**Disability Network West Michigan**

**Review of Individual Complaints**

**Period – January 1, 2015 through March 15, 2016**

**Prepared by the Michigan Department of Health & Human Services**

**Office of Quality Assurance & Internal Control**

**Report Issued April 18, 2016**



**Michigan Department of Health & Human Services**

**Background and Description of Activities**

The Michigan Department of Health and Human Services (MDHHS), Michigan Rehabilitation Services (MRS) contracts with 15 Centers for Independent Living (CIL) around the State of Michigan. These agencies provide services to reduce dependency of people with disabilities and promote personal control over their lives by providing:

1. Peer support
2. Independent living skills training
3. Advocacy
4. Information and referral
5. Transition from institutional settings

Disability Network of West Michigan (DNWM), located in Muskegon, MI is one of the CIL’s providing these services.

**Background and Description**

A group of individuals established the “Peer Action Alliance” and created a webpage (peeractionalliance.com) with the same name. The contents of the webpage appear to accuse DNWM of: fraud, non-compliance with federal regulations (consumer control), failure to provide open meetings, and a variety of other negative accusations. Our review of Peer Action Alliance did not identify any evidence that this organization; has tax-exempt status, is incorporated, or obtained any other form of legal standing. As such, it appears Peer Action Alliance is an unincorporated group of individuals. Since there is no legal standing for Peer Action Alliance, this report will refer to the creators of the complaints as “Individuals”.

**MRS Request for Review of Disability Network West Michigan**

MRS requested the MDHHS Office of Quality Assurance & Internal Control (OQAIC) perform a review of the accusations made on the webpage to determine if there is validity to these statements and to determine if DNWM has violated federal regulations.

**Relationship of Individuals to DNWM**

We were informed by the Board of Directors of DNWM and the prior executive director that many of these people appear to be prior employees of DNWM who left employment for a variety of reasons. Another person making the complaints applied for the Executive Director opening, but was not awarded the position.

Other historical involvement reported by the DNWM Board of Directors related to these people include the President of the DNWM board of directors requested in writing to the people, “…refrain from using language that is slanderous or libelous when talking about Disability Network West Michigan.”

Many of the accusations and complaints posted on the webpage are written by people who had the aforementioned prior experiences with DNWM.

**Development of Scope**

We reviewed the individuals’ webpage and noted many accusations against DNWM of fraud and non-compliance with federal requirements. See Appendix A for selected accusations taken from the webpage on March 15, 2016. We categorized these accusations into two groups, and made these categories the scope of our review:

* Accusations concerning violations of the Board of Directors related to open meetings.
* Accusations concerning violations of consumer control requirements - disability make-up of both DNWM Board of Directors and staff.

**Period of Review**

An accusation, made by the individuals on the same webpage stated:

“The Muskegon CIL has [held its Board meetings in a secret time and location since January 2015](http://peeractionalliance.com/2015/05/26/appointment-of-new-executive-director-unveils-widespread-dysfunction-and-abuse-of-public-funds-at-disability-network-west-michigan/) – fifteen months ago.”

Therefore, OQAIC developed a review period to coincide with this statement. The review period is January 1, 2015 to March 15, 2016.

**DNWM Prior Actions to Address Complaints**

For the period January 1, 2015 to March 15, 2016, both the Executive Director and the Board of Directors of DNWM took ongoing steps to address the complaints levied by these individuals. DNWM actions were directed to address concerns and respond to any accusations concerning non-compliance of the agency.

These actions included, but were not limited to; meeting one-on-one with individuals to discuss issues, and inviting these individuals to sub-committee meetings to obtain an understanding of the policies and procedures of DNWM. See Appendix B for actions taken by the Board of Directors and the Executive Director to address these concerns and assist the individuals in understanding the operations and compliance requirements of the agency.

**The following are the steps we performed for each scope item and our conclusions**

**Scope Item 1**

*Accusations concerning violations of Board of Directors open meetings.*

We obtained a legal opinion as to whether or not DNWM is subject to the Open Meeting Act. The MDHHS legal staff determined that because they are a not-for-profit they are not subject to the Act.

We reviewed the contract between MDHHS and DNWM and determined that there is no contractual requirement that DNWM has to have open Board of Director’s meetings.

Finally, we examined a letter from DNWM to MDHHS certifying that they will hold open board meetings.

The letter states, in part:

“We certify that… the Board meets regularly according to an established calendar of meetings, which are generally open to the public.”

We obtained documents from DNWM identifying all Board meetings since January 1, 2015 to March 15, 2016. We reviewed agency records and noted that during this 15-month period DNWM had conducted 13 board meetings; 12 of these board meetings were open to the public, one meeting held on January 28, 2015 was closed to the public, by design, to discuss internal matters. Therefore, the results of our review indicate that for the past 15 months, 12 the board meetings were open to the public. We also obtained the agenda for each of these meetings and noted that a quorum was achieved for each meeting.

We requested from DNWM’s Board President the policies concerning whether or not Board meetings are open to the public.

The President’s response is as follows:

“Long standing general practice is to provide information about board of director meetings, dates and times to public inquiries. Meetings dates and times are not publically advertised.

DNWM has consistently held meetings on the 4th Wednesday of the month at 10:00 a.m. – 11:30 a.m. at the United Way Building 31 E. Clay Ave. Muskegon, MI 49442.

On occasion alternate meeting locations may be scheduled throughout our service area.

 Joe Doyle, Board President

 Disability Network West Michigan”

**Summary and Conclusion of review related to Open Board Meetings**

DNWM has no legal or contractual requirements to hold open board meetings. DNWM states in their letter that they will have “meetings, which are generally open to the public.” Our review concluded that they have open meetings in which the public can attend. DNWM did hold a meeting that was designed not to be open to the public, however, DNWM certification does not state that every meeting would be open to the public. Rather, they state that meetings are “generally” open to the public.

We conclude that DNWM complied with the requirement related to open meetings. We also concluded that the statements made in Appendix A under the caption “Quoted Statements from the Webpage concerning Board Meetings” could not be substantiated.

**Scope Item 2**

*Accusations concerning violations of consumer control requirements - disability make-up of both Board of Directors and staff.*

DNWM is funded with federal funds and is therefore required to comply with the requirements attached to the funding source. These federal regulations require DNWM to comply with the consumer control requirements. The Code of Federal Regulations (Title 34, [Subtitle B](https://www.law.cornell.edu/cfr/text/34/subtitle-B), [Chapter III](https://www.law.cornell.edu/cfr/text/34/chapter-III), [Part 366](https://www.law.cornell.edu/cfr/text/34/part-366), [Subpart G](https://www.law.cornell.edu/cfr/text/34/part-366/subpart-G), Section 366.63) provides guidance concerning consumer control:

“What evidence must a center present to demonstrate that it is in minimum compliance with the evaluation standards?

(a) **Compliance indicator 1—Philosophy**

(1) **Consumer control.**

(i) The center shall provide evidence in its most recent annual performance report that—

(A) Individuals with significant disabilities constitute more than 50 percent of the center's governing board; and

(B) Individuals with disabilities constitute more than 50 percent of the center's-

(1) Employees in decision-making positions; and

(2) Employees in staff positions.”

To determine whether DNWM was in compliance with these requirements for the period January 1, 2015 to March 15, 2016, we pulled the rosters for the Board of Directors, DNWM employees in decision making positions, and DNWM staff.

For the Board of Directors, we reviewed all statements in which the board member disclosed whether they have a disability. We then computed the disability ratio each quarter (number of board members with a disability/all board members) in the review period. Finally, we reviewed the board minutes to determine whether individuals with disabilities attended the board meetings.

We concluded that the disability ratio for the Board of Directors exceeded 50% for our period under review - the minimum requirement each quarter (See chart 1 below). We also determined that these same board members with disabilities regularly attended the board meetings.

Concerning employees in decision-making positions and staff, we obtained rosters for both groups for our review period. We reviewed all statements in which the employee disclosed whether they had a disability for both groups. We then computed the disability ratio for each group. Finally, for all employees in both groups we obtained proof of employment, by examining payroll records to ensure they were employed by DNWM during our review period.

We concluded that for both groups, employees in decision-making positions and staff, that the ratio exceeded 50% - the minimum requirement every quarter in our review period. Payroll records concluded that these same employees were employed and paid during our review period, see chart below.

**Disability Make-up of DNWN**

**Period: January 1, 2015 to March 15, 2016**

|  |  |  |  |
| --- | --- | --- | --- |
| Period | Disability Make-Up of Board of Directors | Disability Make-up of Employees in Decision Making Positions | Disability Make-up of Staff |
| January, February and March 2015 | 55% | 100% | 56% |
| April, May and June 2015  | 78% | 100% | 56% |
| July, August and September 2015 | 78% | 100% | 67% |
| October, November and December 2015 | 78% | 57% | 83% |
| January, February – Up to March15, 2016 | 80% | 57% | 79% |

**Conclusion Concerning Consumer Control**

We conclude that DNWM complied with theconsumer control requirements. Individuals with significant disabilities constituted more than 50 percent of DNWM’s governing board; and Individuals with disabilities constitute more than 50 percent of DNWM’s employees in decision-making positions; and employees in staff positions. We also concluded that all statements made in Appendix A under the caption, quoted statements from the webpage concerning consumer control, could not be substantiated.

Appendix A

Selected Accusations

Peer Action Alliance Webpage March 15, 2016

**Quoted Statements from the Webpage concerning Board Meetings:**

“The Muskegon CIL has [held its Board meetings in a secret time and location since January 2015](http://peeractionalliance.com/2015/05/26/appointment-of-new-executive-director-unveils-widespread-dysfunction-and-abuse-of-public-funds-at-disability-network-west-michigan/) – fifteen months ago.”

“Fraud in Michigan CILs: The State Cover Up” (Refers to [Disability Network West Michigan](http://disabilitynetworkwm.org/)’s open meetings)

“The standards and assurances are intended to determine eligibility for state funding. Because [Disability Network West Michigan](http://disabilitynetworkwm.org/) (Muskegon’s Center for Independent Living) is submitting false statements to MRS, its funding should be in jeopardy. Instead, we have been making a more reasonable request to MRS for the past thirteen months: please contact Disability Network West Michigan and ask them to fulfill their obligation to hold meetings that are “generally open to the public”.

“Communication has been completely cut off. The organization continues to pursue the goals of a typical charity and is working in direct contradiction to the interests of the disability community.”

“Since that time, the staff and Board have moved their Board meeting to a secret time and location.”

“[Disability Network West Michigan closed its board meetings to the public as soon as advocates began attending meetings](http://peeractionalliance.com/2015/01/28/no-show-slap-in-the-face-to-advocates/).”

“Muskegon’s Center for Independent Living) is submitting false statements to

MRS” (Referring to meetings generally open to the public).

““We certify that… the Board meets regularly according to an established calendar of meetings, which are generally open to the public.”” (Individuals quote DNWM letter)

**“We told them point blank:** That’s fraud**.” (**Relates to the above statement)

“Advocates have alerted MRS to the fact that our CIL is submitting sworn statements to the public and the state that are verifiably false.” (Relates to the statement above)

**Quoted Statements from the Webpage Concerning Consumer Control:**

“Because the staff and Board of Disability Network West Michigan is not consumer controlled, the organization cannot provide those services, despite the fact that they happily appropriate CIL funding.”

“We have significant concerns that vary widely, from discriminatory hiring and firing practices, to toxic community partnerships,…”

“We began educating senior staff and senior board members about the importance of hiring a person with a significant disability for the job. They told us in no uncertain terms to mind our own business and stop attempting to communicate with them.”

“She is not a person with a disability.” (Referring to the DNWM”s executive director).

“The Muskegon CIL does not employ people with significant disabilities on their staff and Board, and is therefore unable to represent our interests.”

Appendix B

Actions Taken by Disability Network of West Michigan’s

Board of Directors and Executive Director to Address Accusations

January 1, 2015 to March 15, 2016

**Executive Director’s Timeline of Events**

Note: The following statements are representations from Disability Network of West Michigan’s executive director, we have not audited or reviewed these statements or performed any other tests to ensure their accuracy.

|  |  |  |
| --- | --- | --- |
| **DATE** | **ACTIVITY** | **RESPONSE** |
|  | The executive director reports seven interactions between her and Peer Action Alliance Individuals before January 1, 2015  |  |
| January 9, 2015 | Email from an individual from Peer Action Alliance to DNWM board and New Executive Director. This individual restates her demand that the board of DNWM implement a plan to establish consumer control. Sends links for “Assessing the Health of your CIL.” This individual responds that she will not be preparing any “5 minute monologues.” She would like to engage in productive conversation around these topics and observe the board address them. States that is the type of invitation she is looking for. States she does not wish to be “thrown out of another meeting.” | Executive Director replies thanking the individual for links, states that the tools were shared with the team. Notes to the individual that public forum time is added to the DNWM agendaThe center is in full regulatory compliance therefore nothing further re: allegations otherwise. |
| January 13, 2015 | Email from an individual from Peer Action Alliance to DNWM board. This individual states that she has developed “concrete steps” for the “board to move forward on consumer control.”  | The board has determined that the center is in compliance despite these individuals allegations otherwise. |
| January 23, 2015 | Peer Action Alliance has placed allegations re: DNWM on a Facebook page and a web page. | Letter Sent to individual from Peer Action Alliance from Executive Director and Board President  |
| February 26, 2015 | Mediation Requested: Peer Action Alliance formally requested mediation services with DNWM to resolve issues around consumer control. | DNWM did not agree to mediation. Mediation is not appropriate as this is a federal compliance issue. The center is in full regulatory compliance and cannot mediate federal regulations.  |

|  |  |  |
| --- | --- | --- |
| April 16, 2015 | Received email and verbal request from Muskegon Community Foundation re: complaints filed on behalf of an individual from Peer Action Alliance – stating DNWM’s was not abiding by their by-laws, open meetings act, refusal to disclose 990 Received phone call from Insurance liability carrier re: complaints filed by an individual with Peer Action Alliance; that DNWM is out of compliance | Responded to Muskegon Community Foundation request, confirm that we are in compliance with all the allegations made to the foundation by an anonymous citizen. Responded to liability carrier in writing that we are in compliance with all allegations made to them by an anonymous citizen. |
| April 21, 2015 | Announcement on the P.A.A. website that they were meeting with representatives from D. Stabenow’s office | No request for information from Sen. Stabenow’s office |
| June 15, 2015 | Representative M. Hovey-Wright received complaints from an individual from Peer Action Alliance. Hovey-Wrights office sent the complaints to DHS/ Sue Howell. Meeting was established with Rep. Wright to clarify the complaints.  | DNWM board members and Executive Director met with Representative M. Hovey –Wright, the center is in full regulatory compliance.  |
| June 20, 2015 | Peer Action Alliance Stage protest at accessible beach boardwalk ribbon cutting | Boardwalk dedication is held as planned. No comment was given to the protesters. |
| August 04, 2015 | An individual from the Peer Action Alliance attended the DNWM sponsored 25th Anniversary of ADA picnic. This individual requests that our staff and the PAA members have a dialog re: advocacy. Restates that our staff and board must meet the requirements for consumer control and that we do not. Again stress and emphasis placed on significant disability by this individual.  | Executive Director speaks at length with the individual during the picnic re: her concerns on consumer control. Agreed to meet again at a later time in an effort to come to an “understanding of each other’s viewpoints.” |
| August 27, 2015 | Executive Director, Meeting with an individual from Peer Action Alliance at Panera Bread. This meeting was a reiteration of the claims made by this individual over the past several months re: consumer control per the federal regulations. States that she along with another member of Peer Action Alliance are expert at interpreting the Rehabilitation Act and they represent the “disability community” of Muskegon. | Met with this individual to hear her concerns. Will consider meeting again at some point in time in the future however, I have little hope for change as she is resistant to the facts. |

**Board of Director’s Timeline of Events**

Note: The following statements are representations from Disability Network of West Michigan’s Board of Directors, we have not audited or reviewed these statements or performed any other tests to ensure their accuracy.

|  |  |  |
| --- | --- | --- |
| **DATE** | **ACTIVITY** | **RESPONSE** |
|  | The Board of Director’s report sixteen interactions between the Board and Peer Action Alliance Individuals before January 1, 2015 |  |
| January 9, 2015 | Email to individual from Peer Action Alliance to DNWM board and New Executive Director Email from an individual from Peer Action Alliance to DNWM board. This individual restates her demand that the board of DNWM implement a plan to establish consumer control. This individual has developed “concrete steps” for the “board to move forward on consumer control.”  | The Board reviewed the information and determined that the center is in compliance. |
| January 13, 2015 | Email from an individual from Peer Action Alliance to DNWM board. This individual restates her demand that the board of DNWM implement a plan to establish consumer control. This individual has developed “concrete steps” for the “board to move forward on consumer control.”  | The Board reviewed the information and determined that the center is in compliance |
| January 23, 2015 | Letter Sent to individual from Peer Action Alliance from Executive Director and Board President   | The center is in full federal compliance and requests that the individual from Peer Action Alliance cease their activity.  |
| January 28, 2015 | DNWM board meeting venue change.  | DNWM moved its board meeting to an alternate site to allow Board business to be conducted in an orderly manner. The meeting was moved without notice.  The board received consultation from Disability Network Michigan – CEO regarding consumer control, and other allegations made by individuals. |
| February 26, 2015 | Mediation Requested: Peer Action Alliance formally requested mediation services with DNWM to resolve issues around consumer control. | The Board reviewed the information and determined that the center is in full federal regulatory compliance. DNWM cannot mediate federal regulations.  |