

DEPARTMENT OF DEVELOPMENTAL SERVICES'
AUDIT OF
CALIFORNIA INSTITUTE OF BEHAVIOR ANALYSIS, INC.
DBA: LEAFWING CENTER

Programs:

Behavior Analyst – PJ2008, PM1120, PL0854, PL0856

Behavior Management Assistant – PL0855, PL0857

Adaptive Skills Trainer – PL1054, PL1055

Audit Periods: July 1, 2014, through June 30, 2015 and
July 1, 2018, through June 30, 2019

Audit Section

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**CALIFORNIA INSTITUTE OF BEHAVIOR ANALYSIS, INC.
DBA: LEAFWING CENTER**

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EXECUTIVE SUMMARY

The Department of Developmental Services (DDS) has audited California Institute of Behavior Analysis, Inc. dba: LeafWing Center (LWC). The audit was performed upon the Behavior Analyst (BA), Behavior Management Assistant (BMA) and Adaptive Skills Trainer (AST) for the periods of July 1, 2014, through June 30, 2015 and July 1, 2018, through June 30, 2019.

The audit disclosed the following issues of non-compliance:

Finding 1: Behavior Analyst – Unsupported and Incorrect Billings

The review of LWC's BA program, Vendor Numbers PJ2008, PM1120, PL0854 and PL0856, revealed that LWC had a total of \$7,989 of unsupported billings to Inland Regional Center (IRC).

The review also revealed that LWC had a total of \$13,248 of incorrect billings to IRC, North Los Angeles County Regional Center (NLACRC) and RCOG

Finding 2: Behavior Management Assistant – Unsupported Billings

In response to DDS' draft audit report, LWC submitted additional documentation to support the billings and therefore the finding was resolved. DDS will not pursue Finding 2 of this audit.

Finding 3: Adaptive Skills Trainer – Unsupported Billings

In response to DDS' draft audit report, LWC submitted additional documentation to support the billings and therefore the finding was resolved. DDS will not pursue Finding 3 of this audit.

Finding 4: Behavior Analyst – Lack of Requisite Qualifications by Staff

The review of LWC's BA program revealed that staff who provided services to consumers did not meet the education requirement for such services. Services under the BA program must be provided by staff who are Board Certified Behavior Analysts (BCBA). The lack of requisite credentials resulted in overbillings in the amount of \$129,376.

Finding 5: Limited Access to Service Provider Records

In response to DDS' draft audit report, LWC submitted additional documentation to support the billings and therefore the finding was resolved. DDS will not pursue Finding 5 of this audit.

The total of the findings identified in this audit amounts to \$150,613 and is due back to DDS. A detailed discussion of these findings is contained in the Findings and Recommendations section of this audit 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 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 LWC's BA, BMA and AST programs were 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 LWC for the periods of July 1, 2014, through June 30, 2015 and July 1, 2018, through June 30, 2019.

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 LWC, nor was this audit intended to express an opinion on the financial statements. The auditors limited the review of LWC'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 LWC complied with the W&I Code and CCR, Title 17. Any complaints that the Audit Section of DDS was aware of regarding non-compliance with laws and regulations were also reviewed and addressed during the course of the audit.

The audit scope was determined by reviewing the programs and services provided to six regional centers that utilized LWC's services during the audit period. DDS audited services provided to ELARC, FDLRC, IRC, NLACRC, RCOC and SGPRC. These six regional centers were chosen due to the large volume of services utilized by the centers as measured by Purchase of Service (POS) expenditures.

LWC provided four different types of services, of which DDS audited three. Services chosen were based on the amount of POS expenditures invoiced by LWC. By analyzing the information received during the pre-audit meeting and entrance meeting with the vendor, an internal control questionnaire and a risk analysis, it was determined that a three-month sample period would be sufficient to fulfill the audit objectives.

Behavior Analyst

During the audit period, LWC operated four BA programs. The audit included the review of all four of LWC's BA programs, Vendor Numbers PJ2008, PM1120, PL0854 and PL0856, Service Code (SC) 612 and limited testing was done for the sampled months of November 2014 and December 2014. The limited testing was because LWC did not provide all required documents to support billings for the two sampled months and therefore, the auditors were not able to verify delivery of services. As a result, the testing sample was expanded to include the sampled months of July 1, 2013, through April 30, 2015. However, LWC subsequently did provide the needed documentation and testing was done for the two sampled months and an additional month, July 2018.

Behavior Management Assistant

During the audit period, LWC operated two BMA programs. The audit included the review of all two of LWC'S BMA programs, Vendor Numbers PL0855 and PL0857, SC 615 and limited testing was done for the sampled months of November 2014 and December 2014. The limited testing was because LWC did not provide all required documents to support billings for the two sampled months and therefore, the auditors were not able to verify delivery of services. As a result, the testing sample was expanded to include the sampled months of July 1, 2013, through April 30, 2015. However, LWC subsequently did provide the needed documentation and testing was done for the two sampled months and an additional month, July 2018.

Adaptive Skills Trainer

During the audit period, LWC operated two AST programs. The audit included the review of all two of LWC'S AST programs, Vendor Numbers PL1054 and PL1055, SC 605 and limited testing was done for the sampled months of November 2014 and December 2014. The limited testing was because LWC did not provide all required documents to support billings for the two sampled months and therefore, the auditors were not able to verify delivery of services. As a result, the testing sample was expanded to include the sampled months of July 1, 2013, through April 30, 2015. However, LWC subsequently did provide the needed documentation and testing was done for the two sampled months and an additional month, July 2018.

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:

- Review of vendor files for contracts, rate letters, program designs, POS authorizations and correspondence pertinent to the review.

- Interview of regional center staff for vendor background information and to obtain insight into the vendor's operations.
- Interview of vendor's Executive Director and staff to gain an understanding of its accounting procedures and processes for regional center billing.
- Review of electronic service/electronic attendance records to determine if the vendor had sufficient and appropriate evidence to support the direct care services billed to the regional centers.
- Analysis of the vendor's payroll and attendance/service records to determine if the appropriate level of staffing was provided.
- Review of the vendor's general ledger, payroll records and trial balance.

CONCLUSION

Based upon items identified in the Findings and Recommendations section, LWC had findings of non-compliance with the requirements of CCR, Title 17.

VIEWS OF RESPONSIBLE OFFICIALS

DDS issued a draft audit report on July 30, 2019. The findings in the report were discussed at an exit teleconference with LWC on August 2, 2019. Subsequent to the exit conference, DDS Audit Section received LWC's written response on August 12, 2019. LWC disputed Findings 1 through 5, by providing source documentation to support its billings.

RESTRICTED USE

This audit report is solely for the information and use of the DDS, Department of Health Care Services, ELARC, FDLRC, IRC, NLACRC, RCOC, SGPRC and LWC. This restriction is not intended to limit distribution of this audit report, which is a matter of public record.

FINDINGS AND RECOMMENDATIONS

Finding 1: Behavior Analyst – Unsupported and Incorrect Billings

The review of LWC's BA programs, Vendor Numbers PJ2008, PM1120, PL0854 and PL0856, for the sampled months of November 2014, December 2014 and July 2018 revealed that LWC had unsupported billings for services billed to IRC. Unsupported billings occurred due to a lack of appropriate documentation to support the units of service billed to IRC and non-compliance with the CCR, Title 17.

There were two types of issues found in LWC's BA program, based on the review of the Parental Verification for Receipt of Behavioral Services (DS 5862 forms) and the employees' credentials. During the audit fieldwork, LWC did not provide DDS with source documents to support its billings to the regional centers. DDS issued a draft audit report with a finding in unsupported billings in the amount of \$2,805,464, which was the total of all POS funds that were paid to LWC during fiscal year 2013-2014. Subsequent to the issuance of the draft report, LWC provided documentation to substantiate its billings to the regional centers. DDS reviewed the documents and determined that:

- LWC billed for 139 hours that were not supported by Parental Verification for Receipt of Behavioral Services (DS 5682 forms) as required by W&I Code, Section 4686.31. The lack of documentation resulted in unsupported billings to IRC in the amount of \$7,989, which is due back to DDS.
- LWC incorrectly billed the regional centers by \$13,248 for 176 hours of service that were provided by two employees to the same consumer during the same or overlapping hours. LWC's Program Design provided for a staff-to-consumer ratio as one staff to one consumer (1:1) for the BA program. The auditors did allow some instances of two staff providing service to one consumer where one was a Supervisor/Lead staff with higher credentials.

The unsupported hours totaled 315 for a total unsupported amount of \$21,237, which is due back to DDS. (See Attachment A)

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 that 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."

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 4686.31. states:

- "(1) The department shall develop and post a standard form for vendors to complete and provide to the family for signature. The form shall include, but not be limited to, the name and title of the vendor, the vendor identification number, the name of the consumer, the unique client identifier, the location of the service, the date and start and end times of the service, and a description of the service provided. The form shall also include instructions for the parents or legally appointed guardians to contact the regional center service coordinator immediately if they are unable to sign the form.
- (2) The vendor shall provide the parents or legally appointed guardians of a minor consumer with the department form to sign. The form shall be signed and dated by the parents or legally appointed guardians of a minor consumer and be submitted to the vendor providing services within 30 days of the month in which the services were provided.
- (3) The vendor shall submit the completed forms to the regional center together with the vendor's invoices for the services provided."

Recommendation:

LWC must reimburse to DDS \$21,237 for the unsupported billings. In addition, LWC should comply with the CCR, Title 17 as stated above to ensure that proper documentation is maintained to support the amounts billed to IRC. Furthermore, LWC should provide services in accordance with the regional centers' contract with LWC to ensure that hours are accurately billed to the regional centers.

LWC's Response:

LWC's response indicated that it was now willing to provide source documentation to substantiate its billings to the regional centers. Prior to the issuance of the draft audit report, LWC had not provided DDS with any source documentation, citing the Health Insurance Portability and Accountability Act (HIPPA). Subsequent to the submission of its response, LWC provided DDS with source documents to support its billings to the regional centers.

See Attachment C for the full text of LWC's response to the draft audit report and Attachment D for DDS' evaluation of LWC's response.

Finding 2: Behavior Management Assistant – Unsupported Billings

In response to DDS' draft audit report, LWC submitted additional documentation to support the billings which has resolved the finding.

Finding 3: Adaptive Skills Trainer – Unsupported Billings

In response to DDS' draft audit report, LWC submitted additional documentation to support the billings which has resolved the finding.

Finding 4: Behavior Analyst – Lack of Requisite Qualifications by Staff

The review of LWC's BA program revealed that staff who provided services to consumers for the sampled months of November and December 2014 and July 2018 did not meet the education requirement for such services. Services under the BA program must be provided by staff who are BCBAs.

Based on the review of the Parental Verification for Receipt of Behavioral Services (DS 5862 forms) and the employees' credentials, DDS determined that of the 100 employees who provided the services under this program, only 12 were BCBAs, 11 had either a Masters or Ph.D., 30 had a Bachelor's Degree and 47 had either a High School Diploma (HS) or an Associate Degree (AA). DDS further noted that LWC billed the regional centers for services that were provided by the 100 employees at the rates of \$75 and \$81.37 for the sampled months. DDS allowed billings for hours of service

provided to consumers by LWC's 12 BCBA's and 11 staff with a Ph.D. or Master's Degree. This brought the number of staff who qualified to provide services under this program and qualify for the applicable billing rate to 23. DDS lowered the rates for the hours of service that were provided by staff who did not have the required credentials and determined that LWC overbilled the regional centers as follows:

- Overbillings of \$53,337 for 1,316 hours occurred when LWC billed the regional centers at the rates of \$75 and \$81.37 per hour for services provided by 30 employees who had a Bachelor's Degree. CCR, Title 17 requires staff with a Bachelor's degree to provide their services as Behavior Management Assistants (BMA), Service Code 615. The median rates for this Service Code were \$35 and \$37.97 during the audit period. Based on this, LWC should have been vendorized for Service Code 615 and billed the regional centers at these lower rates. DDS used these median rates to calculate the billable amount for the hours of service that were provided by staff with a Bachelor's Degree and determined that LWC overbilled the regional centers by \$53,337.
- Overbillings of \$76,039 for 1,527 hours occurred when LWC billed the regional centers at rates of \$75 and \$81.37 per hour for services provided by 47 employees who had either a HS Diploma or AA Degree. CCR, Title 17 requires staff with either a HS Diploma or AA Degree to provide their services as Behavior Management Technicians, Service Code 616. The rate for this Service Code is 75% of the median rate for Service Code 615. Based on this, LWC should have been vendorized for Service Code 616 and billed the regional centers at the rates of \$26.25 and 28.48 per hour. DDS used these rates to calculate the billable amounts for the hours of service that were provided by staff with either a HS Diploma or AA Degree and determined that LWC overbilled the regional centers by \$76,039.

The overbilled hours totaled 2,843 hours for a total overbilled amount of \$129,376, which is due back to DDS. (See Attachment B)

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 that 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.”

CCR, Title 17, Section 54342 (a)(11) and (12) and (b) states:

“(a) The following service codes shall be assigned to the following types of services:

“(11) Behavior Analyst - Service Code 612. Behavior Analyst ...

A regional center shall classify a vendor as a Behavior Analyst if an individual is recognized by the national Behavior Analyst Certification Board as a Board Certified Behavior Analyst.

(12) Behavior Management Assistant - Service Code 615. A regional center shall classify a vendor as a behavior management assistant, ... under direct supervision of a Behavior Analyst or Behavior Management Consultant, and meets either of the following requirements:

(A) Possesses a Bachelor of Arts or Science Degree ...

(b) The following service code shall be assigned to the following type of service: Behavior Management Technician (Paraprofessional) - Service Code 616...

The Behavior Management Technician (Paraprofessional) shall practice under the direct supervision of a certified Behavior Analyst or a Behavior Management Consultant who is within the same vendored group practice. The Behavior Management Technician (Paraprofessional) shall meet the following requirements:

(1) Has a High School Diploma or the equivalent, has completed 30 hours of competency-based training designed by a certified behavior analyst, and has six months experience working with persons with developmental disabilities; or

(2) Possesses an Associate's Degree in either a human, social, or educational services discipline, or a degree or certification related to behavior management, from an accredited community college or educational institution, and has six months experience working with persons with developmental disabilities.”

CCR, Title 17, Section 57332(c) (12) states:

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

(12) Behavior Management Technician (Paraprofessional) - Service Code 616

Regional centers shall contract for Behavior Management Technician (Paraprofessional) services at no more than 75 percent of the regional center's median hourly rate for Behavior Management Assistant - Service Code 615, or the statewide median rate for Behavior Management Assistant - Service Code 615, whichever is lower.”

Recommendation:

LWC must reimburse to DDS \$129,376 for the overbillings. In addition, LWC should ensure that staff providing services under the BA program meet the qualifications for this service and be vendorized for Service Code 615 and 616 for services provided by staff that do not meet the BCBA qualifications.

LWC’s Response:

LWC’s response indicated that it was now willing to provide source documentation to substantiate its billings to the regional centers. Prior to the issuance of the draft audit report, LWC had not provided DDS with any source documentation, citing HIPPA. Subsequent to the submission of its response, LWC provided DDS with source documents to support its billings to the regional centers.

See Attachment C for the full text of LWC’s response to the draft audit report and Attachment D for DDS’ evaluation of LWC’s response.

Finding 5: Limited Access to Service Provider Records

In response to DDS’ draft audit report, LWC submitted additional documentation to support its billings to the regional centers, which has resolved the finding.

ATTACHMENTS A-B

CALIFORNIA INSTITUTE OF BEHAVIOR ANALYSIS, INC. DBA: LEAFWING CENTER

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

ATTACHMENT C – VENDOR’S RESPONSE

CALIFORNIA INSTITUTE OF BEHAVIOR ANALYSIS, INC. DBA: LEAFWING CENTER

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

ATTACHMENT D – DDS’ EVALUATION OF LWC’S RESPONSE

DDS evaluated LWC’s written response to the draft audit report and determined that LWC was now willing to provide documentation to support its billings to the regional centers. Prior to the issuance of the draft audit report, LWC had not provided any source documents to DDS, citing the Health Insurance Portability and Accountability Act (HIPAA). In the absence of the source documents, DDS issued a draft audit report requesting LWC to pay back all the POS funds that it had received during the audit period. The total finding amount for findings 1, 2, 3, and 4 was \$3,538,216. Below is a summary of the vendor’s response as well as DDS’ evaluation of the response.

Finding 1 - Behavior Analyst – Unsupported and Incorrect Billings

In its response to the draft audit report, LWC cited HIPAA as its reason for not having provided the DDS auditors with the source documents they had requested. LWC further stated that its organization strived “*to be wholly compliant and cooperative with the DDS audit request*” and that it now aimed to provide “*all the requested documentation*”.

LWC provided DDS with its Employees’ Timesheets, Payroll Registers, Employees Credentials, DS 5862 forms and consumers’ session notes, for the sampled months of November 2014, December 2014 and July 2018. DDS reviewed this documentation and noted that LWC did not have sufficient supporting documentation for 139 units of service it had billed to the regional centers. This resulted in unsupported billings in the amount of \$7,989. (See Attachment A)

The review of the service records also revealed instances where two employees provided services to one consumer at the same time. The staffing ratio for the BA program is one employee to one consumer (1:1); therefore, having two employees providing services at the same time resulted in overbillings to the regional centers. DDS disallowed the hours that were provided in this manner. The total overlapping hours were 176, which resulted in overbillings in the amount of \$13,248. (See Attachment A)

DDS made adjustments to the audit report to reflect the additional documentation received. As a result, the amount of this finding was reduced from \$2,805,484 to \$21,237.

Finding 2 - Behavior Management Assistant – Unsupported Billings

LWC provided source documents as part of its response to the draft report and upon reviewing these documents, DDS determine that LWC’s billings to the regional centers were adequately supported. DDS made adjustments to the audit report to reflect the additional documentation received. As a result, the amount of this finding was reduced from \$454,650 to \$0. Therefore, this issue is considered resolved and it will be disclosed as such in the final audit report.

ATTACHMENT D – DDS’ EVALUATION OF LWC’s RESPONSE

Finding 3 - Adaptive Skills Trainer – Unsupported Billings

LWC provided source documents as part of its response to the draft report and upon reviewing these documents, DDS determine that LWC’s billings to the regional centers were adequately supported. DDS made adjustments to the audit report to reflect the additional documentation received. As a result, the amount of this finding was reduced from \$278,102 to \$0. Therefore, this issue is considered resolved and it will be disclosed as such in the final audit report.

Finding 4: Behavior Analyst – Lack of Requisite Qualification by Staff

LWC provided DDS with sign-in and sign-out timesheets, payroll records, DS 5862 forms, session notes and employees’ credentials, for the sampled months. DDS reviewed these documents and noted that of the 100 employees who provided services to the consumers, 23 were either a licensed Board-Certified Behavior Analysts (BCBA), held a Doctorate or Master’s degree. These employees had requisite qualifications and provided 883 hours of service to the consumers. The remaining 77 employees did not have the requisite qualifications. Thirty employees had either a Board-Certified Assistant Behavior Analyst (BCaBA) license or a Bachelor’s degree and provided 1,316 hours of service to the consumers. The remaining 47 employees had either a High School diploma or an Associate degree and provided 1,527 hours of service to the consumers.

Per Title 17 regulations, services under the BA program should be provided by staff who are BCBA’s. Based on the documents that were reviewed by the audit team, LWC did not comply with the regulations. It allowed staff with lower qualifications to provide services under this program.

DDS allowed the 883 hours that were provided by staff with the requisite qualifications to be billed at the hourly rate of \$75 for November and December 2014 and \$81.37 or July 2018, respectively. However, for the hours that were provided by staff with lower qualifications, DDS lowered the rates for the respective periods. For the 1,316 hours that were provided by staff with a either a BCaBA license or a Bachelor’s degree, DDS lowered the rates to match the statewide median rate for the Behavior Management Assistant (BMA) program, Service Code 615. Accordingly, DDS applied the rate of \$35 per hour for units that were billed in November and December 2014 and \$37.97 for those that were billed in July 2018. The reduction in the rates resulted in overbillings of a total amount of \$53,337.

ATTACHMENT D – DDS’ EVALUATION OF LWC’s RESPONSE

Similarly, DDS lowered the rates on the 1,527 hours that were provided by staff with High School diplomas or an Associate degrees to \$26.25 per hour for November and December 2014 and \$28.48 per hour for July 2018. These rates comport to the statewide median rates for the Behavior Management Technician (BMT) program, Service Code 616. The reduction in the rates resulted in overbillings for a total amount of \$76,039.

Staff who lacked the required credentials provided 2,843 hours of service to the consumers under the BA program during the audit period. This resulted in overbillings to the regional centers in the amount of \$129,376 (\$53,337 + \$76,039), which is due back to DDS. (See Attachment B)

Finding 5: Limited Access to Service Provider Records

During the audit fieldwork, LWC had not provided DDS with source documents to substantiate its billings to the regional centers, citing HIPPA. Subsequent to the issuance of the draft audit report, as part of its response, LWC provided acceptable source documentation to support the units of services billed to the regional centers. Therefore, this issue is resolved and it will be disclosed as such in the final audit report.

Conclusion:

DDS made adjustments to the audit report to reflect the additional documentation received. As a result, the total finding amount was reduced from \$3,538,216 to \$150,613.