

Department of Developmental Services
Proposed Trailer Bill Language
653 Supported Living Assessment

Section 4689 of the Welfare and Institutions Code is amended to read:

4689. Consistent with state and federal law, the Legislature places a high priority on providing opportunities for adults with developmental disabilities, regardless of the degree of disability, to live in homes that they own or lease with support available as often and for as long as it is needed, when that is the preferred objective in the individual program plan. In order to provide opportunities for adults to live in their own homes, the following procedures shall be adopted:

(a) The department and regional centers shall ensure that supported living arrangements adhere to the following principles:

(1) Consumers shall be supported in living arrangements which are typical of those in which persons without disabilities reside.

(2) The services or supports that a consumer receives shall change as his or her needs change without the consumer having to move elsewhere.

(3) The consumer's preference shall guide decisions concerning where and with whom he or she lives.

(4) Consumers shall have control over the environment within their own home.

(5) The purpose of furnishing services and supports to a consumer shall be to assist that individual to exercise choice in his or her life while building critical and durable relationships with other individuals.

(6) The services or supports shall be flexible and tailored to a consumer's needs and preferences.

(7) Services and supports are most effective when furnished where a person lives and within the context of his or her day-to-day activities.

(8) Consumers shall not be excluded from supported living arrangements based solely on the nature and severity of their disabilities.

(b) Regional centers may contract with agencies or individuals to assist consumers in securing their own homes and to provide consumers with the supports needed to live in their own homes.

(c) The range of supported living services and supports available include, but are not limited to, assessment of consumer needs; assistance in finding, modifying and maintaining a home; facilitating circles of support to encourage the development of unpaid and natural supports in the community; advocacy and self-advocacy facilitation; development of employment goals; social, behavioral, and daily living skills training and support; development and provision of 24-hour emergency response systems; securing and maintaining adaptive equipment and supplies; recruiting, training, and hiring individuals to provide personal care and other assistance, including in-home supportive services workers, paid neighbors, and paid roommates; providing respite and emergency relief for personal care attendants; and facilitating community participation. Assessment of consumer needs may begin before 18 years of age to enable the consumer to move to his or her own home when he or she reaches 18 years of age.

(d) Regional centers shall provide information and education to consumers and their families about supported living principles and services.

(e) Regional centers shall monitor and ensure the quality of services and supports provided to individuals living in homes that they own or lease. Monitoring shall take into account all of the following:

(1) Adherence to the principles set forth in this section.

(2) Whether the services and supports outlined in the consumer's

individual program plan are congruent with the choices and needs of the individual.

(3) Whether services and supports described in the consumer's individual program plan are being delivered.

(4) Whether services and supports are having the desired effects.

(5) Whether the consumer is satisfied with the services and supports.

(f) The planning team, established pursuant to subdivision (j) of Section 4512, for a consumer receiving supported living services shall confirm that all appropriate and available sources of natural and generic supports have been utilized to the fullest extent possible for that consumer.

(g) Regional centers shall utilize the same supported living provider for consumers who reside in the same domicile, provided that each individual consumer's particular needs can still be met pursuant to his or her individual program plans.

(h) Rent, mortgage, and lease payments of a supported living home and household expenses shall be the responsibility of the consumer and any roommate who resides with the consumer.

(i) A regional center shall not make rent, mortgage, or lease payments on a supported living home, or pay for household expenses of consumers receiving supported living services, except under the following circumstances:

(1) If all of the following conditions are met, a regional center may make rent, mortgage, or lease payments as follows:

(A) The regional center executive director verifies in writing that making the rent, mortgage, or lease payments or paying for household expenses is required to meet the specific care needs unique to the individual consumer as set forth in an addendum to the consumer's individual program plan, and is required when a consumer's demonstrated medical, behavioral, or psychiatric condition presents a health and safety risk to himself or herself, or another.

(B) During the time period that a regional center is making rent, mortgage, or lease payments, or paying for household expenses, the supported living services vendor shall assist the consumer in accessing all sources of generic and natural supports consistent with the needs of the consumer.

(C) The regional center shall not make rent, mortgage, or lease payments on a supported living home or pay for household expenses for more than six months, unless the regional center finds that it is necessary to meet the individual consumer's particular needs pursuant to the consumer's individual program plan. The regional center shall review a finding of necessity on a quarterly basis and the regional center executive director shall annually verify in an addendum to the consumer's individual program plan that the requirements set forth in subparagraph (A) continue to be met.

(2) A regional center that has been contributing to rent, mortgage, or lease payments or paying for household expenses prior to July 1, 2009, shall at the time of development, review, or modification of a consumer's individual program plan determine if the conditions in paragraph (1) are met. If the planning team determines that these contributions are no longer appropriate under this section, a reasonable time for transition, not to exceed six months, shall be permitted.

(j) All paid roommates and live-in support staff in supported living arrangements in which regional centers have made rent, mortgage, or lease payments, or have paid for household expenses pursuant to subdivision (i) shall pay their share of the rent, mortgage, or lease payments or household expenses for the supported living home, subject to the requirements of Industrial Welfare Commission Order No. 15-2001 and the Housing Choice Voucher Program, as set forth in Section 1437f of Title 42 of the United States Code.

(k) Regional centers shall ensure that the supported living services vendors' administrative costs are necessary and reasonable, given the particular services that they are providing and the number of consumers to whom the vendor provides services. Administrative costs shall be limited to allowable costs for community-based day programs, as defined in Section 57434 of Title 17 of the California Code of Regulations, or its successor.

(l) Regional centers shall ensure that the most cost-effective of the rate methodologies is utilized to determine the negotiated rate for vendors of supported living services, consistent with Section 4689.8 and Title 17 of the California Code of Regulations.

(m) For purposes of this section, "household expenses" means general living expenses and includes, but is not limited to, utilities paid and food consumed within the home.

(n) A supported living services provider shall provide assistance to a consumer who is a Medi-Cal beneficiary in applying for in-home supportive services, as set forth in Section 12300, within five days of the consumer moving into a supported living services arrangement.

(o) For consumers receiving supported living services who share a household with one or more adults receiving supported living services, efficiencies in the provision of service may be achieved if some tasks can be shared, meaning the tasks can be provided at the same time while still ensuring that each person's individual needs are met. These tasks shall only be shared to the extent they are permitted under the Labor Code and related regulations, including, but not limited to, Industrial Welfare Commission Minimum Wage Order No. 15. The planning team, as defined in subdivision (j) of Section 4512, at the time of development, review, or modification of a consumer's individual program plan (IPP), for housemates currently in a supported living arrangement or planning to move together into a supported living arrangement, or for consumers who live with a housemate not receiving supported living services who is responsible for the task, shall consider, with input from the service provider, whether any tasks, such as meal preparation and cleanup, menu planning, laundry, shopping, general household tasks, or errands can appropriately be shared. If tasks can be appropriately shared, the regional center shall purchase the prorated share of the activity. Upon a determination of a reduction in services pursuant to this section, the regional center shall inform the consumer of the reason for the determination, and shall provide a written notice of fair hearing rights pursuant to Section 4701.

~~(p) To ensure that consumers in supported living arrangements receive the appropriate amount and type of supports, an independent assessment shall be required for consumers currently receiving, or initially entering, supported living who have supported living services costs, or have an initial recommendation for service costs, that exceed 125 percent of the annual statewide average cost of supported living services, as published by the department commencing June 30, 2011. Notwithstanding any other provision of law, commencing July 1, 2011, regional centers shall identify consumers currently receiving supported living services, pursuant to this section, whose annual supported living service costs exceed 125 percent of the annual statewide average cost of supported living services. The regional center shall also identify consumers who have an initial recommendation for supported living service costs that exceed 125 percent of the annual statewide average cost of supported living services. For those consumers identified pursuant to this subdivision, the regional center shall arrange for an independent assessment to be completed prior to the next scheduled IPP for consumers currently in a supported living arrangement and within 30 days of identification of consumers with an initial recommendation for services. The independent assessment shall be completed by an impartial entity or individual other than the supported living~~

services agency providing, or planning to provide, the service and shall be used during IPP meetings to assist the team to determine whether the services provided or recommended are necessary and sufficient and that the most cost-effective methods of service are utilized. Decisions about supported living shall be made by the IPP team. The independent assessment process shall adhere to all of the following:

(p)(1) To ensure that consumers in or entering supported living arrangements receive the appropriate amount and type of supports to meet the person's choice and needs as determined by the IPP team and that generic resources are utilized to the fullest extent possible, the IPP team shall complete a standardized assessment questionnaire at the time of development, review, or modification of a consumer's IPP. The questionnaire shall be used during the team meetings, in addition to the providers assessment, to assist in determining whether the services provided or recommended are necessary and sufficient and that the most cost-effective methods of supported living services are utilized. With input from stakeholders, the department shall develop and post the standardized assessment questionnaire and provide it to the regional centers by June 30, 2012.

~~(1) (2) Supported living service providers shall conduct comprehensive assessments for the purpose of getting to know the consumer they will be supporting and developing a support plan congruent with the choices and needs of the individual and consistent with the principles of supported living set forth in this section and in Subchapter 19 (commencing with Section 58600) of Chapter 3 of Division 2 of Title 17 of the California Code of Regulations. The independent assessment required by this paragraph is not intended to take the place of or repeat the service provider's comprehensive assessment. The purpose of the independent assessment is to provide an additional look at whether the supported living services being provided, or being proposed for a person initially entering supported living, are necessary, sufficient, or cost-effective to meet the person's choices and needs, as determined by the comprehensive assessment and the planning team. The independent needs assessment may include, but is not limited to, use of natural and generic support, technology that provides support otherwise necessary through direct staffing hours, shared housing, support alternatives, learning methods, lifting and transferring, bathroom, grooming, meals, communication, transportation, mobility, emergency procedures, medication management, household responsibilities, personal needs, interpersonal relationships, and behavioral, medical, and overnight supports.~~

~~—(2) A consumer shall not be excluded from supported living services based on an independent assessment.—(3) The entity or individual conducting independent assessments shall not be an employee of a regional center or the consumer's service provider. Current supported living providers may conduct independent assessments for consumers being supported, or about to be supported, by other providers. However a provider who conducts an independent assessment may not provide direct services to a consumer it has assessed for a period of one year. Each regional center shall publicly identify the entities and individuals it will use to conduct independent assessments. Regional centers shall ensure there are sufficient independent assessors so that assessments can be provided when required without undue delay.~~

~~—(4) Initial entry into supported living shall not be delayed for more than 30 days following the determination to request an independent assessment due to the need for an independent assessment pursuant to this section. If the independent assessment cannot be conducted within that time period, the individual may move into supported living with the amount of supports recommended by the service provider's comprehensive assessment and an additional IPP to consider the results of the~~

independent assessment shall be conducted when that assessment becomes available, if necessary. For individuals currently in a supported living arrangement, supports shall continue at the same level while the independent assessment is being conducted.

~~—(5) Independent assessors shall meet all of the following qualifications:~~

~~—(A) Have a demonstrated understanding of the foundation of supported living as a service that assists an individual to live in his or her own home with supports as needed to be part of their community and of the principles and operational requirements of supported living set forth in this section and in Subchapter 19 (commencing with Section 58600) of Chapter 3 of Division 2 of Title 17 of the California Code of Regulations.~~

~~—(B) Have a demonstrated understanding of the IPP process and the legal rights of people with developmental disabilities in California.~~

~~—(C) Have experience with the provision of supported living services in California.~~

~~—(6) The department shall establish a rate of payment for an independent assessment.~~

~~—(7) The planning team, as defined in subdivision (j) of Section 4512, shall consider the independent assessment along with the provider's assessment, if available, and any other relevant information in determining whether there should be any adjustment to the amount or type of supports currently being received by individuals in supported living arrangement or recommended for individuals initially entering supported living arrangement. Any decisions to reduce supports shall not be applied retroactively.~~

~~—(8) A consumer shall be reassessed as described in this subdivision every three years in conjunction with the consumer's IPP review to determine whether all services are necessary and sufficient and to ensure that the most cost-effective methods of service are being utilized.~~

~~—(9) Individuals who are moving to a supported living arrangement or have moved to a supported living arrangement from a developmental center or state-operated community facility shall not be required to have an additional assessment during the first 12 months following placement.~~

~~(10)~~ (3) Upon a determination of a reduction in services pursuant to this section, the regional center shall inform the consumer of the reason for the determination, and shall provide a written notice of fair hearing rights pursuant to Section 4701.

~~(11)~~ (4) Nothing in this section precludes the completion of an independent assessment for other purposes.