



SUSANA MARTINEZ, GOVERNOR

CATHERINE D. TORRES, M.D., CABINET SECRETARY

Date: July 6, 2011

To: Bonnie Chapman, Assistant Director
Provider: Safe Harbor, Inc.
Address: 2982 Petunia Lane
State/Zip: Las Cruces, NM 88007

E-mail Address: bonbonexpress@yahoo.com

CC: Christine Chapman, Director/Owner
Address: 2982 Petunia Lane
State/Zip: Las Cruces, NM 88007

E-Mail Address: garychpm@aol.com

Region: Southwest
Routine Survey Date: January 18 - 19, 2011
Verification Survey: June 29, 2011
Program Surveyed: Developmental Disabilities Waiver
Service Surveyed: Community Living (Supported Living) & Community Inclusion (Adult Habilitation)
Survey Type: Verification
Team Leader: Deb Russell, BS, Healthcare Surveyor, Division of Health Improvement/Quality Management Bureau
Team Members: Valerie V. Valdez, MS, Healthcare Program Manager/Surveyor, Division of Health Improvement/Quality Management Bureau

Dear Ms. Chapman;

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/DDSD regarding the Routine Survey on January 18 – 19, 2011.

These findings will be reviewed by the DOH – Internal Review Committee during an upcoming review meeting. The findings are attached. You will be contacted by the Department for further instructions regarding your plan of correction requirements.

Please call the Plan of Correction Coordinator at 505-222-8647, if you have questions about the survey or the report. Thank you for your cooperation and for the work you perform.



Division of Health Improvement • Quality Management Bureau
5301 Central Avenue NE, Suite 400 • Albuquerque, New Mexico • 87108
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QMB Report of Findings – Safe Harbor, Inc. - Southwest Region – June 29, 2011

Survey Report #: Q11.04.79902782.SW.001.VS.01

Sincerely,

Deb Russell, BS

Deb Russell, BS
Team Lead/Healthcare Surveyor
Division of Health Improvement
Quality Management Bureau

Survey Process Employed:

Entrance Conference Date: June 29, 2011

Present: **Safe Harbor**
Bonnie Chapman, Assistant Director

DOH/DHI/QMB
Deb Russell, BS, Team Lead/Healthcare Surveyor
Valerie V. Valdez, MS, Healthcare Program Manager

Exit Conference Date: June 29, 2011

Present: **Safe Harbor**
Bonnie Chapman, Assistant Director

DOH/DHI/QMB
Deb Russell, BS, Team Lead/Healthcare Surveyor
Valerie V. Valdez, MS, Healthcare Program Manager

Administrative Locations Visited Number: 1

Total Sample Size Number: 3
1 - *Jackson* Class Members
2 - Non-*Jackson* Class Members
3 - Supported Living
3 - Adult Habilitation

Records Reviewed (Persons Served) Number: 1 (2 individuals had no issues which required verification)

Direct Service Professionals Interviewed Number: 0

Direct Service Professionals Record Review Number: 39

Service Coordinator Record Review Number: 1

Administrative Files Reviewed

- Medical Records
- Personnel Files
- Training Records
- Agency Policy and Procedure
- Caregiver Criminal History Screening Records
- Employee Abuse Registry

CC: Distribution List: DOH - Division of Health Improvement
DOH - Developmental Disabilities Supports Division
DOH - Office of Internal Audit
HSD - Medical Assistance Division

QMB Scope and Severity Matrix

Each deficiency in your Report of Findings is scored on a Scope and Severity Scale. The culmination of each deficiency's Scope and Severity is used to determine degree of compliance to standards and regulations and level of QMB Compliance Determination.

		SCOPE			
		Isolated 01% - 15%	Pattern 16% - 79%	Widespread 80% - 100%	
SEVERITY	High Impact	Immediate Jeopardy to individual health and or safety	J.	K.	L.
		Actual harm	G.	H.	I.
	Medium Impact	No Actual Harm Potential for more than minimal harm	D.	E.	F. (3 or more)
			D. (2 or less)		F. (no conditions of participation)
	Low Impact	No Actual Harm Minimal potential for harm.	A.	B.	C.

Scope and Severity Definitions:

- **Isolated:**
A deficiency that is limited to 1% to 15% of the sample, usually impacting few individuals in the sample.

- **Pattern:**
A deficiency that impacts a number or group of individuals from 16% to 79% of the sample is defined as a pattern finding. Pattern findings suggest the need for system wide corrective actions.

- **Widespread:**
A deficiency that impacts most or all (80% to 100%) of the individuals in the sample is defined as widespread or pervasive. Widespread findings suggest the need for system wide corrective actions as well as the need to implement a Continuous Quality Improvement process to improve or build infrastructure. Widespread findings could be referred to the Internal Review Committee for review and possible actions or sanctions.

QMB Determinations of Compliance

- “Substantial Compliance with Conditions of Participation”

The QMB determination of “Substantial Compliance with Conditions of Participation” indicates that a provider is in substantial compliance with all ‘Conditions of Participation’ and other standards and regulations. 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 Substantial Compliance with Conditions of Participation, the provider must be in compliance with all Conditions of Participation.

- “Non-Compliance with Conditions of Participation”

The QMB determination of “Non-Compliance with Conditions of Participation” indicates that a provider is out of compliance with one (1) or more ‘Conditions of Participation.’ This non-compliance, if not corrected, is likely to result in a serious negative outcome or the potential for more than minimal harm to individuals’ health and safety.

Providers receiving a repeat determination of ‘Non-Compliance’ may be referred by QMB to the Internal Review Committee (IRC) for consideration of remedies and possible actions.

- “Sub-Standard Compliance with Conditions of Participation”:

The QMB determination of “Sub-Standard Compliance with Conditions of Participation” indicates a provider is significantly out of compliance with Conditions of Participation and/or has:

- Multiple findings of widespread non-compliance with any standard or regulation with a significant potential for more than minimal harm.
- Any finding of actual harm or Immediate Jeopardy.

Providers receiving a repeat determination of ‘Substandard Compliance’ will be referred by QMB to the Internal Review Committee (IRC) for consideration of remedies and possible actions.

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 that surveyors have clarified issues and/or requested missing information before completing the review. 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 in writing to the QMB Deputy Bureau Chief **within 10 working days** of receipt of the final report.
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.

The following limitations apply to the IRF process:

- The request for an IRF and all supporting evidence must be received within 10 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 QMB compliance determination or the length of their DDSD provider contract.

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

QMB has 30 working days to complete the review and notify the provider of the decision. The request will be reviewed by the IRF committee. 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: Safe Harbor, Inc. - Southwest Region
Program: Developmental Disabilities Waiver
Service: Community Living (Supported Living) & Community Inclusion (Adult Habilitation)
Monitoring Type: Verification Survey
Date of Routine Survey: January 18 - 19, 2011
Date of Verification: June 29, 2011

Standard of Care	January 18 - 19, 2011 Deficiencies	June 29, 2011 Verification Survey - New and Repeat Deficiencies
Tag # 1A11.1 (CoP) Transportation Training	Scope and Severity Rating: F	Scope and Severity Rating: D
<p>Developmental Disabilities (DD) Waiver Service Standards effective 4/1/2007</p> <p>CHAPTER 1 II. PROVIDER AGENCY REQUIREMENTS: The objective of these standards is to establish Provider Agency policy, procedure and reporting requirements for DD Medicaid Waiver program. These requirements apply to all such Provider Agency staff, whether directly employed or subcontracting with the Provider Agency. Additional Provider Agency requirements and personnel qualifications may be applicable for specific service standards.</p> <p>G. Transportation: Provider agencies that provide Community Living, Community Inclusion or Non-Medical Transportation services shall have a written policy and procedures regarding the safe transportation of individuals in the community, which comply with New Mexico regulations governing the operation of motor vehicles to transport individuals, and which are consistent with DDSD guidelines issued July 1, 1999 titled "Client Transportation Safety". The policy and procedures must address at least the following topics:</p> <ol style="list-style-type: none"> (1) Drivers' requirements, (2) Individual safety, including safe locations for boarding and disembarking passengers, appropriate responses to hazardous weather and other adverse driving conditions, (3) Vehicle maintenance and safety inspections, (4) Staff training regarding the safe operation of the vehicle, assisting passengers and safe 	<p>Based on record review and interview, the Agency failed to provide staff training regarding the safe operation of the vehicle, assisting passengers and safe lifting procedures for 39 of 39 Direct Service Professionals.</p> <p>No documented evidence was found of the following required training:</p> <ul style="list-style-type: none"> • Transportation (DSP #40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77 & 78) <p>When #80 was asked if the transportation training included training on passenger safety the following was reported:</p> <ul style="list-style-type: none"> • #80 stated, "No." 	<p>Repeat/New Finding:</p> <p>Based on record review and interview, the Agency failed to provide staff training regarding the safe operation of the vehicle, assisting passengers and safe lifting procedures for 1 of 39 Direct Service Professionals.</p> <p>No documented evidence was found of the following required training:</p> <ul style="list-style-type: none"> • Transportation (DSP #85)

- lifting procedures,
- (5) Emergency Plans, including vehicle evacuation techniques,
- (6) Documentation, and
- (7) Accident Procedures.

Department of Health (DOH) Developmental Disabilities Supports Division (DDSD) Policy
Training Requirements for Direct Service Agency Staff Policy **Eff Date:** March 1, 2007

II. POLICY STATEMENTS:

I. Staff providing direct services shall complete safety training within the first thirty (30) days of employment and before working alone with an individual receiving services. The training shall address at least the following:

1. Operating a fire extinguisher
2. Proper lifting procedures
3. General vehicle safety precautions (e.g., pre-trip inspection, removing keys from the ignition when not in the driver's seat)
4. Assisting passengers with cognitive and/or physical impairments (e.g., general guidelines for supporting individuals who may be unaware of safety issues involving traffic or those who require physical assistance to enter/exit a vehicle)
5. Operating wheelchair lifts (if applicable to the staff's role)
6. Wheelchair tie-down procedures (if applicable to the staff's role)
7. Emergency and evacuation procedures (e.g., roadside emergency, fire emergency)

Tag # 1A25 (CoP) CCHS	Scope and Severity Rating: E	Scope and Severity Rating: D
<p>NMAC 7.1.9.8 CAREGIVER AND HOSPITAL CAREGIVER EMPLOYMENT REQUIREMENTS: F. Timely Submission: Care providers shall submit all fees and pertinent application information for all individuals who meet the definition of an applicant, caregiver or hospital caregiver as described in Subsections B, D and K of 7.1.9.7 NMAC, no later than twenty (20) calendar days from the first day of employment or effective date of a contractual relationship with the care provider.</p> <p>NMAC 7.1.9.9 CAREGIVERS OR HOSPITAL CAREGIVERS AND APPLICANTS WITH DISQUALIFYING CONVICTIONS: A. Prohibition on Employment: A care provider shall not hire or continue the employment or contractual services of any applicant, caregiver or hospital caregiver for whom the care provider has received notice of a disqualifying conviction, except as provided in Subsection B of this section.</p> <p>NMAC 7.1.9.11 DISQUALIFYING CONVICTIONS. The following felony convictions disqualify an applicant, caregiver or hospital caregiver from employment or contractual services with a care provider: A. homicide; B. trafficking, or trafficking in controlled substances; C. kidnapping, false imprisonment, aggravated assault or aggravated battery; D. rape, criminal sexual penetration, criminal sexual contact, incest, indecent exposure, or other related felony sexual offenses; E. crimes involving adult abuse, neglect or financial exploitation; F. crimes involving child abuse or neglect; G. crimes involving robbery, larceny, extortion, burglary, fraud, forgery, embezzlement, credit card fraud, or receiving stolen property; or H. an attempt, solicitation, or conspiracy involving any of the felonies in this subsection.</p>	<p>Based on record review, the Agency failed to maintain documentation indicating no “disqualifying convictions” or documentation of the timely submission of pertinent application information to the Caregiver Criminal History Screening Program was on file for 11 of 40 Agency Personnel.</p> <p>The following Agency Personnel Files contained no evidence of Caregiver Criminal History Screenings:</p> <ul style="list-style-type: none"> • #42 – Date of hire 5/12/2010 • #43 – Date of hire 5/201/2010 • #46 – Date of hire 12/5/2010 • #52 – Date of hire 12/5/2010 • #64 – Date of hire 5/12/2010 • #67 – Date of hire 8/3/2009 • #69 – Date of hire 10/9/2010 • #73 – Date of hire 4/15/2007 • #76 – Date of hire 12/5/2010 • #77 – Date of hire 12/5/2010 • #78 – Date of hire 8/20/2007 	<p>Repeat/New Finding:</p> <p>Based on record review, the Agency failed to maintain documentation indicating no “disqualifying convictions” or documentation of the timely submission of pertinent application information to the Caregiver Criminal History Screening Program was on file for 1 of 39 Agency Personnel.</p> <p>The following Agency Personnel Files contained no evidence of Caregiver Criminal History Screenings:</p> <ul style="list-style-type: none"> • #83 – Date of hire 6/3/2011

Developmental Disabilities (DD) Waiver Service Standards effective 4/1/2007
Chapter 1.IV. General Provider Requirements.
D. Criminal History Screening: All personnel shall be screened by the Provider Agency in regard to the employee's qualifications, references, and employment history, prior to employment. All Provider Agencies shall comply with the Criminal Records Screening for Caregivers 7.1.12 NMAC and Employee Abuse Registry 7.1.12 NMAC as required by the Department of Health, Division of Health Improvement.

Tag # 1A26 (CoP) COR / EAR	Scope and Severity Rating: E	Scope and Severity Rating: E
<p>NMAC 7.1.12.8 REGISTRY ESTABLISHED; PROVIDER INQUIRY REQUIRED: Upon the effective date of this rule, the department has established and maintains an accurate and complete electronic registry that contains the name, date of birth, address, social security number, and other appropriate identifying information of all persons who, while employed by a provider, have been determined by the department, as a result of an investigation of a complaint, to have engaged in a substantiated registry-referred incident of abuse, neglect or exploitation of a person receiving care or services from a provider. Additions and updates to the registry shall be posted no later than two (2) business days following receipt. Only department staff designated by the custodian may access, maintain and update the data in the registry.</p> <p>A. Provider requirement to inquire of registry. A provider, prior to employing or contracting with an employee, shall inquire of the registry whether the individual under consideration for employment or contracting is listed on the registry.</p> <p>B. Prohibited employment. A provider may not employ or contract with an individual to be an employee if the individual is listed on the registry as having a substantiated registry-referred incident of abuse, neglect or exploitation of a person receiving care or services from a provider.</p> <p>D. Documentation of inquiry to registry. The provider shall maintain documentation in the employee's personnel or employment records that evidences the fact that the provider made an inquiry to the registry concerning that employee prior to employment. Such documentation must include evidence, based on the response to such inquiry received from the custodian by the provider, that the employee was not listed on the registry as having a substantiated registry-referred incident of abuse, neglect or exploitation.</p> <p>E. Documentation for other staff. With respect to all employed or contracted individuals providing direct care who are licensed health care</p>	<p>Based on record review, the Agency failed to maintain documentation in the employee's personnel records that evidenced inquiry to the Employee Abuse Registry prior to employment for 20 of 40 Agency Personnel.</p> <p>The following Agency personnel records contained no evidence of the Employee Abuse Registry being completed:</p> <ul style="list-style-type: none"> • #42 – Date of hire 5/12/2010 • #43 – Date of hire 5/20/2010 • #78 – Date of hire 8/20/2007 <p>The following Agency Personnel records contained evidence that indicated the Employee Abuse Registry was completed after hire:</p> <ul style="list-style-type: none"> • #41 – Date of hire 6/21/2009. Completed 9/12/2009. • #46 – Date of hire 12/5/2010. Completed 1/19/2011. • #48 – Date of hire 4/13/2009. Completed 4/29/2009. • #52 – Date of hire 12/5/2010. Completed 1/19/2011. • #53 – Date of hire 1/3/2009. Completed 4/29/2009. • #54 – Date of hire 6/2/2008. Completed 6/17/2008. • #55 – Date of hire 3/14/2010. Completed 6/30/2010. • #57 – Date of hire 1/8/2009. Completed 	<p>Repeat/New Finding:</p> <p>Based on record review, the Agency failed to maintain documentation in the employee's personnel records that evidenced inquiry to the Employee Abuse Registry prior to employment for 8 of 39 Agency Personnel.</p> <p>The following Agency Personnel records contained evidence that indicated the Employee Abuse Registry was completed after hire:</p> <ul style="list-style-type: none"> • #82 – Date of hire 6/6/2011. Completed 6/20/2011. • #83 – Date of hire 6/3/2011. Completed 6/7/2011. • #87 – Date of hire 4/26/2011. Completed 4/29/2011. • #88 – Date of hire 4/11/2011. Completed 4/22/2011. • #89 – Date of hire 3/28/2011. Completed 4/7/2011. • #90 – Date of hire 2/17/2011. Completed 4/6/2011. • #91 – Date of hire 2/9/2011. Completed 2/16/2011. • #92 – Date of hire 6/6/2011. Completed 6/8/2011.

professionals or certified nurse aides, the provider shall maintain documentation reflecting the individual's current licensure as a health care professional or current certification as a nurse aide.

F. **Consequences of noncompliance.** The department or other governmental agency having regulatory enforcement authority over a provider may sanction a provider in accordance with applicable law if the provider fails to make an appropriate and timely inquiry of the registry, or fails to maintain evidence of such inquiry, in connection with the hiring or contracting of an employee; or for employing or contracting any person to work as an employee who is listed on the registry. Such sanctions may include a directed plan of correction, civil monetary penalty not to exceed five thousand dollars (\$5000) per instance, or termination or non-renewal of any contract with the department or other governmental agency.

Developmental Disabilities (DD) Waiver Service Standards effective 4/1/2007

Chapter 1.IV. General Provider Requirements.

D. Criminal History Screening: All personnel shall be screened by the Provider Agency in regard to the employee's qualifications, references, and employment history, prior to employment. All Provider Agencies shall comply with the Criminal Records Screening for Caregivers 7.1.12 NMAC and Employee Abuse Registry 7.1.12 NMAC as required by the Department of Health, Division of Health Improvement.

2/11/2010.

- #61 – Date of hire 11/10/2008. Completed 4/29/2009.
- #62 – Date of hire 4/13/2009. Completed 4/29/2009.
- #63 – Date of hire 8/3/2009. Completed 9/14/2009.
- #65 – Date of hire 6/8/2008. Completed 9/4/2008.
- #67 – Date of hire 8/3/2009. Completed 9/14/2009.
- #70 – Date of hire 8/3/2008. Completed 9/12/2009.
- #71 – Date of hire 6/8/2008. Completed 4/29/2009.
- #75 – Date of hire 1/3/2009. Completed 9/19/2009.
- #76 – Date of hire 12/5/2010. Completed 1/19/2011

Statute	January 18 – 19, 2011 Scope and Severity Ratings	June 29, 2011 Verification Survey Results
Tag # 1A07 SSI Payments	Scope and Severity Rating: C	Completed
Tag # 1A08 Agency Case File	Scope and Severity Rating: B	Completed
Tag # 1A15.2 & 5I09 - Healthcare Documentation	Scope and Severity Rating: D	Completed
Tag # 1A20 DSP Training Documents	Scope and Severity Rating: E	Completed
Tag # 1A28.1 (CoP) Incident Mgt. System - Personnel Training	Scope & Severity Rating: E	Completed
Tag # 1A28.2 (CoP) Incident Mgt. System - Parent/Guardian Training	Scope & Severity Rating: E	Completed
Tag # 1A29 Complaints / Grievances - Acknowledgement	Scope and Severity Rating: B	Completed
Tag # 1A33 Board of Pharmacy - Med Storage	Scope and Severity Rating: B	Completed
Tag # 5I44 AH Reimbursement	Scope and Severity Rating: C	Completed
Tag # 6L13 (CoP) - CL Healthcare Reqts.	Scope and Severity Rating: D	Completed
Tag # 6L14 Residential Case File	Scope and Severity Rating: E	Completed
Tag # 6L25 (CoP) Residential Health & Safety (Supported Living & Family Living)	Scope and Severity Rating: F	Completed