

Date: September 27, 2016

To: Melvin Parker, Co-Owner
 Provider: Onyx Supportive Living, LLC
 Address: 211 Montano NW Suite H
 State/Zip: Albuquerque, New Mexico 87107

E-mail Address: mparker@osllc.com

Region: Metro
 Routine Survey: April 4 - 7, 2016
 Verification Survey: September 12 - 13, 2016

Program Surveyed: Developmental Disabilities Waiver

Service Surveyed: **2012:** *Living Supports* (Supported Living); *Inclusion Supports* (Customized Community Supports) and *Other* (Customized In-Home Supports)
2007: *Community Living* (Supported Living,) and *Community Inclusion* (Adult Habilitation)

Survey Type: Verification

Team Leader: Tricia Hart, AA, Healthcare Surveyor, Division of Health Improvement/Quality Management Bureau

Team Members: Nicole Brown, MBA, Healthcare Surveyor, Division of Health Improvement/Quality Management Bureau

Dear Mr. Parker;

The Division of Health Improvement/Quality Management Bureau has completed a Verification survey of the services identified above. The purpose of the survey was to determine compliance with your Plan of Correction submitted to DHI regarding the *Routine Survey on April 4 – 7, 2016*.

The Division of Health Improvement, Quality Management Bureau has determined your agency is in:

Compliance with Conditions of Participation

This concludes your Survey process. Please call the Plan of Correction Coordinator at 575-373-5716, if you have questions about the survey or the report. Thank you for your cooperation and for the work you perform.

Sincerely,

Tricia Hart, AA

Tricia Hart, AA
 Team Lead/Healthcare Surveyor
 Division of Health Improvement
 Quality Management Bureau

DIVISION OF HEALTH IMPROVEMENT
 5301 Central Avenue NE, Suite 400 • Albuquerque, New Mexico • 87108
 (505) 222-8623 • FAX: (505) 222-8661 • <http://www.dhi.health.state.nm.us>



QMB Report of Findings – Onyx Supportive Living, LLC. – Metro – September 12 -13, 2016

Survey Report #: Q.17.1.DDW.03187705.5.VER.01.16.271

Survey Process Employed:

Entrance Conference Date: September 12, 2016

Present: **Onyx Supportive Living, LLC.**
Melvin Parker, Co-Owner

DOH/DHI/QMB

Tricia Hart, AA, Team Lead/Healthcare Surveyor
Nicole Brown, MBA, Healthcare Surveyor

Exit Conference Date: September 13, 2016

Present: **Onyx Supportive Living, LLC.**
Melvin Parker, Co-Owner

DOH/DHI/QMB

Tricia Hart, AA, Team Lead/Healthcare Surveyor
Nicole Brown, MBA, Healthcare Surveyor

DDSD Metro Regional Office

Rose Mary Williams, Generalist

Administrative Locations Visited Number: 1

Total Sample Size Number: 5

1 - *Jackson* Class Members
4 - Non-*Jackson* Class Members

4 - Supported Living
1 - Adult Habilitation
1 - Customized Community Supports
1 - Customized In-Home Supports

Persons Served Records Reviewed Number: 5

Direct Support Personnel Records Reviewed Number: 88

Service Coordinator Records Reviewed Number: 1

Administrative Number: 1

Administrative Processes and Records Reviewed:

- Medicaid Billing/Reimbursement Records for all Services Provided
- Accreditation Records
- Oversight of Individual Funds
- Individual Medical and Program Case Files, including, but not limited to:
 - Individual Service Plans
 - Progress on Identified Outcomes
 - Healthcare Plans
 - Medication Administration Records
 - Medical Emergency Response Plans

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- Therapy Evaluations and Plans
- Healthcare Documentation Regarding Appointments and Required Follow-Up
- Other Required Health Information
- Internal Incident Management Reports and System Process / General Events Reports
- Personnel Files, including nursing and subcontracted staff
- Staff Training Records, Including Competency Interviews with Staff
- Agency Policy and Procedure Manual
- Caregiver Criminal History Screening Records
- Consolidated Online Registry/Employee Abuse Registry
- Human Rights Committee Notes and Meeting Minutes
- Quality Assurance / Improvement Plan

CC: Distribution List: DOH - Division of Health Improvement
DOH - Developmental Disabilities Supports Division
DOH - Office of Internal Audit
HSD - Medical Assistance Division
MFEAD – NM Attorney General

Attachment B

Department of Health, Division of Health Improvement QMB Determination of Compliance Process

The Division of Health Improvement, Quality Management Bureau (QMB) surveys compliance of the Developmental Disabilities Waiver (DDW) standards and state and federal regulations. QMB has grouped the CMS assurances into five Service Domains: Level of Care; Plan of Care; Qualified Providers; Health, Welfare and Safety; and Administrative Oversight (note that Administrative Oversight listed in this document is not the same as the CMS assurance of Administrative Authority. Used in this context it is related to the agency's operational policies and procedures, Quality Management system and Medicaid billing and reimbursement processes.)

The QMB Determination of Compliance process is based on provider compliance or non-compliance with standards and regulations identified in the QMB Report of Findings. All deficiencies (non-compliance with standards and regulations) are identified and cited as either a Standard level deficiency or a Condition of Participation level deficiency in the QMB Reports of Findings. All deficiencies require corrective action when non-compliance is identified.

Within the QMB Service Domains there are fundamental regulations, standards, or policies with which a provider must be in essential compliance in order to ensure the health and welfare of individuals served known as Conditions of Participation (CoPs).

The Determination of Compliance for each service type is based on a provider's compliance with CoPs in the following Service Domains.

Case Management Services (Four Service Domains):

- Plan of Care: ISP Development & Monitoring
- Level of Care
- Qualified Providers
- Health, Safety and Welfare

Community Living Supports / Inclusion Supports (Three Service Domains):

- Service Plans: ISP Implementation
- Qualified Provider
- Health, Safety and Welfare

Conditions of Participation (CoPs)

A CoP is an identified fundamental regulation, standard, or policy with which a provider must be in compliance in order to ensure the health and welfare of individuals served. CoPs are based on the Centers for Medicare and Medicaid Services, Home and Community-Based Waiver required assurances. A provider must be in compliance with CoPs to participate as a waiver provider.

QMB surveyors use professional judgment when reviewing the critical elements of each standard and regulation to determine when non-compliance with a standard level deficiency rises to the level of a CoP out of compliance. Only some deficiencies can rise to the level of a CoP (See the next section for a list of CoPs). The QMB survey team analyzes the relevant finding in terms of scope, actual harm or potential for harm, unique situations, patterns of performance, and other factors to determine if there is the potential for a negative outcome which would rise to the level of a CoP. A Standard level deficiency becomes a CoP out of compliance when the team's analysis establishes that there is an identified potential for

significant harm or actual harm. It is then cited as a CoP out of compliance. If the deficiency does not rise to the level of a CoP out of compliance, it is cited as a Standard Level Deficiency.

The Division of Health Improvement (DHI) and the Developmental Disabilities Supports Division (DDSD) collaborated to revise the current Conditions of Participation (CoPs). There are seven Conditions of Participation in which providers must be in compliance.

CoPs and Service Domains for Case Management Supports are as follows:

Service Domain: Plan of Care ISP Development & Monitoring

Condition of Participation:

1. **Individual Service Plan (ISP) Creation and Development:** Each individual shall have an ISP. The ISP shall be developed in accordance with DDSD regulations and standards and is updated at least annually or when warranted by changes in the individual's needs.

Condition of Participation:

2. **ISP Monitoring and Evaluation:** The Case Manager shall ensure the health and welfare of the individual through monitoring the implementation of ISP desired outcomes.

Service Domain: Level of Care

Condition of Participation:

3. **Level of Care:** The Case Manager shall complete all required elements of the Long Term Care Assessment Abstract (LTCAA) to ensure ongoing eligibility for waiver services.

CoPs and Service Domain for ALL Service Providers is as follows:

Service Domain: Qualified Providers

Condition of Participation:

4. **Qualified Providers:** Agencies shall ensure support staff has completed criminal background screening and all mandated trainings as required by the DDSD.

CoPs and Service Domains for Living Supports and Inclusion Supports are as follows:

Service Domain: Service Plan: ISP Implementation

Condition of Participation:

5. **ISP Implementation:** Services provided shall be consistent with the components of the ISP and implemented to achieve desired outcomes / action step.

Service Domain: Health, Welfare and Safety

Condition of Participation:

6. **Individual Health, Safety and Welfare: (Safety)** Individuals have the right to live and work in a safe environment.

Condition of Participation:

7. **Individual Health, Safety and Welfare (Healthcare Oversight):** The provider shall support individuals to access needed healthcare services in a timely manner. Nursing, healthcare services and healthcare oversight shall be available and provided as needed to address individuals' health, safety and welfare.

QMB Determinations of Compliance

Compliance with Conditions of Participation

The QMB determination of *Compliance with Conditions of Participation* indicates that a provider is in compliance with all Conditions of Participation, (CoP). The agency has obtained a level of compliance such that there is a minimal potential for harm to individuals' health and safety. To qualify for a determination of Compliance with Conditions of Participation, the provider must be in compliance with all Conditions of Participation in all relevant Service Domains. The agency may also have Standard level deficiencies (deficiencies which are not at the condition level) out of compliance in any of the Service Domains.

Partial-Compliance with Conditions of Participation

The QMB determination of *Partial-Compliance with Conditions of Participation* indicates that a provider is out of compliance with Conditions of Participation in one (1) to two (2) Service Domains. The agency may have one or more Condition level tags within a Service Domain. This partial-compliance, if not corrected, may result in a serious negative outcome or the potential for more than minimal harm to individuals' health and safety. The agency may also have Standard level deficiencies (deficiencies which are not at the condition level) in any of the Service Domains.

Providers receiving a repeat determination of Partial-Compliance for repeat deficiencies at the level of a Condition in any Service Domain may be referred by the Quality Management Bureau to the Internal Review Committee (IRC) for consideration of remedies and possible actions or sanctions.

Non-Compliance with Conditions of Participation

The QMB determination of *Non-Compliance with Conditions of Participation* indicates a provider is significantly out of compliance with Conditions of Participation in multiple Service Domains. The agency may have one or more Condition level tags in each of 3 relevant Service Domains. This non-compliance, if not corrected, may result in a serious negative outcome or the potential for more than minimal harm to individuals' health and safety. The agency may also have Standard level deficiencies (deficiencies which are not at the condition level) in any of the Service Domains

Providers receiving a repeat determination of Non-Compliance will be referred by Quality Management Bureau to the Internal Review Committee (IRC) for consideration of remedies and possible actions or sanctions.

**Guidelines for the Provider
Informal Reconsideration of Finding (IRF) Process**

Introduction:

Throughout the QMB Survey process, surveyors are openly communicating with providers. Open communication means surveyors have clarified issues and/or requested missing information before completing the review through the use of the signed/dated “Document Request,” or “Administrative Needs,” etc. forms. Regardless, there may still be instances where the provider disagrees with a specific finding. Providers may use the following process to informally dispute a finding.

Instructions:

1. The Informal Reconsideration of the Finding (IRF) request must be received in writing to the QMB Deputy Bureau Chief **within 10 business days** of receipt of the final Report of Findings.
2. The written request for an IRF *must* be completed on the QMB Request for Informal Reconsideration of Finding form available on the QMB website: <http://dhi.health.state.nm.us/qmb>
3. The written request for an IRF must specify in detail the request for reconsideration and why the finding is inaccurate.
4. The IRF request must include all supporting documentation or evidence.
5. If you have questions about the IRF process, email the IRF Chairperson, Crystal Lopez-Beck at Crystal.Lopez-Beck@state.nm.us for assistance.

The following limitations apply to the IRF process:

- The written request for an IRF and all supporting evidence must be received within 10 business days.
- Findings based on evidence requested during the survey and not provided may not be subject to reconsideration.
- The supporting documentation must be new evidence not previously reviewed or requested by the survey team.
- Providers must continue to complete their Plan of Correction during the IRF process
- Providers may not request an IRF to challenge the sampling methodology.
- Providers may not request an IRF based on disagreement with the nature of the standard or regulation.
- Providers may not request an IRF to challenge the team composition.
- Providers may not request an IRF to challenge the DHI/QMB determination of compliance or the length of their DDSD provider contract.

A Provider forfeits the right to an IRF if the request is not received within 10 business days of receiving the report and/or does not include all supporting documentation or evidence to show compliance with the standards and regulations.

The IRF Committee will review the request; the Provider will be notified in writing of the ruling; no face-to-face meeting will be conducted.

When a Provider requests that a finding be reconsidered, it does not stop or delay the Plan of Correction process. **Providers must continue to complete the Plan of Correction, including the finding in dispute regardless of the IRF status.** If a finding is removed or modified, it will be noted and removed or modified from the Report of Findings. It should be noted that in some cases a Plan of Correction may be completed prior to the IRF process being completed. The provider will be notified in writing on the decisions of the IRF committee.

Agency: Onyx Supportive Living, LLC. – Metro Region
Program: Developmental Disabilities Waiver
Service: *2012: Living Supports* (Supported Living); *Inclusion Supports* (Customized Community Supports) and *Other* (Customized In-Home Supports)
2007: Community Living (Supported Living) and *Community Inclusion* (Adult Habilitation)
Monitoring Type: Verification Survey
Routine Survey: April 4 – 7, 2016
Verification Survey: September 12 – 13, 2016

Standard of Care	Routine Survey Deficiencies April 4 – 7, 2016	Verification Survey New and Repeat Deficiencies September 12 - 13, 2016
<i>Service Domain: Service Plans: ISP Implementation – Services are delivered in accordance with the service plan, including type, scope, amount, duration and frequency specified in the service plan.</i>		
Tag # 1A08 Agency Case File	Standard Level Deficiency	COMPLETE
Tag # 1A32 and LS14 / 6L14 Individual Service Plan Implementation	Standard Level Deficiency	COMPLETE
Tag # LS14 / 6L14 Residential Case File	Standard Level Deficiency	COMPLETE
Tag # LS17 / 6L17 Reporting Requirements (Community Living Reports)	Standard Level Deficiency	COMPLETE
<i>Service Domain: Qualified Providers – The State monitors non-licensed/non-certified providers to assure adherence to waiver requirements. The State implements its policies and procedures for verifying that provider training is conducted in accordance with State requirements and the approved waiver.</i>		
Tag # 1A11.1 Transportation Training	Standard Level Deficiency	COMPLETE
Tag # 1A20 Direct Support Personnel Training	Standard Level Deficiency	COMPLETE
Tag # 1A26 Consolidated On-line Registry Employee Abuse Registry	Condition of Participation Level Deficiency	COMPLETE
Tag # 1A28.1 Incident Mgt. System - Personnel Training	Standard Level Deficiency	COMPLETE
Tag # 1A37 Individual Specific Training	Standard Level Deficiency	COMPLETE

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Service Domain: Health and Welfare – The state, on an ongoing basis, identifies, addresses and seeks to prevent occurrences of abuse, neglect and exploitation. Individuals shall be afforded their basic human rights. The provider supports individuals to access needed healthcare services in a timely manner.

Tag #1A08.2 Healthcare Requirements	Standard Level Deficiency	COMPLETE
Tag # 1A03 CQI System	Standard Level Deficiency	COMPLETE
Tag # 1A09 Medication Delivery Routine Medication Administration	Standard Level Deficiency	COMPLETE
Tag # 1A27.2 Duty to Report IRs Filed During On-Site and/or IRs Not Reported by Provider	Standard Level Deficiency	COMPLETE
Tag # 1A28.2 Incident Mgt. System - Parent/Guardian Training	Standard Level Deficiency	COMPLETE
Tag # 1A29 Complaints / Grievances Acknowledgement	Standard Level Deficiency	COMPLETE
Tag # 1A33 Board of Pharmacy – Med. Storage	Standard Level Deficiency	COMPLETE
Tag # LS25 / 6L25 Residential Health and Safety (SL/FL)	Standard Level Deficiency	COMPLETE

Service Domain: Medicaid Billing/Reimbursement – State financial oversight exists to assure that claims are coded and paid for in accordance with the reimbursement methodology specified in the approved waiver.

TAG #1A12
All Services Reimbursement (No Deficiencies Found)