See Attachment B)

RCEB provided documentation with its response to the draft audit report indicating DDS approved H&S rates for RES Success, Vendor Numbers PB1375 and PB1685, which resolved the overpayments totaling \$9,335.99; therefore, RCEB must reimburse DDS for the remaining overpayments totaling \$345.36.

W&I Code, Section 4648.4(b) states:

“Notwithstanding any other provision of law or regulation, except for subdivision (a), 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, 2008, unless the increase is required by a contract between the regional center and the vendor that is in effect on June 30, 2008, or the regional center demonstrates that the approval is necessary to protect the consumer’s health or safety and the department has granted prior written authorization.”

CCR, Title 17, Section 57500(a) states:

“(a) The methodology for computing permanent payment rates is based on program, cost, vendor income, and as applicable, regional center payment information submitted by all vendors receiving permanent payment rates. The Department shall use each vendor’s program, cost, vendor income, and as applicable, regional center payment information to establish that vendor’s permanent payment rate pursuant to this methodology.”

CCR, Title 17, Section 57300(c)(2) states:

“(c) Regional Centers shall not reimburse vendors:

(2) For services in an amount greater than the rate established pursuant to these regulations.”

**Recommendation:**

RCEB must reimburse to DDS the overpayment totaling \$345.36 and correct the vendor’s payment rate.

**Finding 2: Vendor Files Not Reviewed Biennially**

The review of 149 sampled POS vendor files revealed RCEB could not provide documentation indicating that the vendor files were reviewed biennially. 73 DS1891 Forms, 73 OIG exclusion search results and 84 S&I List search results were not current. These forms and search results are supposed to be updated biennially to ensure information in the vendor files is current, complete, and accurate.  
(See Attachment C)

RCEB has since provided 48 updated DS1891 Forms, 46 OIG exclusion search results and 55 S&I List search results. Therefore, T25 DS1891 Forms, 27 OIG exclusion search results and 29 S&I List search results are still outstanding.

CCR, Title 17, Section 54332(a)(1) and (b)(1) states:

“(a) The vendoring regional center shall maintain a file for each vendor which includes copies of:

(1) The vendor application as described in Section 54310(a) of these regulations; ...

(b) Regional centers shall review, at least biennially or sooner upon notification by the Department of Developmental Services, Department of Health Care Services, or any governing licensing or certification board or entity, all vendor files maintained by the regional center to determine that:

(1) The information required for vendorization is current, completed and accurate.”

The Applicant/Vendor Disclosure Statement General Instructions states:

“Every applicant or vendor must complete and submit a current Applicant/Vendor Disclosure Statement, DS 1891 (disclosure statement) as part of a complete application packet for vendorization or upon request of the vendoring regional center.”

**Recommendation:**

RCEB must locate the missing DS1891 Forms, OIG exclusion search results and S&I List search results, or complete new DS1891 Forms, OIG exclusion searches and S&I List searches for the remaining vendors. In addition, RCEB must review the vendor files at least biennially to ensure the information required for vendorization is current, complete and accurate.

## EVALUATION OF RESPONSE

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As part of the audit report process, RCEB was provided with a draft audit report and requested to provide a response to the findings. RCEB's response dated September 19, 2022, is provided as Appendix A.

DDS' Audit Section has evaluated RCEB's response and will confirm the appropriate corrective actions have been taken during the next scheduled audit.

### **Finding 1: Overstated Claims Due To:**

#### **A. Incorrect Rates**

RCEB took corrective action to resolve the overpayments for two out of the eight vendors by obtaining H&S rate approvals for RES Success, Vendor Numbers HB0740 and HB0822. DDS authorized RCEB to retro actively apply the newly approved H&S rates which resolved the overpayments totaling \$202,797.57. However, the recalculation completed by RCEB resulted in underpayment totaling \$16,269.84 for Vendor Number HB0740. DDS concurs that the overpayments to these two vendors have been resolved but is not in agreement with RCEB's calculation of the underpayment amount. Based on DDS' calculation utilizing the newly approved H&S rates, RCEB must pay RES Success, Vendor Number HB0740 for the underpayments totaling \$10,943.16 instead of \$16,269.84 from May 2019 through December 2021.

Regarding the remaining six vendors that RCEB reimbursed at the incorrect home health agency and registered nurse SMA rates, RCEB stated it was unaware the rates were reduced and agrees to reimburse DDS \$601.25 for the overpayment. In addition, RCEB stated that it plans to regularly check the SMA rates regularly at least twice a year and implement any rate changes promptly.

#### **B. Health and Safety Rates Used Without DDS Approval**

RCEB stated it plans to implement new procedures to improve their H&S rate approval process and acknowledges that it did not get prior approval from DDS for the consumers that were added to the program. RCEB took corrective action to resolve the overpayments for two out of the three vendors by obtaining H&S rate approvals from DDS for RES Success, Vendor Numbers PB1375 and PB1685, which resolved the overpayments totaling \$9,335.99. In addition, RCEB stated it will reimburse DDS for the overpayment to the remaining vendor, Elwyn CA-Keith Home, Vendor Number PB2254 for \$345.36.



**Finding 2: Vendor Files Not Reviewed Biennially**

RCEB acknowledges that it has not located/updated the forms or completed the OIG exclusion and S&I List search for the vendors addressed in this audit report but explained that it plans to address this issue by completing/update the forms and searches, retrain its staff, and maintain a detailed spreadsheet to track their requests to the vendors. DDS will conduct a follow-up during the next biennial audit to ensure RCEB is completing/updating their forms and OIG exclusion and S&I List searches.

## **ATTACHMENT A-C**

### **REGIONAL CENTER OF THE EAST BAY**

**To request a copy of the attachments for this audit report, please contact the DDS Audit Section at (916) 654-3695.**

## **Appendix A**

### **RCEB's RESPONSE TO AUDIT FINDINGS**

**To request a copy of the regional center response to the audit findings, please contact the DDS Audit Section at (916) 654-3695.**