

**DEPARTMENT OF DEVELOPMENTAL SERVICES'**  
**AUDIT OF**  
**OPTIONS3, INC.**

**Program:**

Supported Living Services – PN0279

Audit Period: July 1, 2013, through June 30, 2015

**Audit Section**

**Auditors:** Alimou Diallo, Acting Chief of Vendor Audits  
Wilfredo Golez, Auditor

**OPTIONS3, INC.**  
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## EXECUTIVE SUMMARY

The Department of Developmental Services (DDS) has audited Options3, Inc. (OPT3). The audit was performed upon the Supported Living Services (SLS) program for the period of July 1, 2013, through June 30, 2015.

The audit disclosed the following issues of non-compliance:

### **Finding 1: Supported Living Services – Unsupported Billings**

The review of OPT3's SLS program, Vendor Number PN0279, revealed that OPT3 had a total of \$790,506 of unsupported billings to North Bay Regional Center (NBRC).

### **Finding 2: Non-compliance with the 15 Percent Administrative Cap**

Upon further consideration, DDS will not pursue Finding 2 of this audit.

### **Finding 3: Supported Living Services – Financial and Fiduciary Involvement in the Consumers' Household - Rental Subsidies**

The review of OPT3's SLS program, Vendor Number PN0279, revealed that OPT3 has a direct financial and fiduciary involvement in the homes occupied by its consumers. In addition, the consumers' rent payments for these homes were being subsidized by OPT3.

### **Finding 4: Supported Living Services – Purchase of Service (POS) Funds Used to Supplement In-Home Supportive Services (IHSS)**

The review of OPT3's SLS program, Vendor Number PN0279, revealed that OPT3 is supplementing the IHSS hourly wage rate paid to its direct care staff. A total of 50,069 IHSS hours provided by its direct care staff were supplemented by using POS funds.

### **Finding 5: Non-compliance with Record Maintenance and Record Retention Requirements**

The review of OPT3's SLS program PN0279, revealed that OPT3 did not maintain and/or retain complete service records to support all billings/invoicing to NBRC for its consumers.

The total of the finding identified in this audit amounts to \$790,506 and is 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. Pursuant to the California Welfare and Institutions (W&I) Code, Section 4648.1, DDS has the authority to audit those service providers and/or contractors that provide services and supports to persons with developmental disabilities.

## **OBJECTIVE, SCOPE, AND METHODOLOGY**

### **Objective**

The audit was conducted to determine whether OPT3's SLS program was compliant with the W&I Code, California Code of Regulations (CCR), Title 17, State and Federal laws and regulations and the regional centers' contracts with OPT3 for the period of July 1, 2013, through June 30, 2015.

### **Scope**

The audit was conducted in accordance with the Generally Accepted Government Auditing Standards (GAGAS) issued by the Comptroller General of the United States. The auditors did not review the financial statements of OPT3, nor was this audit intended to express an opinion on the financial statements. The auditors limited the review of OPT3's internal controls to gain an understanding of the transaction flow and invoice preparation process, as necessary, to develop appropriate auditing procedures. The audit scope was limited to planning and performing audit procedures necessary to obtain reasonable assurance that OPT3 complied with W&I Code and CCR, Title 17. Also, any complaints that DDS' Audit Section was aware of regarding non-compliance with laws and regulations were reviewed and addressed during the course of the audit.

The audit scope was determined by reviewing the program provided to NBRC that utilized OPT3's services during the audit period. OPT3 provided one type of service, which DDS audited. By analyzing the information received during the pre-audit meeting with the vendor, an internal control questionnaire and a risk analysis, it was determined that a two-month sample period would be sufficient to fulfill the audit objectives.

### **Supported Living Services**

During the audit period, OPT3 operated one SLS program. The audit included the review of OPT3's SLS program, Vendor Number PN0279, Service Code 896, and testing was done for the sampled months of November 2013 and May 2014. However, the two

sampled months demonstrated an unusual amount of unsupported billings. As a result, the testing was expanded to include the entire Fiscal Year (FY) 2013-14 for the SLS program.

### **15 Percent Administrative Costs**

The audit included the review of OPT3's administrative cost for Calendar Year (CY) 2014 as was documented by OPT3's Independent Certified Public Accountant (CPA) "Schedule of Functional Expenses," for CY ending December 31, 2014.

### **Methodology**

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

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

DDS reviewed the vendor's administrative expenses for CY 2014 to determine if the vendor's administrative expenses are not more than 15 percent of total costs.

- Obtained costs associated with administrative and direct services function for CY 2014 under review.
- Multiplied 15 percent of total cost to obtain maximum administrative expenditures allowed.
- Obtained and reviewed allocation methodology for the types of costs to determine whether costs are appropriately categorized as administrative or direct services.
- Compared total administrative costs to the maximum administrative expenditures allowed as calculated above.

## **CONCLUSION**

Based upon items identified in the Findings and Recommendations section, OPT3 had findings of non-compliance with the requirements of W&I Code, and CCR, Title 17.

## **VIEWS OF RESPONSIBLE OFFICIALS**

DDS issued a draft audit report on January 12, 2017. The findings in the report were discussed at the exit conference with OPT3's [REDACTED], President and Board Member, [REDACTED], General Manager and Board Member, [REDACTED], Treasurer and Board Member, [REDACTED], Board Member, and [REDACTED], former employee, on February 3, 2017.

Subsequent to the exit conference, on March 6, 2017, DDS received OPT3's response to the report. OPT3 disagrees with each of the five findings and recommendations of the report and does not believe that it owes any unsupported billings and any excess on the 15% administrative cap to DDS.

## **RESTRICTED USE**

This report is solely for the information and use of DDS, Department of Health Care Services, NBRC, and OPT3. This restriction is not intended to limit distribution of this report, which is a matter of public record.

## FINDINGS AND RECOMMENDATIONS

### Finding 1: Supported Living Service– Unsupported Billings

The review of OPT3's SLS program, Vendor Number PN0279, for the sampled months of July 2013 through June 2014, revealed that OPT3 had unsupported billings for services billed to NBRC.

Unsupported billings occurred due to a lack of appropriate documentation to support the units of service billed to NBRC and non-compliance with the CCR, Title 17.

OPT3 was not able to provide appropriate supporting documentation for 33,936 hours of services billed. The lack of documentation resulted in unsupported billings to NBRC in the amount of \$790,506 and is due back to DDS. (See Attachment A)

CCR, Title 17, Section 54326(a)(3) and (10) states:

“(a) All vendors shall:

(3) Maintain records of services provided to consumers in sufficient detail to verify delivery of the units of service billed: ...

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

CCR, Title 17, Section 50604(d) and (e) states:

“(d) All service providers shall maintain complete service records to support all billing/invoicing for each regional center consumer in the program.

(e) All service providers' records shall be supported by source documentation.”

W&I Code, Section 4648.1(e)(1) states:

“(e) A regional center or the department may recover from the provider funds paid for services when the department or the regional center determines either of the following has occurred:

(1) The services were not provided in accordance with the regional center's contract or authorization with the provider, or with applicable state laws or regulations.”



**Recommendation:**

OPT3 must reimburse to DDS \$790,506 for the unsupported billings. In addition, OPT3 should comply with the CCR, Title 17 as stated above to ensure that proper documentation is maintained to support the amounts billed to NBRC.

**Vendor's Response:**

OPT3, stated in the response, dated March 6, 2017, that OPT3, disagreed with the finding. (See Attachment B)

**Finding 2: Non-compliance with the 15 Percent Administrative Cap**

Upon further consideration, DDS will not pursue Finding 2 of this audit.

**Finding 3: Supported Living Services – Financial and Fiduciary Involvement in the Consumers' Household- Rental Subsidies**

The review of OPT3's SLS program, Vendor Number PN0279, revealed that OPT3 had a direct financial and fiduciary involvement in the homes occupied by its consumers.

For CY 2014, OPT3 management and other related parties received \$103,325 in rental subsidies from OPT3. OPT3's management also used OPT3's funds to pay for utilities, repairs, and household expenses for the properties occupied by their consumers.

CCR, Title 17, Section 58611(a) states:

“(a) A SLS vendor shall have no financial or fiduciary involvement in the home, or in any utility or service contract integral to the occupancy of the home, of a consumer to whom the SLS vendor provides services, whenever such involvement would inhibit the consumer's exercise of the rights enumerated in Section 58620 or be inconsistent with any requirement of Welfare and Institution Code, Section 4689.”

W&I Code, Section 4689(h)(i)(1)(A) states:

“(h) Rent, mortgage, and lease payments of a supported living home and household expenses shall be the responsibility of the consumer and any roommate who resides with the consumer.

(i) A regional center shall not make rent, mortgage, or lease payments on a supported living home, or pay for household expenses of consumers

receiving supported living services, except under the following circumstances:

- (1) If all of the following conditions are met, a regional center may make rent, mortgage, or lease payments as follows:
  - (A) The regional center executive director verifies, in writing, that making the rent, mortgage, or lease payments or paying for household expenses is required to meet the specific care needs unique to the individual consumer as set forth in an addendum to the consumer's individual program plan, and is required when a consumer's demonstrated medical, behavioral, or psychiatric condition presents a health and safety risk to himself or herself, or another."

**Recommendation:**

OPT3 must cease subsidizing the rentals of its consumers and ensure that it has no financial and fiduciary involvement in the two properties owned by OPT3, wherein six of its consumers reside.

**Vendor's Response:**

OPT3, stated in the response, dated March 6, 2017, that OPT3, disagreed with the finding. (See Attachment B)

**Finding 4: Supported Living Services – Purchase of Service Funds Used to Supplement In-Home Supportive Services**

The review of OPT3's SLS program, Vendor Number PN0279, for the months of July 2013, through June 2014, revealed that OPT3 had supplemented 50,069 IHSS hours provided by its direct care staff to its consumers. OPT3 paid the difference between the IHSS hourly wage rate and the higher hourly wage rate that OPT3 had normally paid its direct care staff.

W&I Code Section 4648 (8) states:

- “(8) Regional center funds shall not be used to supplant the budget of any agency which has a legal responsibility to serve all members of the general public and is receiving public funds for providing those services.”

**Recommendation:**

OPT3 must cease supplementing the IHSS hourly wage rate paid to its direct care staff.

**Vendor's Response:**

OPT3, stated in the response, dated March 6, 2017, that OPT3, disagreed with the finding. (See Attachment B)

**Finding 5: Non-compliance with Record Maintenance and Record Retention Requirements**

The review of OPT3's SLS program, Vendor Number PN0279, for the months of July 2013 through June 2014, revealed that OPT3 did not maintain and/or retain complete service records to support billings to NBRC for its consumers. The support provided by OPT3 are employee's timesheets that do not identify the date, location, start and end times of service provided to the consumers. Most of the service records provided by OPT3 are for the IHSS hours provided by its direct care staff.

CCR, Title 17, Section 54326(a)(3) states:

“(a) All vendors shall:

- (3) Maintain records of services provided to consumers in sufficient detail to verify delivery of the units of service billed:”

CCR, Title 17, Section 50604(d)(3)(D) states:

“(d) All service providers shall maintain complete service records to support all billing/invoicing for each regional center consumer in the program. Service records used to support service providers' billing/invoicing shall include, but not be limited to:

- (3) A record of services provided to each consumer. The record shall include:

- (D) For all other services, the date, the start and end times of service provided to the consumer, street address where the service was provided, and daily or hourly units of service provided.”

CCR, Title 17, Section 58615(7)(B)(C) states:

“(7) Historical data documenting the actual delivery of service to consumers for which SLS vendor has claimed payment, including the:

(B) Location of the service:

(C) Description of the service; and ...”

**Recommendation:**

OPT3 must maintain records of services provided to consumers in sufficient detail to verify delivery of the units of service billed. OPT3 must also revise its record keeping policies to ensure that the date, start and end times of service provided to the consumer, service location, and daily or hourly units of service are properly recorded in the consumer attendance logs.

**Vendor’s Response:**

OPT3, stated in the response, dated March 6, 2017, that OPT3, disagreed with the finding. (See Attachment B)

## **ATTACHMENT A**

### **OPTIONS3**

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

## **ATTACHMENT B – VENDOR’S RESPONSE**

### **OPTIONS3**

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

## **ATTACHMENT C – DDS’s EVALUATION OF OPT3’s RESPONSE**

DDS evaluated OPT3’s written response to the draft audit report and determined that OPT3 disagreed with Findings 1 through 5. DDS will not pursue Findings 2 and 5.

DDS will attempt to address allegations pertinent to the facts of the audit findings. DDS’ failure to address each of the allegations contained in the response is not an admission of acceptance of any statement in OPT3’s response.

Below is the summary of the vendor’s response as well as DDS’ evaluation of the vendor’s response.

### **Finding 1: Supported Living Services – Unsupported Billings**

*OPT3 states, “...the auditors stated that their calculations were based on an assumed minimum number of hours for each consumer, and those hours were then compared to the source documentation provided by Options<sup>3</sup> to support the billings...”*

*However, this approach ignores the terms of the contract that was in place in 2013-2014. Options<sup>3</sup> strongly disagrees with the auditor’s assumption that during the 2013-2014 fiscal year it was required to document a certain number of hours per month for each client in a certain tier.*

*...Under the express terms of the contract, the monthly rate paid was for “Up to” a certain level of service (up to 16 hours/day for Tier D and up to 24 hours/day for Tier E). The contract between NBRC and Options<sup>3</sup> does not contain or have any reference to any hourly requirement per month...”*

DDS disagrees with OPT3’s statements. The auditors used OPT3’s contracts with NBRC that were applicable to the audit period. OPT3’s billing to NBRC is based on a Service Tier Rate system and the PART/PAR-1 sub-service code. In addition, according to the contracts, OPT3 shall be paid based on Appendix B – SLS Rates Schedules and Service Expectation which specifies the required service hours associated with each tier. OPT3 was required to provide a minimum of 240 hours a month for Tier E. However, OPT3 billed NBRC for the full monthly rate for the Tier even when the minimum number of support hours for the Tier were not provided to the consumer.

*OPT3 states, “There are other problems with the auditor’s handling of SLS billings in Finding #1, including several instances in which services were actually provided by Options<sup>3</sup> staff but were not accounted for in the audit. One example is work performed by salaried employees... names deleted in Evaluation. Another example is the services provided by ...name deleted..., who worked completely as a volunteer, and so his hours were not accounted for in payroll records.”*

DDS disagrees with OPT3's assertions. The auditors allowed direct service hours provided by salaried employees that were adequately documented in OPT3's payroll and service records.

*OPT3 states, "A third example is that Options<sup>3</sup> is also paid for some SLS service hours by providing staff with "in-kind lodging and meals" as permitted under Wage Order 15, and so these hours would not have been reflected in payroll records (though they are reflected in other source documentation)...These hours should also have been credited as hours of service actually provided and "supporting" the billings, but they seem to have been disregarded by the auditors."*

DDS used the payroll records and other source documents provided by OPT3 to determine the number of hours provided by the direct care staff. Per Wage Order 15, in-kind lodging and meals are deducted from the gross salary of live-in direct care staff.

*OPT3 states, "Another deficiency in the Draft Audit appears to the assumption of expected hours for several clients with negotiated rates. Options<sup>3</sup> has reviewed the relevant client budgets for the audit period, and the number of hours in the budgets do not corresponds to those stated in the Draft Audit. In fact, as the accompanying attachment explains, Options<sup>3</sup> has identified 2,544 hours that appear to be incorrectly included in the "overpayment" for three of the consumers with negotiated rates, which would further reduce the amount of any overpayment to DDS."*

DDS auditors adjusted the required hours for the three consumers with negotiated rates after OPT3 included the budgets of these consumers in the response to the draft report. These 2,544 hours were considered and reduced the unsupported billings by the amount of \$24,771.

As a result of additional documentation received, the finding for SLS – Unsupported Billings was reduced from \$815,277 to \$790,506 for the audit period of July 1, 2013, through June 30, 2015.

**Finding 2: Non-compliance with the 15 Percent Administrative Cap**

DDS will not pursue Finding 2.

**Finding 3: Supported Living Services - Financial and Fiduciary Involvement in the Consumers' Household- Rental Subsidies**

*OPT3 states, "First, Title 17 § 58611 prohibits an "SLS vendor" from having any financial or fiduciary involvement in the home... of a consumer to whom the SLS vendor provides services..." in this case, the vendor – Options<sup>3</sup> – is a non-profit corporation, and the corporation has no interest in any of the homes. Therefore, it is simply not true that*



*“OPT3 had a direct financial and fiduciary involvement in the home occupied by its consumers.”*

DDS disagrees with OPT3’s statement. The Schedule of Functional Expenses for the year ended December 31, 2014, shows that a total of \$103,325 was paid by OPT3 as monthly rents for the homes where its consumers reside. The financial records show the dates, names of payee, rental amounts, etc. Financial records also shows the names of the consumers associated with the rent payments and names of the property owners.

*OPT3 states, “Even if § 58611 applied to the management of Options<sup>3</sup>, which it does not, that section still allows such arrangement, as long as it would not “inhibit the consumer’s exercise of the rights enumerated in Section 58620 or be inconsistent with any requirement of Welfare and Institution Code Section 4689.” Options<sup>3</sup>’s housing arrangement did not threaten any of those rights or requirements, and so were not prohibited by Title 17.”*

*OPT3 states, “The Draft Audit Report does not indicate any factual basis for this finding. It merely states that the auditors’ review of the program “revealed” a financial involvement.” “That relatively small portion of the subsidies that did go towards the property on Laurel Street was not improper.*

DDS disagrees with OPT3 statements. Title 17, § 58611 applies to OPT3 because financial records show the rental payments made by OPT3 to the property owners of the homes where its consumers reside.

As mentioned above, the financial records provided by OPT3 were the basis of this finding.

**Finding 4: Supported Living Services – Purchase of Service Funds Used to Supplement In-Home Supportive Services**

*OPT3 states, “There is no prohibition against a provider supplementing the wages of its own workers, or of the IHSS workers that also work with the agency’s clients. Generally speaking, a provider (like any other employer) may pay its employees whatever it can afford and chooses to pay them.”*

Billings to a regional center for SLS cannot be used to supplement the wages of its staff that provide IHSS for counties.

**Finding 5: Non-compliance with Record Maintenance and Record Retention Requirements**

DDS will not pursue Finding 5.

**Conclusion**

DDS adjusted the Final Audit Report to reflect the additional documentation received and Findings 2 and 5 were removed from the final report. As a result, the audit findings were

reduced from \$973,833 to \$790,506 for the audit period of July 1, 2013, thru June 30, 2015. DDS is requesting reimbursement of \$790,506 for the unsupported billings.