

663 Individual Choice Day Services

SECTION 1. Section 4688.1 of the Welfare and Institutions Code is hereby amended to read:

4688.1. (a) Notwithstanding any other provision of law or regulation to the contrary, vendors of behavior management, activity center, and adult development center day programs, social recreation programs, socialization training programs, community integration training programs, community activities support programs, creative art programs, and work activity programs shall offer an alternative senior program component focused on the needs of individuals with developmental disabilities who are over 50 years of age, at a rate not to exceed the lesser of thirty-five dollars (\$35) per day or the vendor's existing daily rate.

(1) The alternative senior program component shall be provided at a ratio of no more than eight consumers to one staff member.

(2) Consistent with the intent of the Lanterman Developmental Disabilities Services Act, the alternative senior program component shall be offered within the provider's existing vendored capacity as reflected in its program design or licensed capacity.

(b) Effective July 1, 2009, at the time of development, review, or modification of an eligible consumer's individual program plan, regional centers, as appropriate, shall provide information about and offer an alternative senior program. The alternative senior program shall be offered to eligible consumers who want to transition to a program component focused on the needs and interests of seniors.

(c) Effective July 1, 2011, a regional center shall not refer any additional consumers to alternative senior programs.

SEC. 2. Section 4688.2 of the Welfare and Institutions Code is hereby amended to read:

4688.2. (a) Notwithstanding any other provision of law or regulation to the contrary, vendors of behavior management, activity center, and adult development center adult day programs, community integration training programs, and community activities support services programs shall offer an alternative customized program component with an appropriate staffing component to meet individualized consumer needs.

(1) The alternative customized program component shall be offered within the provider's existing vendored capacity, as reflected in its program design or licensed capacity.

(2) The regional center shall fund customized programs based on the vendor's existing rate and only fund those hours provided.

(b) Effective July 1, 2009, at the time of development, review, or modification of a consumer's individual program plan, regional centers, as appropriate, shall provide information about and make available the customized program option.

(1) The alternative customized program component shall be offered to individuals with developmental disabilities who want a program focused on their individualized needs and interests to develop or maintain employment or volunteer activities in lieu of their current program.

(2) Total hours of service for this alternative customized program shall range between 20 and 80 hours per month, per person, depending on the support needs of the individual.

(c) Effective July 1, 2011, a regional center shall not refer any additional consumers to alternative customized programs.

SEC. 3. Section 4688.21 of the Welfare and Institutions Code is hereby added to read:

The Legislature places a high priority on opportunities for adults with developmental disabilities to choose and customize day services to meet their individualized needs; have opportunities to further the development or maintenance of employment and/or volunteer activities; direct their services; pursue post secondary education; and increase their ability to lead integrated and inclusive lives. To further these goals, a consumer may choose a tailored day service or vouchered community-based training service, in lieu of any other regional center vendored day program, look-alike day program, supported employment program, or work activity program.

(a) (1) A tailored day service shall:

(A) Include an individualized service design, as determined through the individual program plan and approved by the regional center, that maximizes the consumer's individualized choices and needs. This service design may include, but is not be limited to:

(i) fewer days or hours than in the program's approved day program, look-alike day program, supported employment program, or work activity program design;

(ii) flexibility on the duration and intensity of services to meet the consumer's individualized needs;

(B) Encourage opportunities to further the development or maintenance of employment, volunteer activities and/or pursuit of post secondary education; and maximize consumer direction of the service; and increase the consumer's ability to lead an integrated and inclusive life.

(2) The type and amount of tailored day service shall be determined through the individual program plan process pursuant to Section 4646. The individual program plan shall contain, but not be limited to, the following:

(A) A detailed description of the consumer's individualized choices and needs and how these choices and needs will be met; and

(B) The type and amount of services and staffing needed to meet the consumer's individualized choices and needs and unique health and safety and other needs.

(3) The staffing requirements set forth in Chapter 3 of Title 17 of the California Code of Regulations shall not apply to a tailored day service.

(4) For currently vendored programs wishing to offer a tailored day service option, the regional center shall vendor a tailored day service option upon negotiating a rate and maximum units of service design that includes, but is not limited to:

(A) (i) A rate (daily or hourly) and maximum units of service design that does not exceed the equivalent cost of four (4) days per week of the vendor's current rate, if the vendor has a daily day program rate; or

(ii) A rate and maximum units of service design that does not exceed the equivalent cost of 4/5th of the hours of the vendor's current rate, if the vendor has an hourly rate.

(5) For new programs wishing to offer a tailored day service option, the regional center shall vendor a tailored day service option upon negotiating a rate and maximum units of service design. The rate paid to the new vendor shall not exceed 4/5ths of the temporary payment rate or the median rate, whichever is applicable.

(6) Effective July 1, 2011, and prior to the time of development, review, or modification of a consumer's Individual Program Plan, regional centers shall provide information about tailored day service to eligible adult consumers. A consumer may request information about tailored day services from the regional center at any time and may request an individual program plan meeting to secure those services.

(b) (1) A vouchered community-based training service is defined as a consumer-directed service that assists the consumer in the development of skills required for community integrated employment and/or participation in volunteer activities and the assistance necessary for the consumer to secure employment and/or volunteer positions or pursue secondary education.

(2) Implementation of vouchered community-based training service is contingent upon the approval of the Centers for Medicare and Medicaid Services.

(3) Vouchered community-based training service shall be provided in natural environments in the community, separate from the consumer's residence.

(4) A consumer vendored as a vouchered community-based training service shall utilize the services of a financial management services (FMS) entity, as defined in subdivision (b) (1) of Section 4685.7. The regional center shall provide information about available financial management services and shall assist the consumer in selecting a FMS vendor to act as co-employer.

(5) A parent or conservator shall not be the direct support worker employed by the vouchered community-based training service vendor.

(6) If the direct support worker is required to transport the consumer, the vouchered community-based training service vendor shall verify that the direct support worker can transport the consumer safely, and has a valid California driver's license and proof of insurance.

(7) The rate for vouchered community-based training service shall not exceed \$13.47 per hour. The rate includes employer-related taxes and all transportation needed to implement the service, except as described in (8). The rate does not include the cost of the FMS.

(8) A consumer vendored as a vouchered community-based training service shall also be eligible for a regional center-funded bus pass, if appropriate and needed.

(9) Vouchered community-based training service shall be limited to a maximum of 150 hours per quarter. The services to be provided and the service hours shall be documented in the consumer's individual program plan.

(10) A direct support worker of vouchered community-based training service shall be an adult who possesses the skill, training, and experience necessary to provide services in accordance with the individual program plan.

(11) Effective July 1, 2011, and prior to the time of development, review, or modification of a consumer's individual program plan, regional centers shall provide information about vouchered community-based training service to eligible adult consumers. A consumer may request information about vouchered community-based training service from the regional

center at any time and may request an individual program plan meeting to secure those services.

(12) The type and amount of vouchered community-based training service shall be determined through the individual program plan process pursuant to Section 4646. The individual program plan shall contain, but not be limited to, the following:

- (A) A detailed description of the consumer's individualized choices and needs and how these choices and needs will be met; and
- (B) The type and amount of services and staffing needed to meet the consumer's individualized choices and unique health and safety and other needs.

(c) The department may adopt emergency regulations for tailored day service or vouchered community-based training service. The adoption, amendment, repeal, or re-adoption of a regulation authorized by this subdivision is deemed to be necessary for the immediate preservation of the public peace, health and safety, or general welfare, for purposes of Sections 11346.1 and 11349.6 of the Government Code, and the department is hereby exempted from the requirement that it describe specific facts showing the need for immediate action. A certificate of compliance for these implementing regulations shall be filed within 24 months following the adoption of the first emergency regulations filed pursuant to this subdivision.

SEC. 4. Section 4690.6 is hereby added to the Welfare and Institutions Code to read:

(a) Activity centers, adult development centers, behavior management programs, and other look-alike day programs with a daily rate shall bill regional centers for services provided to consumers in terms of half days of service and full days of service.

(b) For purposes of this section, the following definitions apply:

(1) "Full day of service" means a day in which the consumer's attendance is at least 75% of the declared and approved program day.

(2) "Half day of service" means any day in which the consumer's attendance does not meet the criteria for billing for a full day of service.

(c) A regional center may change the length of the declared and approved program day for a specific consumer in order to meet the needs of that consumer, upon the recommendation of the individual program planning team. The regional center shall set forth in the individual program plan the length of the consumer's program day and the reasons for the change in the length of the declared and approved program day.

(d) The definitions set forth in this section shall not apply to vendors of tailored day program service.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make changes necessary for implementation of the Budget Act of 2011, it is necessary that this act take effect immediately.