

BEFORE THE  
DEPARTMENT OF DEVELOPMENTAL SERVICES  
STATE OF CALIFORNIA

In the Appeal of the Audit involving:

THE HENRY HOME,

Appellant,

vs.

CENTRAL VALLEY REGIONAL CENTER,

Respondent.

OAH No. 2012080551

**PROPOSED DECISION**

This matter was heard on November 13, 2012, in Fresno, California before Ann Elizabeth Sarli, Administrative Law Judge, Office of Administrative Hearings, State of California.

Appellant, The Henry Home, was represented by Cheryl Henry and Jerry Henry.

Central Valley Regional Center (CVRC) was represented by Joseph Hanna, CVRC Fiscal Monitor, and Daryl Walker, CVRC Chief Financial Officer.

Evidence was received, the matter was submitted and the record closed on November 13, 2012

**FACTUAL FINDINGS**

1. In January 2010, CVRC conducted an audit of the Personal and Incidentals (P&I) accounts of consumers residing in The Henry Home. The audit covered the period from August 2008 through December 2009. On February 11, 2010, CVRC issued a Final Audit Report, noting six Audit Exceptions, and specifying what actions The Henry Home was to take to resolve the Audit Exceptions.

2. The Henry Home appealed the CVRC Audit Report to the Department of Developmental Services (DDS), pursuant to California Code of Regulations (CCR), title 17,

section 50730 et seq. by filing a written request for an administrative review (Statement of Disputed Issues). CVRC filed a response to the Statement of Disputed Issues and the matter was reviewed by a DDS Review Officer, who issued a Letter of Findings.

3. The Letter of Findings found that four of the six Audit Findings had been resolved or that no action was required on those findings. The Letter of Findings modified Finding 2 of the Audit Exceptions and upheld Finding 6.

4. Both The Henry Home and CVRC appealed the Letter of Findings to this forum pursuant to CCR, title 17, section 50750. The Henry Home appealed both Findings 2 and 6. CVRC appealed the modification to Finding 2. At hearing, CVRC withdrew its appeal of the modification to Finding 2. This hearing is a trial de novo of the CVRC Final Audit Report-Audit Exceptions, in respect to Findings 2 and 6.

#### *Finding 2- Kyle R. 's P&I Account*

5. Finding 2 of Final Audit Report-Audit Exceptions concerns client Kyle R., who had a P&I account with The Henry Home as well as a personal bank account. The Henry Home received and disbursed funds on Kyle R.'s behalf, such as his monthly social security checks and wages. The amounts received were posted in Kyle R.'s ledger and the amounts spent or withdrawn were also posted. The audit showed that Kyle R.'s ledger account was inaccurate for entries on November 5, 2008, and that The Henry Home should credit Kyle R. certain sums because of the inaccurate postings.

6. The inaccurate postings occurred after Kyle R. returned home from a day program on November 5, 2008, with his pay check for \$214.67. He handed the check over to Mr. Henry, who took the pay stub off the check for Kyle R.'s records and then gave Kyle R. the pay check. Kyle R. took his paycheck to his bank, Bank of the Sierra, deposited \$194.67 into his account and received \$20 cash.

7. Mr. Henry failed to record the \$214.67 check in the "amount received" column of Kyle R.'s ledger. He did however record the dispersal of \$214.67 in the "amount spent or withdrawn" column of Kyle R.'s ledger. Consequently Kyle R.'s ledger balance was also inaccurate.

8. When the recording errors were pointed out to Mr. and Ms. Henry, they amended the entries in Kyle R.'s ledger. At hearing, they introduced Kyle R.'s Bank of the Sierra deposit slip as proof that Mr. Henry had given Kyle R. his paycheck.

9. After a discussion at hearing, CVRC agreed that Kyle R. was not financially harmed in any way by the ledger errors. Accordingly, although Finding 2 of the Final Audit Report-Audit Exceptions is sustained, no further action is required of The Henry Home in order to remedy the errors identified in Finding 2.

### *Finding 6-Facility Surety Bond*

10. Finding 6 of the Final Audit Report-Audit Exceptions pertains to the surety bond The Henry Home is required to maintain. At the time of the audit, The Henry Home maintained a surety bond in the amount of \$1,000 and had over \$2,279 in P&I accounts. Audit Finding 6 required The Henry Home to maintain a surety bond in excess of total P&I balances of the residents.

11. The Henry Home maintains that it should not be required to increase its surety bond coverage for several reasons: (1) each client's account is \$500 or less; (2) The Henry Home is licensed for a capacity of six residents, but now only has four clients; (3) The Henry Home has a line of credit available to it in the event it would need to reimburse clients for losses; and (4) CVRC is responsible for ensuring that the clients not have over \$500 in their accounts.

12. These arguments are not persuasive. Whether the amount of funds in each client account is \$500 or less is not pertinent. The total amount of the P&I accounts for all clients is the sum that must be protected by the surety bond. Here, even if the facility was to maintain only four clients and assuming each client has a cap of \$500 on the amount of funds s/he can keep, the total amount of the surety bond must meet or exceed \$2,000. Further, a line of credit in the name of the facility does not protect clients from the loss of funds. It is apparent that a surety bond of \$1,000 does not protect The Henry Home clients from loss of their P&I funds.

13. At hearing, CVRC agreed that it would accept a \$2,000 surety bond, but only until the next audit is conducted. At the time of the next audit, if the total of the client P&I accounts exceed \$2,000, CVRC would require that the surety bond be increased.

### LEGAL CONCLUSIONS

1. As set forth in Factual Findings 1 through 9, Finding 2 of the Final Audit Report-Audit Exceptions is sustained and The Henry Home's appeal of Finding 2 is denied. However, no further action is required of The Henry Home in order to remedy the errors identified in Finding 2.

2. As set forth in Factual Findings 1 through 4 and 10 through 13, Finding 6 of the Final Audit Report-Audit Exceptions is sustained and The Henry Home's appeal of Finding 6 is denied.

ORDER

The Henry Home shall secure a surety bond in the amount of at least \$2,000 within 10 days of the effective date of this decision and shall provide CVRC with documentation it has secured said bond within 15 days of the effective date of this decision.

December 27, 2012

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ANN ELIZABETH SARLI  
Administrative Law Judge  
Office of Administrative Hearings