

**DEPARTMENT OF DEVELOPMENTAL SERVICES'**  
**AUDIT OF**  
**DOORWAYS SUPPORTED LIVING IN ORANGE COUNTY**

**Services:**

Supported Living Services – PM1789

Audit Period: July 1, 2015, through December 31, 2016

**Audit Section**

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# DOORWAYS SUPPORTED LIVING IN ORANGE COUNTY

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## EXECUTIVE SUMMARY

The Department of Developmental Services (DDS) has audited Doorways Supported Living in Orange County (DSLOC). DSLOC is one of the two companies owned by [REDACTED]. This report is an audit of only DSLOC, although Doorways (sole proprietorship) was audited simultaneously with a separate audit report issued. The audit was performed upon the Supported Living Services (SLS) program for the period of July 1, 2015, through December 31, 2016.

The audit disclosed the following issues of non-compliance:

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

The review of DSLOC's SLS program, Vendor Number PM1789, revealed that DSLOC had a total of \$205,868 of unsupported billings to Regional Center of Orange County (RCOC).

### **Finding 2: Non-Compliance with State and Federal Tax Laws and Regulations**

The review of DSLOC's employee personnel and payroll records indicates that DSLOC may not have complied with State and Federal tax laws and regulations. DSLOC classified two employees as independent contractors and failed to report wages paid to some employees to the appropriate taxing agencies.

The total of the findings identified in this audit amounts to \$205,868, which 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 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 DSLOC's fiscal accountability requirement and SLS program were compliant with the W&I Code, California Code of Regulations (CCR), Title 17, State and Federal laws and regulations, and the regional center's contract with DSLOC for the period of July 1, 2015, through December 31, 2016.

### **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 DSLOC, nor was this audit intended to express an opinion on the financial statements. The auditors limited the review of DSLOC'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 DSLOC 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 RCOC that utilized DSLOC's services during the audit period. DSLOC provided only SLS to RCOC, 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, DSLOC operated one SLS program. The audit included the review of Vendor Number PM1789, Service Code 896, and testing was done for the sampled months of May and June 2016. However, the two sampled months

demonstrated a high amount of unsupported billings. As a result, the testing was expanded to cover the entire audit period of July 1, 2015, through December 31, 2016.

## **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.
- Interviewed the vendor's Enrolled Agent, Executive Director, Administrator, and Program Coordinators, for vendor background information and to gain understanding of accounting procedures and financial reporting process.

## **CONCLUSION**

Based upon items identified in the Findings and Recommendations section, DSLOC had findings of non-compliance with the requirements of W&I Code, CCR, Title 17, Unemployment Insurance Code (UIC), Internal Revenue Code (IRC), Code of Federal Regulations (CFR), Title 26, and CFR, Title 20.

## **VIEWS OF RESPONSIBLE OFFICIALS**

DDS issued a draft audit report on November 19, 2019. The areas of review and conclusion of the audit were discussed in an exit conference with [REDACTED], Owner of DSLOC, on November 19, 2019. [REDACTED] responded via email on February 4, 2020, that DSLOC agreed with the conclusion of the audit report.

## **RESTRICTED USE**

This report is solely for the information and use of DDS, Department of Health Care Services, RCOC, and DSLOC. 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 Services – Unsupported Billings

The review of DSLOC's SLS program, Vendor Number PM1789, for the audit period of July 1, 2015, through December 31, 2016, revealed that DSLOC had unsupported billings for services billed to RCOC. Unsupported billings occurred due to a lack of appropriate documentation to support the units of service billed to RCOC and non-compliance with the CCR, Title 17.

The lack of documentation resulted in unsupported billings to RCOC in the amount of \$205,868, 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 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.”

### **Recommendation:**

DSLOC must reimburse to DDS \$205,868 for the unsupported billings. In addition, DSLOC should comply with the CCR, Title 17 as stated above to

ensure that proper documentation is maintained to support the amounts billed to RCOG.

**DSLOC's Response:**

██████████, Owner of DSLOC, submitted a response on February 4, 2020, stating that DSLOC acknowledges the findings and does not dispute them.

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

**Finding 2: Non-Compliance with State and Federal Tax Laws and Regulations**

The review of DSLOC's employee personnel and payroll records for the audit period of July 1, 2015, through December 31, 2016 indicates that DSLOC failed to comply with State and Federal tax laws and regulations. DDS identified two issues of non-compliance: (1) DSLOC classified two staff as independent contractors; and (2) DSLOC paid ten of its employees' wages in cash without payroll tax deductions and did not report those wages to the appropriate tax agencies.

Staff Classification

During a meeting with DSLOC, two direct-care staff were identified as independent contractors. Based on DSLOC's program design, payroll records, service records and the services performed by the two workers, it appears likely that they should have been classified as employees.

The review of source documents suggested that the two direct-care staff and DSLOC had an employer-employee relationship. DSLOC controlled and directed how services were to be performed by the two workers. The two workers did not control or direct the means and methods for accomplishing the services provided.

Under-reporting of payroll taxes

DSLOC did not report ten of its employees' wages that were paid in cash to the appropriate taxing agencies. In addition, payroll taxes were not withheld from these wages, which is a violation of tax laws and regulations. DSLOC is required to deduct and withhold a determined tax amount from its employees' wages and file a withholding report. By classifying employees as independent contractors and under-reporting payroll taxes, DSLOC did not report its true tax liability.

CFR, Title 26, Section 31.3121(d)-1 (c) states:

“(c) Common law employees.



- (1) Every individual is an employee if under the usual common law rules the relationship between him and the person for whom he performs services is the legal relationship of employer and employee.
- (2) Generally such relationship exists when the person for whom services are performed has the right to control and direct the individual who performs the services, not only as to the result to be accomplished by the work but also as to the details and means by which that result is accomplished. That is, an employee is subject to the will and control of the employer not only as to what shall be done but how it shall be done. In this connection, it is not necessary that the employer actually direct or control the manner in which the services are performed; it is sufficient if he has the right to do so.... In general, if an individual is subject to the control or direction of another merely as to the result to be accomplished by the work and not as to the means and methods for accomplishing the result, he is an independent contractor. An individual performing services as an independent contractor is not as to such services an employee under the usual common law rules.”

CFR, Title 20, Section 404.1007 (b) states:

“(b) Factors that show employee status. Some aspects of a job arrangement that may show you are an employee as follows:

- (1) The person you work for may fire you.
- (3) You receive training from the person you work for or are required to follow that person’s instructions.
- (4) You must do the work yourself.
- (6) The person you work for sets your hours of work, requires you to work full-time, or restricts you from doing work from others.
- (8) You are paid by the hour, week or month.”

IRC, Section 3402 (a) states:

“(a) Requirement of withholding

- (1) In General

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

- (A) apply with respect to the amount of wages paid during such periods as the Secretary may prescribe, and
- (B) be in such form, and provide for such amounts to be deducted and withheld, as the Secretary determines to be most appropriate to carry out the purposes of this chapter and to reflect the provisions of chapter 1 applicable to such periods.”

UIC, Section 13020 (a)(1) states:

- “(a)(1) Every employer who pays wages to a resident employee for services performed either within or without this state, or to a nonresident employee for services performed in this state, shall deduct and withhold from those wages, except as provided in subdivision (c) and Sections 13025 and 13026, for each payroll period, a tax computed in that manner as to produce, so far as practicable, with due regard to the credits for personal exemptions allowable under Section 17054 of the Revenue and Taxation Code, a sum which is substantially equivalent to the amount of tax reasonably estimated to be due under Part 10 (commencing with Section 17001) of Division 2 of the Revenue and Taxation Code resulting from the inclusion in the gross income of the employee of the wages which were subject to withholding. The method of determining the amount to be withheld shall be prescribed by the Franchise Tax Board pursuant to Section 18663 of the Revenue and Taxation Code.”

UIC, Section 13021 (a) states:

- “(a) Every employer required to withhold any tax under Section 13020 shall for each calendar quarter, whether or not wages or payments are paid in the quarter, file a withholding report, a quarterly return, as described in subdivision (a) of Section 1088, and a report of wages in a form prescribed by the department, and pay over the taxes so required to be withheld.”

**Recommendation:**

DSLOC should follow and abide by all applicable State and Federal tax laws and regulations.

**DSLOC's Response:**

██████████, Owner of DSLOC, submitted a response on February 4, 2020, stating that DSLOC acknowledges the findings and does not dispute them.

See Attachment B for the full text of DSLOC's response to the draft audit report and Attachment C for DDS' evaluation of DSCLO's response.

# **ATTACHMENT A**

## **DOORWAYS SUPPORTED LIVING IN ORANGE COUNTY**

**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**

### **DOORWAYS SUPPORTED LIVING IN ORANGE COUNTY**

**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’ EVALUATION OF DSLOC’S RESPONSE**

DSLOC’s response, dated February 4, 2020, acknowledged and accepted DDS’ conclusion in the audit report.