



MICHELLE LUJAN GRISHAM
Governor

PATRICK M. ALLEN
Cabinet Secretary Designate

Date: January 5, 2023

To: Ryan Sherman, Owner / Director

Provider: Ability First, LLC.
Address: 2610 San Mateo Blvd NE
State/Zip: Albuquerque, New Mexico 87110

E-mail Address: ryansherman@ability1st.com

CC: Brenda Resendiz, Programs Director
Email Address: bresendiz@ability1st.com

CC: Chelsey Hester, Operations Director
Email Address: chester@arizonaautism.com

CC: Lianne Lopez, RN / Director of Nursing
Email Address: llopez@ability1st.com

CC: Lynanne Gallegos, SL Director
Email Address: lgallegos@ability1st.com

Region: Metro
Routine Survey: May 27 – June 13, 2022
Verification Survey: December 12 – 21, 2022
Program Surveyed: Developmental Disabilities Waiver

Service Surveyed: Supported Living, Family Living, Customized In-Home Supports, Customized Community Supports, and Community Integrated Employment Services

Survey Type: Verification

Team Leader: Kaitlyn Taylor, BSW, Healthcare Surveyor, Division of Health Improvement/Quality Management Bureau

Team Members: Wolf Krusemark, BFA, Healthcare Surveyor Supervisor, Division of Health Improvement/Quality Management Bureau

Dear Mr. Ryan Sherman;

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 May 27 - June 13, 2022*.

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

Compliance: This determination is based on your agency's compliance with all Condition of Participation level and Standard level requirements. No deficiencies were identified during your survey and no plan of correction is

NMDOH - DIVISION OF HEALTH IMPROVEMENT
QUALITY MANAGEMENT BUREAU
5300 Homestead Road NE, Suite 300-3223, Albuquerque, New Mexico • 87110
(505) 470-4797 (or) (505) 231-7436 • FAX: (505) 222-8661 • nmhealth.org/about/dhi

QMB Report of Findings – Ability First, LLC. – Metro – December 12 – 21, 2022

Survey Report#: Q.23.2.DDW.24883310.5.VER.01.23.005

required. Thank you for your cooperation with the survey process and for helping to provide for the health, safety and personal growth of the Individuals you serve.

This concludes your Survey process. Please call the Plan of Correction Coordinator at 505-273-1930, if you have questions about the survey or the report. Thank you for your cooperation and for the work you perform.

Sincerely,

Kaitlyn Taylor, BSW

Kaitlyn Taylor, BSW
Team Lead/Healthcare Surveyor
Division of Health Improvement
Quality Management Bureau

Survey Process Employed:

Administrative Review Start Date:	December 12, 2022
Contact:	<u>Ability First, LLC.</u> Chelsey Hester, Operations Director <u>DOH/DHI/QMB</u> Kaitlyn Taylor, BSW, Team Lead/Healthcare Surveyor Wolf Krusemark, BFA, Team Lead/Healthcare Surveyor Supervisor
On-site Entrance Conference Date:	<i>Entrance conference was waived by provider</i>
Exit Conference Date:	December 21, 2022
Present:	<u>Ability First, LLC.</u> Lynanne Gallegos, SL Director Chelsey Hester, Operations Director Lianne Lopez, RN / Director of Nursing Brenda Resendiz, Programs Director Ryan Sherman, Owner / Director <u>DOH/DHI/QMB</u> Kaitlyn Taylor, BSW, Team Lead/Healthcare Surveyor Wolf Krusemark, BFA, Team Lead/Healthcare Surveyor Supervisor <u>DDSD - Metro Regional Office</u> Linda Clark, Assistant Regional Director Alicia Otolu, Social and Community Coordinator
Total Sample Size:	24 0 - Jackson Class Members 24 - Non-Jackson Class Members 10 - Supported Living 10 - Family Living 2 - Customized In-Home Supports 12 - Customized Community Supports 5 - Community Integrated Employment
Persons Served Records Reviewed	24
Direct Support Personnel Records Reviewed	181 (<i>Note: 1 DSP performs dual role as Service Coordinator</i>)
Direct Support Personnel Interviewed during Routine Survey	20
Substitute Care/Respite Personnel Records Reviewed	4
Service Coordinator Records Reviewed	5 (<i>Note: 1 Service Coordinator performs dual role as DSP</i>)
Nurse Interview completed during Routine Survey	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
 - 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
- Evacuation Drills of Residences and Service Locations
- 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
 NM Attorney General's Office

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 other state and federal regulations. For the purpose of the LCA / CI survey the CMS waiver assurances have been grouped into four (4) Service Domains: Plan of Care (ISP Implementation); 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 Assurance 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 during the on-site survey process and as reported in the QMB Report of Findings. All areas reviewed by QMB have been agreed to by DDS and DHI/QMB and are reflective of CMS requirements. 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.

Each deficiency in your Report of Findings has been predetermined to be a Standard Level Deficiency, a Condition of Participation Level Deficiency, if below 85% compliance or a non-negotiable Condition of Participation Level Deficiency. Your Agency's overall Compliance Determination is based on a Scope and Severity Scale which takes into account the number of Standard, and Condition Level Tags cited as well as the percentage of Individuals affected in the sample.

Conditions of Participation (CoPs)

CoPs are based on the Centers for Medicare and Medicaid Services, Home and Community-Based Waiver required assurances, in addition to the New Mexico Developmental Disability Waiver (DDW) Service Standards. The Division of Health Improvement (DHI), in conjunction with the Developmental Disability Support Division (DDS), has identified certain deficiencies that have the potential to be a Condition of Participation Level, if the tag falls below 85% compliance based on the number of people affected. Additionally, there are what are called non-negotiable Conditions of Participation, regardless if one person or multiple people are affected. In this context, a CoP is defined as an essential / fundamental regulation or standard, which when out of compliance directly affects the health and welfare of the Individuals served. If no deficiencies within a Tag are at the level of a CoP, it is cited as a Standard Level Deficiency.

Service Domains and CoPs for Living Care Arrangements and Community Inclusion are as follows:

Service Domain: Service Plan: ISP Implementation - Services are delivered in accordance with the service plan, including type, scope, amount, duration, and frequency specified in the service plan.

Potential Condition of Participation Level Tags, if compliance is below 85%:

- **1A08.3** – Administrative Case File: Individual Service Plan / ISP Components
- **1A32** – Administrative Case File: Individual Service Plan Implementation
- **LS14** – Residential Service Delivery Site Case File (ISP and Healthcare Requirements)
- **IS14** – CCS / CIES Service Delivery Site Case File (ISP and Healthcare Requirements)

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.

Potential Condition of Participation Level Tags, if compliance is below 85%:

- **1A20** - Direct Support Personnel Training

QMB Report of Findings – Ability First, LLC. – Metro – December 12 – 21, 2022

- **1A22** - Agency Personnel Competency
- **1A37** – Individual Specific Training

Non-Negotiable Condition of Participation Level Tags (one or more Individuals are cited):

- **1A25.1** – Caregiver Criminal History Screening
- **1A26.1** – Consolidated On-line Registry Employee Abuse Registry

Service Domain: Health, Welfare and Safety - *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.*

Potential Condition of Participation Level Tags, if compliance is below 85%:

- **1A08.2** – Administrative Case File: Healthcare Requirements & Follow-up
- **1A09** – Medication Delivery Routine Medication Administration
- **1A09.1** – Medication Delivery PRN Medication Administration
- **1A15.2** – Administrative Case File: Healthcare Documentation (Therap and Required Plans)

Non-Negotiable Condition of Participation Level Tags (one or more Individuals are cited):

- **1A05** – General Requirements / Agency Policy and Procedure Requirements
- **1A07** – Social Security Income (SSI) Payments
- **1A09.2** – Medication Delivery Nurse Approval for PRN Medication
- **1A15** – Healthcare Coordination - Nurse Availability / Knowledge
- **1A31** – Client Rights/Human Rights
- **LS25.1** – Residential Reqts. (Physical Environment - Supported Living / Family Living / Intensive Medical Living)

Attachment C

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 Bureau Chief **within 10 business days** of receipt of the final Report of Findings (**Note: No extensions are granted for the IRF**).
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: <https://nmhealth.org/about/dhi/cbp/irf/>
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, Valerie V. Valdez at valerie.valdez@doh.nm.gov 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.

QMB Determinations of Compliance

Compliance:

The QMB determination of *Compliance* indicates that a provider has either no deficiencies found during a survey or that no deficiencies at the Condition of Participation Level were found. 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*, the provider must have received no Conditions of Participation Level Deficiencies and have a minimal number of Individuals on the sample affected by the findings indicated in the Standards Level Tags.

Partial-Compliance with Standard Level Tags:

The QMB determination of *Partial-Compliance with Standard Level Tags* indicates that a provider is in compliance with all Condition of Participation Level deficiencies but is out of compliance with a certain percentage of Standard Level deficiencies. This partial compliance, if not corrected, may result in a negative outcome or the potential for more than minimal harm to individuals' health and safety. There are two ways to receive a determination of Partial Compliance with Standard Level Tags:

1. Your Report of Findings includes 16 or fewer Standards Level Tags with between 75% and 100% of the survey sample affected in any tag.
2. Your Report of Findings includes 17 or more Standard Level Tags with between 50% to 74% of the survey sample affected in any tag.

Partial-Compliance with Standard Level Tags and Condition of Participation Level Tags:

The QMB determination of *Partial-Compliance with Standard Level Tags and Condition of Participation Level Tags* indicates that a provider is out of compliance with one to five (1 – 5) Condition of Participation Level Tags. 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.

Non-Compliance:

The QMB determination of *Non-Compliance* indicates a provider is significantly out of compliance with both Standard Level deficiencies and Conditions of Participation level deficiencies. 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. There are three ways an agency can receive a determination of Non-Compliance:

1. Your Report of Findings includes 17 or more total Tags with 0 to 5 Condition of Participation Level Tags with 75% to 100% of the survey sample affected in any Condition of Participation Level tag.
2. Your Report of Findings includes any amount of Standard Level Tags with 6 or more Condition of Participation Level Tags.

Compliance Determination	Weighting						
	LOW		MEDIUM			HIGH	
Total Tags:	up to 16	17 or more	up to 16	17 or more	Any Amount	17 or more	Any Amount
	and	and	and	and	And/or	and	And/or
COP Level Tags:	0 COP	0 COP	0 COP	0 COP	1 to 5 COP	0 to 5 CoPs	6 or more COP
	and	and	and	and		and	
Sample Affected:	0 to 74%	0 to 49%	75 to 100%	50 to 74%		75 to 100%	
“Non-Compliance”						17 or more Total Tags with 75 to 100% of the Individuals in the sample cited in any CoP Level tag.	Any Amount of Standard Level Tags and 6 or more Conditions of Participation Level Tags.
“Partial Compliance with Standard Level tags and Condition of Participation Level Tags”					Any Amount Standard Level Tags, plus 1 to 5 Conditions of Participation Level tags.		
“Partial Compliance with Standard Level tags”			up to 16 Standard Level Tags with 75 to 100% of the individuals in the sample cited in any tag.	17 or more Standard Level Tags with 50 to 74% of the individuals in the sample cited any tag.			
“Compliance”	Up to 16 Standard Level Tags with 0 to 74% of the individuals in the sample cited in any tag.	17 or more Standard Level Tags with 0 to 49% of the individuals in the sample cited in any tag.					

Agency: Ability First, LLC. – Metro Region
Program: Developmental Disabilities Waiver
Service: Supported Living, Family Living, Customized In-Home Supports, Customized Community Supports, and Community Integrated Employment Services
Survey Type: Verification
Routine Survey: May 27 – June 13, 2022
Verification Survey: December 12 – 21, 2022

Standard of Care	Routine Survey Deficiencies May 27 – June 13, 2022	Verification Survey New and Repeat Deficiencies December 12 – 21, 2022
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.		
Tag # 1A08 Administrative Case File (Other Required Documents)	Standard Level Deficiency	Complete
Tag # 1A08.3 Administrative Case File: Individual Service Plan / ISP Components	Standard Level Deficiency	Complete
Tag # 1A08.1 Administrative and Residential Case File: Progress Notes	Standard Level Deficiency	Complete
Tag # 1A32 Administrative Case File: Individual Service Plan Implementation	Standard Level Deficiency	Complete
Tag # 1A32.1 Administrative Case File: Individual Service Plan Implementation (Not Completed at Frequency)	Standard Level Deficiency	Complete
Tag # IS04 Community Life Engagement	Standard Level Deficiency	Complete
Tag # LS14 Residential Service Delivery Site Case File (ISP and Healthcare Requirements)	Condition of Participation Level Deficiency	Complete
Tag # LS14.1 Residential Service Delivery Site Case File (Other Req. Documentation)	Standard Level Deficiency	Complete
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.		
Tag # 1A22 Agency Personnel Competency	Condition of Participation Level Deficiency	Complete
Tag # 1A43.1 General Events Reporting: Individual Reporting	Standard Level Deficiency	Complete
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 Administrative Case File: Healthcare Requirements & Follow-up	Standard Level Deficiency	Complete
Tag # 1A05 General Requirements / Agency Policy and Procedure Requirements	Condition of Participation Level Deficiency	Complete

QMB Report of Findings – Ability First, LLC. – Metro – December 12 – 21, 2022

Survey Report#: Q.23.2.DDW.24883310.5.VER.01.23.005

Tag # 1A09 Medication Delivery Routine Medication Administration	Condition of Participation Level Deficiency	Complete
Tag # 1A09.1 Medication Delivery PRN Medication Administration	Condition of Participation Level Deficiency	Complete
Tag # 1A09.1.0 Medication Delivery PRN Medication Administration	Standard Level Deficiency	Complete
Tag # 1A09.2 Medication Delivery Nurse Approval for PRN Medication	Condition of Participation Level Deficiency	Complete
Tag # 1A15.2 Administrative Case File: Healthcare Documentation (Therap and Required Plans)	Condition of Participation Level Deficiency	Complete
Tag # 1A33.1 Board of Pharmacy - License	Standard Level Deficiency	Complete
Tag # LS25 Residential Health & Safety (Supported Living / Family Living / Intensive Medical Living)	Standard Level Deficiency	Complete
<i>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.</i>		
Tag # IS30 Customized Community Supports Reimbursement	Standard Level Deficiency	Complete