AUDIT OF THE
KERN REGIONAL CENTER
FOR FISCAL YEARS 2014-15 AND 2015-16

Department of Developmental Services

July 7, 2021

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EXECUTIVE SUMMARY

The Department of Developmental Services (DDS) conducted a fiscal compliance audit of Kern Regional Center (KRC) to ensure KRC 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 KRC maintains accounting records and supporting documentation for transactions in an organized manner.

The audit period was July 1, 2014, through June 30, 2016, with follow-up, as needed, into prior and subsequent periods. This report identifies some areas where KRC's administrative and operational controls could be strengthened, and also identifies several operational areas in which repeat findings remain uncorrected. None of the findings are of a nature that would indicate systemic issues or constitute major concerns regarding KRC's overall operations. A follow-up review to the prior DDS audit report also was performed to ensure KRC has taken corrective action to resolve the findings identified in that prior DDS audit report.

Findings that need to be addressed.

Finding 1: <u>Overstated Claims</u>

A. <u>Negotiated Rates Above the Median Rate</u>

The sample review of 95 Purchase of Service (POS) vendor files revealed KRC reimbursed two vendors above the median rate. KRC reimbursed Just Johnson's, Vendor Number PK5330, Service Code 063, a rate of $37.21 per hour when the median rate was $23.50 per hour. KRC also reimbursed George Leckner, Vendor Number PK5374, Service Code 674, a rate of $85 per hour when the median rate was $50.87 per hour.

This resulted in overpayments totaling $1,856,834.62 for both vendors from July 2014 through June 2016. This is not in compliance with W&I Code, Section 4691.9(a)(1)&(2).

B. <u>Rate Increase After the Rate Freeze</u> (Repeat)

The sample review of the 95 POS vendor files revealed KRC increased the rates for two vendors after the rate freeze became effective on July 1, 2008. The rate for Horrigan Cole, Vendor Number PK2713, Service Code 063, increased from $29.42 per hour to $34.62 per hour and the rate for Inyo-Mono Association, Vendor No. PK3377, Service Code 063, increased from $20.87 per hour to $54.60 per hour.

In addition, a follow-up review of the prior audit findings revealed KRC continued to reimburse Employment Through Adaptation of Tehachapi, Vendor Number PK3742, Service Code 063, at the increased rate of $37.21 per hour rather than $34.24 per hour and Aimes Consulting, Vendor Number PK4168, Service Code 860, at the increased rate of $20 per hour rather than $19 per hour.

This resulted in overpayments totaling $773,846.55 from July 2014 through June 2016 from prior and current audits. This is not in compliance with W&I Code, Section 4648.4(b).

C. Partial Month Stays

The sample review of 95 POS vendor files revealed KRC incorrectly applied the 30.44 proration factor to partial month stays for 19 vendors resulting in over and underpayments totaling $7,617.23 and $12,348.91 respectively. This is not in compliance with CCR, Title 17, Section 56917(h)&(i).

Finding 2: Equipment Inventory (Repeat)

The sample review of 50 items selected for testing from KRC's inventory listing revealed five items were missing and 38 items were disposed without completing the Property Survey Report (Form Std. 152). In addition, 25 out of the 38 disposed items remained on the inventory list. This issue was identified in two prior audit reports. In its response to the prior report, KRC stated that it would continue to improve its equipment inventory procedures to better safeguard State property. However, KRC did not provide details on how this would be accomplished. This is not in compliance with State Contract, Article IV, Section 4(a) and State's Equipment Management System Guidelines, Section III (E).

Finding 3: Improper Allocation of CPP Funds (Repeat)

The review of KRC's Community Placement Program (CPP) expenditures revealed that KRC improperly allocated CPP funding to one consumer. KRC continued to allocate CPP funding beyond the consumer's initial Fiscal Year (FY) of placement. This resulted in improper allocation of CPP funds totaling $1,151.04 for FY 2016-17. This issue was identified in the prior audit, and KRC resolved $69,148.08 out of the $73,092.08 improperly allocated CPP funds. This is not in compliance with Guidelines for Regional Center Community Placement Plan.

Finding 4: **Family Cost Participation Program – Late Assessments (Repeat)**

The sample review of 24 Family Cost Participation Program (FCPP) consumers' files revealed 13 instances in which KRC did not assess the families' share of cost participation as part of the consumers' Individualized Program Plan (IPP) or Individualized Family Service Plan (IFSP) review. This issue was identified in two prior audit reports. This is not in compliance with W&I Code, Section 4783(g)(1)(A)(B)(C).

Finding 5: **Bank Reconciliations Not Completed Timely (Repeat)**

The review of KRC's Bank Reconciliation Policy revealed that KRC allows for bank reconciliations to be completed up to 90 days after the bank statements are released, even though the monthly bank statements can be obtained online within two days after the end of each month. This issue was identified in two prior audit reports.

Finding 6: **Bank Signature Cards Not Updated**

The review of KRC's bank signature cards revealed that KRC does not have updated signature cards on file. The signature cards contained signatory authority for individuals who are no longer employed by KRC. This is not in compliance with State Contract, Article III, Section 3(f) and (g).

Finding 7: **Stale-Dated Checks (Repeat)**

The review of KRC bank accounts revealed, as of June 30, 2017, 15 checks totaling $9,540.65 remained outstanding for more than six months, with the oldest checks dating back to September 2013. This issue was identified in the prior audit. KRC stated that this occurred due to excessive workload of the Accounting Manager and his subsequent separation of employment from KRC. This is not in compliance with KRC's Bank Reconciliation Policy, which is to void and reissue checks outstanding for more than six months.

Finding 8: **Lack of Minutes for Closed Board Meetings (Repeat)**

The review of KRC's Board minutes revealed that minutes were recorded for all open Board meetings; however, KRC could not provide the minutes for any of its closed Board meetings, including meetings which involved discussions related to employee governance policies, labor issues, and lawsuits. This issue was identified in the prior two audit reports, but KRC did not address how it would maintain minutes for closed Board meetings. This is not in compliance with W&I Code, Section 4663(a)(b).

Finding 9: Annual Family Program Fee – Assessments Not Supported

The sample review of 20 Annual Family Program Fee (AFPF) assessments revealed four instances where families were assessed less than the required $200 annual fee. KRC could not provide the families' income documentation to justify the lower assessed fee of $150. This is not in compliance with the DDS Annual Family Fee Program Procedures, Section II (A) and (C).

Finding 10: Vendors Not Enrolled into E-Billing

The review of KRC's electronic billing process revealed 100 vendors that were not enrolled into E-Billing. None of these vendors were paid with vouchers or demonstrated that enrolling into electronic billing would present a financial hardship, which would preclude them from E-Billing. This is not in compliance with WIC Section 4641.5 (a).

BACKGROUND

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 California Department of Health Care Services, and to the Centers for Medicare and Medicaid Services (CMS), that services billed under California's HCBS Waiver program actually 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 also will 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 Kern Regional Center, Inc. entered into State Contract HD 149009, effective July 1, 2014 through June 30, 2021. This contract specifies that Kern Regional Center, Inc. will operate an agency known as the Kern Regional Center (KRC) to provide services to individuals with DD and their families in the Inyo, Kern, and Mono Counties. The contract is funded by state and federal funds that are dependent upon KRC performing certain tasks, providing services to eligible consumers, and submitting billings to DDS.

This audit was conducted at KRC from May 8, 2017, through June 21, 2017, 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 KRC.

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 KRC, effective July 1, 2021.

AUDIT PERIOD

The audit period was July 1, 2014, through June 30, 2016, with follow-up, as needed, into prior and subsequent periods.

OBJECTIVES, SCOPE, AND METHODOLOGY

This audit was conducted as part of the overall DDS monitoring system that provides information on 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 KRC.

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 KRC's financial statements. DDS limited the scope to planning and performing audit procedures necessary to obtain reasonable assurance that KRC was in compliance with the objectives identified above. Accordingly, DDS examined transactions on a test basis to determine whether KRC 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 KRC.

DDS' review of KRC'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 reports that were conducted by an independent CPA firm for Fiscal Years (FYs) 2014-15 and 2015-16 issued on March 22, 2016 and March 15, 2017, respectively. It was noted that no management letter was issued for KRC. 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 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 KRC. 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 KRC.

- 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.

- 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 KRC'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 KRC'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 KRC'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 KRC's Rate Study. DDS examined the months of April 2015 and April 2016 and traced the reported information to source documents.

- Reviewed KRC's TCM Time Study. DDS selected a sample of payroll timesheets for this review and compared timesheets to the Case Management Time Study Forms (DS 1916) to ensure that the forms were properly completed and supported.

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

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 KRC 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 KRC was paying for only its assessed share of cost.

VII. Annual Family Program Fee

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 KRC 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 KRC 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 KRC implemented the required RFP process, DDS performed the following procedures during the audit review:

- Reviewed KRC'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 KRC. 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 KRC notified the vendor community and the public of contracting opportunities available.

- Reviewed the contracts to ensure that KRC 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 KRC 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 KRC 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 KRC'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 KRC'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, 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 KRC was in compliance with the Lanterman Act, DDS performed the following procedures during the audit review:

- Reviewed sample vendor files to determine whether KRC is using appropriately vendorized service providers and correct service codes, and that KRC 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 KRC 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 KRC 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 KRC'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;
- Foster Grandparent (FGP);
- 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 KRC and reviewed supporting documentation to determine the degree of completeness of KRC's implementation of corrective actions.

CONCLUSIONS

Based upon the audit procedures performed, DDS has determined that except for the items identified in the Findings and Recommendations section, KRC 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 KRC for the audit period, July 1, 2014, through June 30, 2016.

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

As of the date of this review, KRC has not taken appropriate corrective action to resolve all findings from prior audits.

VIEWS OF RESPONSIBLE OFFICIALS

DDS issued the draft audit report on April 21, 2020. The findings in the draft audit report were discussed at a formal exit conference with KRC on August 17, 2020. The views of KRC's responsible officials are included in this final audit report.

RESTRICTED USE

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

FINDINGS AND RECOMMENDATIONS

Findings that need to be addressed.

Finding 1: <u>Overstated Claims</u>

A. <u>Negotiated Rates Above the Median Rate</u>

The sample review of the 95 POS vendor files revealed KRC reimbursed two vendors above the median rate. KRC reimbursed Just Johnson's, Vendor Number PK5330, Service Code 063, a rate of $37.21 per hour when the median rate was $23.50 per hour, resulting in overpayments totaling $1,841,066.56. KRC also reimbursed George Leckner, Vendor Number PK5374, Service Code 674, a rate of $85.00 per hour when the median rate was $50.87 per hour, resulting in overpayments totaling $15,768.06. The total of overpayments due to negotiating a rate above the median for both vendors from July 2014 through June 2016 is $1,856,834.62. (See Attachment A)

W&I Code, Section 4691.9 (a) - (1) & (2) states in part:

"(1) A regional center shall not pay an existing service provider, for services where rates are determined through a negotiation between the regional center and the provider, a rate higher than the rate in effect on 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.

(2) A regional center shall not negotiate a rate with a new service provider, for services where rates are determined through a negotiation between the regional center and the provider, that is higher than the regional center'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."

Recommendation:

KRC must reimburse to DDS $1,856,834.62 for the overpayments. In addition, KRC must comply with W&I Code, Section 4691.9 and ensure that all vendor rates negotiated after June 30, 2008, are below the Statewide/KRC Median Rates.

B. <u>Rate Increase After the Rate Freeze</u> (Repeat)

The sample review of 95 POS vendor files revealed KRC increased the rates for two vendors after the rate freeze became effective on July 1, 2008. The rate for Horrigan Cole, Vendor Number PK2713, Service Code 063, increased from $29.42 per hour to $34.62 per hour and the rate for Inyo-Mono Association, Vendor No. PK3377, Service Code 063, increased from $20.87 per hour to $54.60 per hour. This resulted in overpayments totaling $690,224.10 for both vendors from July 2014 through June 2016.

In addition, a follow-up review of the prior audit findings revealed KRC continued to reimburse Employment Through Adaptation of Tehachapi, Vendor Number PK3742, Service Code 063, at the increased rate of $37.21 per hour rather than $34.24 per hour. Further, KRC continued to reimburse Aimes Consulting, Vendor Number PK4168, Service Code 860, at the increased rate of $20.00 per hour rather than $19.00 per hour. This resulted in overpayments totaling $83,622.45 for both vendors from February 2015 through June 2016.

Total identified overpayments are $773,846.55 from July 2014 through June 2016. (See Attachment B)

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

> "(b) 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."

Recommendation:

KRC must reimburse to DDS $773,846.55 for overpayments that resulted from granting rate increases to vendors after the rate freeze became effective on July 1, 2008. In addition, KRC must revert to the original payment terms of the contracts that were in place prior to the implementation of the rate freeze.

C. Partial Month Stays

The sample review of the 95 POS vendor files revealed 60 instances where KRC incorrectly applied the 30.44 proration factor for consumers' partial month stays in residential facilities, resulting in overpayments made to 12 vendors totaling $7,617.23 and under-payments made to seven vendors totaling $12,348.91 from July 2014 through June 2016. (See Attachment C)

CCR, Title 17, Section 56917 (h) & (i) states in part:

> "(h) The established rate shall be paid for the full month when the consumer is temporarily absent from the facility 14 days or less per month.
>
> (i) The established rate shall be prorated for a partial month of service in all other cases by dividing the established rate by 30.44, then multiplying by the number of days the consumer resided in the facility."

Recommendation:

KRC must reimburse $12,348.91 of underpayments to the vendors who were undercompensated for services provided and must reimburse to DDS $7,617.23 of overpayments made due to incorrect proration of partial month stays. In addition, KRC should review its payments for partial month stays to ensure it correctly applies the 30.44 proration factor.

Finding 2: Equipment Inventory (Repeat)

The sample review of 50 items selected from KRC's inventory listing revealed five items were missing and 38 items were disposed without completing the Form Std. 152. In addition, 25 out of the 38 disposed items remained on the inventory list. These issues were identified in two prior audit reports. KRC indicated that this occurred because the Facilities Manager who was responsible for the equipment inventory no longer is employed at KRC. The Payroll Specialist had recently assumed responsibility for the equipment inventory and indicated she was unfamiliar with the processes and requirements for acquiring, tracking, and disposal of equipment. (See Attachment D)

State Contract, Article IV, Section 4(a) states:

> "Contractor shall maintain and administer, in accordance with sound business practice, a program for the utilization, care, maintenance, protection and preservation of State of California

property so as to assure its full availability and usefulness for the performance of this contract. Contractor shall comply with the State's Equipment Management System Guidelines for regional center equipment and appropriate directions and instructions which the State may prescribe as reasonably necessary for the protection of State of California property."

State's Equipment Management System Guidelines, Section III (E), states:

"RCs will conform to the following guidelines for any state-owned equipment that is junked, recycled, lost, stolen, donated, destroyed, traded-in, transferred to, or otherwise removed from the control of the RC.

RCs shall work directly with their regional Department of General Services' (DGS) office to properly dispose of State-owned equipment. RCs will complete a Property Survey Report (Std. 152) for all State-owned equipment subject to disposal."

Recommendation:

KRC should ensure the staff who are responsible for monitoring and maintaining the equipment inventory receive appropriate training. KRC also must follow the State's Equipment Management Guidelines for safeguarding State property. In addition, KRC must submit a Property Survey Report Form 152 to the Department of General Services (DGS) to report the missing items and adjust its property accounting records. This would ensure compliance with the State contract requirements regarding State property.

Finding 3: **<u>Improper Allocation of CPP Funds</u> (Repeat)**

The review of KRC's CPP expenditures for 18 consumers who moved from the Developmental Centers (DC) to the community during FYs 2014-15 and 2015-16 revealed one consumer received services beyond the FY of placement. The consumer, UCI Number [redacted] received placement for CPP services on June 16, 2015 and continued to receive services totaling $1,151.04 in FY 2016-17. This issue was identified in the prior audit. The KRC has resolved $69,148.08 of the $73,092.08 in improperly allocated CPP funds.

Guidelines for Regional Center Community Placement Plan states:

"The following are guidelines specific to the types of requests that may be submitted in FY 2015-16 CPP proposals.

A. Placement Funding Requests

A CPP placement occurs when a consumer who is currently residing in a DC, mental health facility ineligible for FFP, or receiving services out-of-state, moves to the community within California. Placement funding should be based on projected service and support costs for those consumers projected to be placed in FY 2015-16, and include only costs associated with transitioning and maintaining a consumer previously living in a DC, mental health facility ineligible for FFP, or out-of-state.…

Placement funding will be allocated based on claims associated with CPP placements that occur during the FY. As part of the POS claims review process, the Department may periodically request verification of consumers who have transitioned to the community and their associated costs."

Recommendation:

KRC must reclassify the $1,151.04 from the CPP fund to the general fund. In addition, KRC must review the authorizations of each DC mover to ensure CPP services are not provided beyond the consumer's FY of placement.

Finding 4: Family Cost Participation Program – Late Assessments (Repeat)

The sample review of 24 FCPP consumers' assessments revealed 13 instances in which KRC did not assess the families' share of cost participation as part of the consumers' IPP or IFSP. This issue was identified in two prior audit reports. In its prior response, KRC stated that it will print the following reports; PS970S01, YTD, #ATTENDV01, and the Attendance History Report, one month prior to the assessment date of the FCPP. These reports should be given to case management staff as notification that assessments are required. However, these procedures have not been implemented as stated in the response.
(See Attachment E)

W&I Code, Section 4783(g)(1)(A)(B)(C) states:

"(g) Family cost participation assessments or reassessments shall be conducted as follows:

(1)(A) A regional center shall assess the cost participation for all parents of current consumers who meet the criteria specified in this section. A regional center shall use the most recent individual program plan or individualized family service plan for this purpose.

(B) A regional center shall assess the cost participation for parents of newly identified consumers at the time of the initial individual program plan or the individualized family service plan.

(C) Reassessments for cost participation shall be conducted as part of the individual program plan or individual family service plan review pursuant to subdivision (b) of Section 4646 of this code or subdivision (f) of Section 95020 of the Government Code."

Recommendation:

KRC should ensure that all FCPP assessments are completed as part of the consumers' IPP or IFSP review. In addition, KRC must follow the procedures set forth in the prior audit response. This will ensure compliance with the W&I Code, Section 4873(g)(1)(A)(B)(C).

Finding 5: **<u>Bank Reconciliations Not Completed Timely (Repeat)</u>**

The review of KRC's Bank Reconciliation Policy revealed that KRC allows for bank reconciliations to be completed up to 90 days after the bank statements are released, even though the monthly bank statements can be obtained online within two days after the end of each month. This issue was identified in two prior audit reports.

Good business practice requires that bank reconciliations be completed before the receipt of the next month-end bank statements in order to identify reconciling items and errors in a timely manner.

Recommendation:

KRC must amend its policy to ensure bank reconciliations are completed timely. Completing bank reconciliations timely will aid in the early detection of errors and inappropriate transactions.

Finding 6: **<u>Bank Signature Cards Not Updated</u>**

The review of KRC's bank signature cards revealed that KRC does not have updated signature cards on file. The signature cards contained signatory authority for individuals who no longer are employed by KRC.

State Contract, Article III, Section 3(f) states in part:

"All bank accounts and any investment vehicles containing funds from this contract and used for regional center operations, employee salaries and benefits or for consumers' services and supports, shall be in the name of the State and Contractor."

Also, State Contract, Article III, Section 3(g) states in part:

"For the bank accounts above referenced, there shall be prepared three (3) alternative signature cards with riders attached to each indicating their use."

Recommendation:

KRC must ensure that current signatory authorizations are maintained for all State funded bank accounts as required by the contract with the State.

Finding 7: <u>Stale-Dated Checks</u>

The review of KRC bank accounts revealed, as of June 30, 2017, 15 checks totaling $9,540.65 remained outstanding for more than six months, with the oldest checks dating back to September 2013. This issue was identified in the prior audit. KRC stated that this occurred due to excessive workload of the Accounting Manager and his subsequent separation of employment from KRC. (See Attachment F)

KRC's Bank Reconciliation Policy states in part:

"Every six months, all outstanding checks shall be stale dated, unless otherwise noted from research to void the check and reissue."

Recommendation:

KRC must follow its Bank Reconciliation Policy for stale dated checks and research each stale dated check to determine if the checks should be voided or re-issued. Allowing stale-dated checks to remain on the bank account will misrepresent the actual bank balance.

Finding 8: <u>Lack of Minutes for Closed Board Meetings</u> (Repeat)

The review of KRC's Board minutes revealed that minutes were recorded for all open Board meetings; however, KRC did not retain minutes of its closed Board meetings, including meetings which involved discussions related to employee governance policies, labor issues, and lawsuits. This issue was identified in two prior audit reports. However, KRC did not address how it would resolve this issue of recording or maintaining closed Board minutes.

Welfare and Institutions (W&I) Code, Article 3, Section 4663 (a) and (b) states:

> "(a) The governing board of a regional center may hold a closed meeting to discuss or consider one or more of the following:
>
> (1) Real estate negotiations.
> (2) The appointment, employment, evaluation of performance, or dismissal of a regional center employee.
> (3) Employee salaries and benefits.
> (4) Labor contract negotiations.
> (5) Pending litigation….
>
> Minutes of closed sessions shall be kept by a designated officer or employee of the regional center, but these minutes shall not be considered public records. Prior to and directly after holding any closed session, the regional center board shall state the specific reason or reasons for the closed session. In the closed session, the board may consider only those matters covered in its statement."

Recommendation:

KRC must ensure all minutes of closed Board sessions are recorded and retained by a designated officer or employee of KRC. In addition, prior to, and directly after, holding any closed session, KRC's Board shall state the specific reason or reasons for the closed session.

Finding 9: <u>Annual Family Program Fee – Assessments Not Supported</u>

The sample review of 20 AFPF assessments revealed four instances where families were assessed less than the required $200 fee. KRC could not provide the families' income documentation to justify the lower assessed fee of $150. (See Attachment G)

DDS Annual Family Fee Program Procedures Section II (A) states:

> "Regional center shall, at the time of intake or at the time of development, scheduled review, or modification of a consumer's Individual Program Plan (IPP) or Individualized Family Services Plan (IFSP), but no later than June 30, 2012, initially assess the $200 AFPF when all of the criteria in WIC Section 4785(a)(1)(A)-(E) is met. Regional center shall provide parents a remittance form (appendix C, DDS form DS6010) and an envelope for the mailing of the $200 AFPF to the Department of Developmental Services (Department or DDS)."

DDS Annual Family Fee Program Procedures Section II (C) states:

> "Upon request from the parents, regional centers shall review, and when applicable, adjust the family's fee assessment if it is demonstrated that the adjusted gross family income is less than 800 percent of the federal poverty level (FPL). Families shall provide the regional center with records to show their total adjusted gross family income as defined in WIC Section 4785 (j)(1)…. If the parents' income is determined to be below 800 percent of the current year FPL, the regional center shall adjust the annual family fee to $150.00. If the parents' adjusted gross income is below 400 percent of current year FPL, the family shall not be assessed the AFPF."

Recommendation:

KRC must follow the AFPF procedures provided by DDS which requires regional centers to verify families' annual incomes.

Finding 10: <u>Vendors Not Enrolled into E-Billing</u>

The review of KRC's electronic billing process revealed 100 vendors that were not enrolled into E-Billing. None of these vendors were paid with vouchers or demonstrated that enrolling into electronic billing would present a financial hardship, which would preclude them from E-Billing.

WIC Section 4641.5 (a) states:

> "(a) Effective July 1, 2011, all regional centers shall begin transitioning all vendors of all regional center services to electronic billing for services purchased through a regional center. All vendors and contracted providers shall submit all billings electronically for services provided on or after July 1, 2012, with the exception of the following:
>
> (1) A vendor or provider whose services are paid for by vouchers, as that term is defined in subdivision (i) of section 4512 of the Welfare and Institution Code.
>
> (2) A vendor or provider who demonstrates that submitting billings electronically for services presents substantial financial hardship for the provider."

Recommendation:

KRC must continue to work on enrolling the 100 vendors into the E-Billing process to ensure compliance with the Welfare and Institution Code, Section 4641.5 (a).

EVALUATION OF RESPONSE

As part of the audit report process, KRC was provided with a draft audit report and was requested to provide a response to the findings. KRC's response dated December 4, 2020, is provided as Appendix A.

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

Finding 1: Overstated Claims

A. Negotiated Rates Above the Median Rate

KRC agreed with the finding, but when it requested to renegotiate the providers' rates, both George Leckner and Just Johnson gave notice and closed their business, in May 2017 and December 2018, respectively. KRC stated in its response that the Lanterman Act does not address a regional center as a guarantor of its vendors' legal obligations and, therefore, DDS should not hold KRC legally liable for the reimbursements of funds that are owed by its former vendors. KRC is requesting DDS to reconsider its recommendation to reimburse the overpayment, since it believes it may not be cost-effective to pursue such claims.

DDS does not agree that KRC should not be held legally liable for the reimbursements of funds, since it was KRC's actions that caused the overpayment when it negotiated the rates above the median rate with the vendors. Therefore, DDS stands by its recommendation that KRC reimburse the overpayment totaling $1,856,834.62, since it did not comply with W&I Code, Section 4691.9, which requires all vendor rates negotiated after June 30, 2008, to be at or below the Statewide/KRC Median Rates.

B. Rate Increase After the Rate Freeze (Repeat)

KRC agreed with the finding and overpayments for two vendors, Inyo-Mono Association and AIMES, but disagreed with the overpayments to Horrigan Cole and ETA Tehachapi.

KRC stated that it failed to collect or change the Horrigan Cole rate because the provider appealed its collection request to DDS and KRC is waiting for DDS' feedback on the appeal. KRC also does not believe that it should reimburse DDS for the ETA Tehachapi overpayment since DDS audited the vendor and sent a collection letter for the overpayment.

DDS disagrees with KRC's response regarding the appeal by Horrigan Cole as this was an audit of KRC, not an audit of Horrigan Cole. Horrigan Cole cannot appeal the DDS audit of KRC, since it was KRC that created the overpayment when it negotiated the rate increase with Horrigan Cole after the rate freeze became effective on July 1, 2008; therefore KRC has the responsibility to reimburse DDS the overpayments made to the vendor. Of note, DDS will be informing Horrigan Cole that the appropriate appellant is KRC, not Horrigan Cole.

In addition, DDS also disagrees with KRC's response that DDS audited ETA Tehachapi and sent the provider a collection letter for the overpayment. The vendor audited by DDS and sent a collection letter totaling $3,986,385.59 was ETA Bakersfield, Vendor Number PK3268, Service Code 063 and not ETA Tehachapi, Vendor Number PK3742, Service Code 063.

Therefore, KRC must reimburse DDS the overpayments to the four vendors from July 2014 through June 2016 totaling $773,846.55, due to noncompliance with W&I Code, Section 4648.4(b).

C. Partial Month Stays (Repeat)

KRC agreed with the finding and stated that it will reimburse DDS the overpayment totaling $7,617.23 but did not address the underpayments to the vendors totaling $11,621.65. In addition, KRC indicated that going forward it will review partial month payments to ensure prorations are calculated correctly. DDS will conduct a follow-up during the next scheduled audit to determine if over and underpayments to the vendors have been resolved.

Finding 2: Equipment Inventory (Repeat)

KRC agreed with the finding and provided DDS with its newly implemented guidelines for fixed assets. KRC stated that it was in the process of conducting a full physical inventory of all equipment, though the process had been delayed due to COVID. In addition, KRC stated that all current purchases were being tagged and recorded according to the guidelines. DDS will conduct a follow-up during the next scheduled audit to determine if these guidelines are followed and this issue has been resolved.

Finding 3: **<u>Improper Allocation of CPP Funds</u> (Repeat)**

KRC agreed that one consumer UCI [redacted] who moved from a Developmental Center (DC) to the community on June 16, 2015 continued to receive services beyond the FY of placement, a total of $1,151.04. KRC provided its new guidelines which indicate that it will monitor and track the placement of each DC mover. In addition, its Service Coordinators will review POS authorizations during quarterly meetings to ensure CPP services are not provided beyond the FY of placement.

Finding 4: **<u>Family Cost Participation Program – Late Assessments</u> (Repeat)**

KRC agreed with the finding and provided its newly implemented procedures to resolve late assessments. DDS will conduct a follow-up during the next scheduled audit to determine if these procedures are followed and if the issue has been resolved.

Finding 5: **<u>Bank Reconciliations Not Completed Timely (Repeat)</u>**

KRC agreed with the finding and stated that since late 2018, bank reconciliations are completed on a monthly basis, and immediately after the state claim is completed. DDS will conduct a follow-up during the next scheduled audit to determine if bank reconciliations are completed timely.

Finding 6: **<u>Bank Signature Cards Not Updated</u>**

KRC agreed with the finding and stated that bank signature cards have been updated; however, KRC did not provide copies of the signature cards to DDS for review. DDS will conduct a follow-up during the next scheduled audit to ensure KRC has updated the bank signature cards on file.

Finding 7: **<u>Stale-Dated Checks</u>**

KRC agreed with the finding and provided procedures implemented in late 2018 to resolve stale dated checks. DDS will conduct a follow-up during the next scheduled audit to ensure newly implemented procedures are followed.

Finding 8: **<u>Lack of Minutes for Closed Board Meetings</u> (Repeat)**

KRC agreed with the finding and stated that the Executive Assistant now attends and documents minutes during closed board meetings. The minutes are maintained by both the Executive Assistant and Executive Director. In addition, KRC stated that specific reasons for holding any closed sessions will be stated before and after each closed session. DDS will conduct a follow-up during the next scheduled audit to ensure closed board minutes are returned.

Finding 9: **<u>Annual Family Program Fee – Assessments Not Supported</u>**

KRC agreed with the finding and stated that it will follow the DDS AFPF procedures. DDS will conduct a follow-up during the next scheduled audit to determine if the DDS AFPF procedures are followed.

Finding 10: **<u>Vendors Not Enrolled into E-Billing</u>**

KRC agreed with the finding and stated that it has since enrolled 35 of its vendors into e-billing. KRC indicated that it is working on ensuring that by the end of 2020 all 65 remaining vendors are either included into e-billing or have requested and are granted waivers due to hardship. In addition, KRC indicated that it has included e-billing enrollment as part of the vendorization process.

ATTACHMENTS A - G

KERN REGIONAL CENTER

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

Appendix A

KRC'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.