

DEPARTMENT OF DEVELOPMENTAL SERVICES

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TO: REGIONAL CENTER EXECUTIVE DIRECTORS AND BOARD PRESIDENTS

SUBJECT: JUNE 2017 TRAILER BILL LANGUAGE AFFECTING REGIONAL CENTERS

The purpose of this correspondence is to transmit a summary of the recently enacted Developmental Services Budget Trailer Bill, Assembly Bill 107 (Chapter 18, Statutes of 2017), which directly impacts regional centers, developmental centers and the developmental services system. AB 107 effects the following changes:

- Requires a regional center to fund under specific circumstances, a medical service identified in an infant or toddler's individualized family service plan in compliance with federal timely provision of service requirements.
- Repeals statute that restricts the amount of respite and limits the circumstances in which a regional center may purchase respite for a consumer.
- Provides an exemption to allow consumers who are 18 to 22 years of age to participate in paid internships and resulting competitive integrated employment while eligible for educational services.
- Provides rate increases for vouchered community-based training and supported employment services.
- Requires the Department¹ to convene a stakeholder workgroup to consider simplified processes for providers seeking rate adjustments through a health and safety waiver or an unanticipated rate adjustment request.
- Authorizes community-based organizations to submit requests to the Department for grant funding to implement plans to promote equity and reduce disparities in the purchase of services.
- Requires contracts between the Department and regional centers to include annual performance objectives that measure progress and report outcomes related to consumer employment.
- Authorizes the use of Community Placement Plan funds for community resource development projects to address services and supports needs of consumers living in the community.

¹ Department" means the Department of Developmental Services unless otherwise noted.

- Exempts an Enhanced Behavioral Supports Home from the requirement that it be eligible for federal home and community-based services funding if the Department approves the use of delayed egress devices with secured perimeters at the Enhanced Behavioral Supports Home, and requires the Department to develop guidelines regarding the use of restraint or containment in an Enhanced Behavioral Supports Home.
- Authorizes regional centers to purchase services from a Mental Health Rehabilitation Center under specific circumstances and outlines the admission and transition processes.
- Amends statute concerning Community Crisis Homes, including but not limited to, authorizing a Community Crisis Home to use delayed egress devices in combination with secured perimeters and limiting the number of beds in these homes statewide.
- Clarifies that Community Crisis Homes and Mental Health Rehabilitation Centers that are regional center vendors must report specific incidents and information to Disability Rights California.
- Expands requirements that are in place for developmental centers to any Department-operated facility, including but not limited to, requirements regarding admission and transition processes, and incident reporting.
- Requires the individual program planning team for an individual residing in the secure treatment program at Porterville Developmental Center to consider whether an alternative placement is appropriate, and if the individual moves, when appropriate, wrap-around services through intensive individualized support services must be in place.
- Establishes requirements related to transition of individuals who are admitted to the transitional treatment program at Porterville Developmental Center and intensive transitional services for individuals residing in the secure treatment program at Porterville Developmental Center.
- Requires the Department of General Services to amend its existing lease for Harbor Village to include a portion of the Fairview Developmental Center property in the area of Mark Lane for the purpose of developing additional housing units for consumers.
- Clarifies that a DDS employee seeking to become a community service provider can continue state employment during the initial start-up period prior to providing state-funded services to one or more consumers.

While this correspondence provides a high-level summary of AB 107, a complete and thorough review of the bill is imperative for regional centers' statutory compliance. Clarifying information regarding implementation of AB 107 is included in several areas below. Regional centers should continue to educate their communities regarding these legislative changes.

Regional Center Funding for Medical Services for Infants and Toddlers

TBL Section 11: Section 4646.4 of the Welfare and Institutions Code² was amended to state that the individualized family service planning team for regional center eligible infants and toddlers may determine, when exploring utilization of generic services and supports, that a medical service identified in the individualized family service plan is not available through the family's private health insurance policy or health care service plan and that the regional center will fund the service to ensure compliance with the timely provision of service requirements contained in the Code of Federal Regulations, Title 34, Part 303 (commencing with Section 303.1).

Implementation: Current regulation [California Code of Regulations, Title 17, Section 52109(b)] already includes the provision that a review of available generic funding sources shall not delay the provision of early intervention services. Section 4646.4 was amended to state that the individualized family service planning team can determine that needed medical services identified in the individualized family service plan are not available through the family's private health plan and, therefore, the regional center will fund the service in compliance with federal timely provision of service requirements.

Restrictions on Purchase of Respite Services

TBL Section 20: Section 4686.5 was repealed, deleting statute that placed restrictions on the purchase of respite services until implementation of the Individual Choice Budget pursuant to Section 4648.6. Specifically, Section 4686.5 limits the amount of in-home and out-of-home respite a regional center may purchase for a consumer unless specific exemption criteria are met; prohibits the purchase of day care services to replace or supplant respite; and stipulates that regional centers may only consider in-home supportive services as a generic resource when the approved in-home supportive services meet the respite need as identified in the consumer's Individual Program Plan or Individualized Family Service Plan.

Assembly Bill 126 (Chapter 65, Statutes of 2017), chaptered July 10, 2017, corrects an inadvertent omission from AB 107 and delays the repeal of Section 4686.5 until January 1, 2018.

Implementation: The Department sent regional centers a program directive dated August 3, 2017, regarding the repeal of this section. See Enclosure A.

Participation in Paid Internships and Competitive Integrated Employment for Consumers Age 18 to 22

TBL Section 13: Section 4648.55 was amended to provide an additional exemption to the provision that regional centers may not purchase day program, vocational education, work

² All citations are to the Welfare and Institutions Code unless otherwise noted.

services, independent living program, or mobility training and related transportation services for a consumer who is 18 to 22 years of age, inclusive, if that consumer is eligible for special education and related education services and has not received a diploma or certificate of completion.

An exemption may be granted for participation in a paid internship or competitive integrated employment that is an outcome of a paid internship described in Section 4870(a) if the individual program planning team determines that the consumer could benefit from participation in a paid internship or competitive integrated employment. Participation in a paid internship or competitive integrated employment that is an outcome of a paid internship does not preclude a consumer from continuing to receive public education services to the extent those services are determined to continue to meet the consumer's needs.

Implementation: Decisions regarding a consumer's participation in a paid internship and/or competitive integrated employment while eligible for educational services must be made on an individualized basis by the consumer and his or her planning team.

Rate Adjustments for Vouchered Community-based Training and Supported Employment Services, and Rate Adjustments Workgroup

TBL Section 21: Section 4688.21 was amended, increasing the maximum hourly rate for vouchered community-based training service from \$13.47 to \$14.99.

TBL Section 23: Section 4860 was amended, increasing the hourly rate for both supported employment individualized and group services from \$34.24 to \$36.57.

Implementation: The hourly rates in this amendment are the same rates noted in the Department's June 24, 2016, correspondence to regional centers regarding service provider rates effective July 1, 2016. See Enclosure B.

TBL Section 28: The Department must convene a working group consisting of regional centers, service providers, advocates, family members, and consumers to consider simplified processes for providers seeking rate adjustments pursuant to a health and safety waiver or an unanticipated rate adjustment request. The working group may also make recommendations on alternative criteria and procedures for considering requests for rate adjustments. The Department must report on the working group process and product during the 2018 budget subcommittee process.

Implementation: The Department will convene a workgroup in the Fall or Winter of 2017.

Purchase of Service Disparities

TBL Section 9: Section 4519.5 was amended, authorizing the Department to allocate funding to community-based organizations with Department oversight to assist with implementation of recommendations and plans to promote equity and reduce disparities in purchase of service expenditures. A community-based organization may submit a request for grant funding pursuant to Section 4519.5(h). The request must be submitted concurrently to the Department and the regional center of the jurisdiction in which the organization is located. The regional center must provide the Department with input regarding the request prior to the Department's final determination on the request.

The Department must review requests for funding within 45 days from the deadline specified in the Department's guidance to regional centers and community-based organizations. Each regional center and community-based organization receiving funding must report annually to the Department, in a manner determined by the Department, on how the funding allocations were used and must include recommendations of priorities for activities that may be effective in addressing disparities.

Section 4519.5(h)(6) requires the Department to annually post the following information on its website:

- By September 1 of any year in which grant funding is available and has not been allocated, a structure for the grant program, including all of the following information:
 - How community-based organizations reflecting groups that are disadvantaged by disparities in the purchase of services will be invited to participate in the grant program.
 - How statewide strategies were considered.
 - How the Department will ensure grant funds are not used for activities that regional centers are otherwise required by statute or regulation to conduct.
 - How funded activities will be evaluated.
- By October 1 of any year in which grant funding is available and has not been allocated, the final invitation for requests for funding or another mechanism through which requests for funding are solicited.
- By January 1 of any year in which grant funding has been allocated, a list of grant recipients, funding level per grant, and a description of the funded project.
- By May 1 of any year in which the information is available, evaluation results from prior grants. To ensure the Department complies with this requirement, regional centers and community-based organizations receiving funding must provide the Department, by March 1 of the same year, with an evaluation of funded activities and the effectiveness of those activities in reducing disparities in the purchase of services, to the extent information is available.

Implementation: The Department engaged the Director's Disparities Advisory Group, composed of representatives from regional centers, community-based organizations and parents, for input and final review of the guidelines. The Department anticipates issuing the guidelines by September 21, 2017.

Performance Contract Employment Measures

TBL Section 10 and 24: Sections 4629 and 4869 were amended to state that a contract between the Department and a regional center must include annual performance objectives that the Department determines are necessary to ensure each regional center renders services in accordance with applicable state laws and regulations, including, among other things, objectives that measure progress and report outcomes in implementing the Employment First Policy, which may include, but are not limited to, measures addressing both of the following:

- Establishment of local partnership agreements between regional centers, local educational agencies, and the Department of Rehabilitation districts.
- The provision of information to consumers regarding the Employment First Policy, opportunities for employment, and available supports to achieve integrated competitive employment.

Implementation: The Department worked with the Association of Regional Center Agencies to identify employment measures that can be quantified with data that is available to the Department. These measures were included in the Department's 2018 Performance Contract Guidelines, sent to regional centers on August 25, 2017. See Enclosure C.

Community Placement Plan and Community Resource Development Plans and Projects

TBL Section 5: Section 4418.25 was amended, requiring the Department to establish guidelines by which Community Placement Plan funds may be utilized for community resource development to address services and supports needs of consumers living in the community in accordance with Section 4679. See TBL Section 16, below.

The Department may allocate funds to regional centers for purposes of community resource development when the Department determines that sufficient funding has been appropriated and reserved for a fiscal year for development of the resources that are necessary to address the needs of persons moving from a developmental center pursuant to Section 4474.11, and no sooner than 30 days after the Department has provided notice of this determination to the Joint Legislative Budget Committee and the appropriate policy and fiscal committees of the Legislature.

TBL Section 16: Section 4679 was added to require the Department to issue guidelines on the use of Community Placement Plan funds for community resource development in any year for which funding is available. The guidelines must include procedures, timelines and requirements that Community Resource Development Plan funds be expended in accord with the principles of person-centered planning and that funded services be culturally and linguistically appropriate to the population of the regional center.

By December 31 of each year, the Department must engage stakeholders statewide, including soliciting input from the existing Developmental Services Task Force, to inform the development of these guidelines. Priorities for funding must include, but need not be limited to, safety net services and supports that reduce reliance on the secure treatment program at Porterville Developmental Center, institutions for mental disease, other restrictive settings in the community for which federal funding is not available, and out-of-state placement.

The guidelines will require regional centers to conduct outreach activities and seek input from stakeholders representing the diversity of the regional center's catchment area, including, but not limited to, consumers, family members, providers, and advocates, to determine local needs and priorities for the use of Community Resource Development Plan funds. Each regional center must identify the stakeholders it consulted with and include information on how it incorporated the input of stakeholders into its Community Resource Development Plan funding requests. The regional center must post its priorities for community resource development as informed by the stakeholder process on its website at least two weeks prior to submitting its funding request to the Department to allow for any final stakeholder input.

Proposals for the use of Community Resource Development Plan funds must include justification for the funding requests, including quantitative data, and must also include a description of how the regional center will monitor resource development and assess outcomes. The Department will review, negotiate, and approve regional center Community Resource Development Plans for feasibility.

Each regional center must post its approved proposals on its website and the Department will then post links to each regional center's approved proposals on its website. Regional centers must submit quarterly reports to the Department, as specified in the guidelines, on the use of Community Resource Development Plan funds and outcomes of resource development. The Department will update legislative staff on the Community Resource Development Plan activities pursuant to this section during regularly scheduled quarterly briefings, and will annually report during the Senate and Assembly budget subcommittee hearing process on Community Resource Development Plan implementation.

TBL Section 17: Section 4679.1 was added, requiring the Department to report by September 1, 2017, to the Senate Committee on Human Services, the Assembly Committee on Human Services, and the appropriate legislative budget subcommittees on the following components of the Community Placement Plan and Community Resource Development Plan as described in Sections 4418.25 and 4679:

- Housing development and funding policies and guidelines.
- How the Department and regional centers assess community unmet needs and local priorities.
- How the Department monitors housing development.

Annually, by April 1, the Department must report to the Senate Committee on Human Services, the Assembly Committee on Human Services, and the appropriate legislative budget subcommittees on the following:

- The type and number of housing projects approved, in progress, and occupied, and the total number of allowable beds, by regional center.
- The total number of new beds by facility type, by regional center.
- To the extent data is available, the degree to which housing development gains have been offset by program closures, by facility type, for each regional center.

TBL Section 15: Section 4677 was amended to authorize the Department to allocate funds from the Program Development Fund, to the extent appropriated for that purpose in the annual Budget Act, to fund community resource development projects approved pursuant to Section 4679.

Implementation: The Department will work with regional centers to ensure that the requirements related to Community Resource Development Plans are implemented. In addition, the Department will incorporate Community Resource Development Plan requirements into the Fiscal Year 2018-19 Community Placement Plan Guidelines.

Enhanced Behavioral Supports Homes

TBL Section 3: Health and Safety Code Section 1180.4 provides that the Department of Social Services may, by regulation, authorize an exception to the 15 minute maximum duration on use of physical restraint or containment in Enhanced Behavioral Supports Homes if it is necessary to protect the immediate health and safety of residents or others from risk of imminent serious physical harm. AB 107 amends Health and Safety Code Section 1180.4 to additionally require that the use of physical restraint or containment in an Enhanced Behavioral Support Home must conform to the facility program plan approved by the Department of Developmental Services pursuant to Welfare and Institutions Code Section 4684.81(i).

TBL Section 18: Section 4684.80 was amended to exempt an Enhanced Behavioral Supports Home from the requirement that it be eligible for federal Medicaid home and community-based services funding if the Department approves the use of delayed egress devices with secured perimeters at the Enhanced Behavioral Supports Home pursuant to Health and Safety Code Section 1531.15.

TBL Section 19: Section 4684.81 was amended to require the Department, by December 1, 2017, to develop guidelines regarding use of restraint or containment in an Enhanced Behavioral Supports Home, which must be maintained in the Enhanced Behavioral Supports Home's facility program plan and plan of operation. In developing these guidelines, the Department must consult with both of the following:

- The appropriate professionals regarding the use of restraint or containment in an Enhanced Behavioral Supports Home.
- The protection and advocacy agency described in Section 4900(i) (i.e., Disability Rights California) regarding appropriate safeguards for the protection of clients' rights.

The above requirements do not apply to any Enhanced Behavioral Supports Home that is certified or licensed prior to January 1, 2018, or prior to the adoption of the guidelines, whichever is sooner. However, these homes must meet the requirements no less than 30 days following adoption of the guidelines.

An Enhanced Behavioral Supports Home must include in its facility program plan a description of how it will ensure physical restraint or containment will not be used as an extended procedure in accordance with this section, Health and Safety Code Section 1180.4, and any other applicable law or regulation.

Implementation: The Department will solicit input from appropriate professionals and Disability Rights California to address these requirements, including the adoption of guidelines for the use of restraint or containment. The Department will work with regional centers to ensure compliance with these amendments through the Enhanced Behavioral Supports Home certification process and ongoing monitoring of Enhanced Behavioral Supports Homes.

Community Crisis Homes

TBL Section 22: Section 4698 provides that a person may be admitted to a Community Crisis Home if they are in crisis and at risk of, among other circumstances, admission to the acute crisis centers at Fairview or Sonoma Developmental Centers. AB 107 amends Section 4698 to also include persons at risk of admission to other Department-operated facilities. Section 4698 provides that the maximum capacity for a Community Crisis Home is eight consumers. This section was amended to state that no more than one-third of Community Crisis Homes may exceed a capacity of six consumers.

In addition, this section was amended to authorize a Community Crisis Home using delayed egress devices to utilize secured perimeters in compliance with Health and Safety Code Section 1531.15 and applicable regulations. The total number of community crisis beds using delayed egress devices in combination with secured perimeters may not exceed 20 percent of the statewide limit established in Health and Safety Code Section 1531.15(k). A Community Crisis Home that uses delayed egress devices in combination with secured perimeters may not have more than six beds. A Community Crisis Home may be exempt from the requirement that it be eligible for federal Medicaid home and community-based services funding if the Department approves the use of delayed egress devices with secured perimeters at the Community Crisis Home pursuant to Health and Safety Code Section 1531.15.

Pursuant to Section 4698(h), if the Department determines that urgent action is necessary to protect a consumer residing in a Community Crisis Home, the Department may request that the regional center(s) remove the consumer from the Community Crisis Home or direct the regional center(s) to obtain alternative or additional services for the consumer within 24-hours of that determination. This section was amended to state that the regional center must notify the clients' rights advocate of any removal from the Community Crisis Home.

Implementation: The Department will work with regional centers to ensure compliance with these amendments through the annual Community Placement Plan process and its certification and monitoring of Community Crisis Homes.

Mental Health Rehabilitation Centers and the Transition Process from a Mental Health Rehabilitation Center or Institution for Mental Disease

TBL Section 12: Section 4648(a)(9)(B) provides that one circumstance in which a regional center may purchase services from a Mental Health Rehabilitation Center licensed by the Department of Health Care Services is if the Mental Health Rehabilitation Center is eligible for Medicaid reimbursement. This provision was amended to also require that the individual's planning team must determine that there are no less restrictive placements appropriate for the individual.

For individuals whose placements in a Mental Health Rehabilitation Center are purchased by a regional center, Section 4648(a)(9)(B) was amended to require that the clients' rights advocate be notified of each admission and individual program planning meeting and to provide that the clients' rights advocate may participate in all individual program planning meetings unless the consumer objects on his or her own behalf. Notification to the clients' rights advocate must include a copy of the most recent comprehensive assessment or updated assessment and the time, date, and location of the meeting, and must be provided as soon as practicable, but not less than seven calendar days prior to the meeting.

If a consumer is placed in a Mental Health Rehabilitation Center by another entity, the amendments to Section 4648(a)(9)(B) require that the Mental Health Rehabilitation Center must inform the regional center of the placement within five days of the date the consumer is admitted. If an individual's records indicate that he or she is a regional center consumer, the Mental Health Rehabilitation Center must make every effort to contact the local regional center or the Department to determine which regional center to provide notice. As soon as possible within 30 days of admission to a Mental Health Rehabilitation Center due to an emergency pursuant to Section 4648(a)(9)(B)(ii)(II), or within 30 days of notification of admission to an Mental Health Rehabilitation Center by an entity other than a regional center, an assessment must be completed by the regional center.

Section 4648(a)(9)(D) was added to specify that the transition process from a Mental Health Rehabilitation Center or Institution for Mental Disease must be based upon the individual's needs, developed through the individual program plan process, and must ensure that needed services and supports will be in place at the time the individual moves. Individual supports and services must include, when appropriate for the individual, wraparound services through intensive individualized support services. The transition must be to a community living arrangement that is in the least restrictive environment appropriate to the needs of the individual and most protective of the individual's rights to dignity, freedom, and choice as described in Section 4648(a).

Regional centers, through the individual program plan process, must coordinate for the benefit of the regional center consumers residing in an Institution for Mental Disease pre-transition planning, transition, and access to follow-up services to help ensure a smooth transition to the community. Individual support services must include, but must not be limited to, both of the following:

- Defined regional center contacts and visits with consumers and service providers during the 12 months following the consumer's movement date.
- Identification of issues that need resolution and an individualized support plan to address these issues.

Implementation: Regional centers shall inform their Mental Health Rehabilitation Center vendors of the requirements of Section 4648(a)(9)(B). In addition, the Department will update its March 1, 2013, correspondence to regional centers titled, "Placement of Consumers at Fairview Developmental Center and Facilities Ineligible for Federal Financial Participation," to include the changes made to this section and issue it to regional centers by the end of the calendar year.

Community Crisis Homes and Mental Health Rehabilitation Centers Incident and Allegation Reporting

TBL Section 14: Section 4659.2 was amended to clarify that Community Crisis Homes and Mental Health Rehabilitation Centers are among regional center vendors providing crisis,

residential or supported living services, that must report to the agency described in Section 4900(i) (i.e., Disability Rights California) all of the following:

- Each death or serious injury of a person occurring during, or related to, the use of seclusion, physical restraint, or chemical restraint, or any combination thereof.
- Any unexpected or suspicious death, regardless of whether the cause is immediately known.
- Any allegation of sexual assault, as defined in Section 15610.63, in which the alleged perpetrator is a staff member, service provider, or facility employee or contractor.
- Any report made to the local law enforcement agency in the jurisdiction in which the facility is located that involves physical abuse, as defined in Section 15610.63, in which a staff member, service provider, or facility employee or contractor is implicated.

Reports must be made no later than the close of the business day following the death or serious injury, and must include the encrypted identifier of the person involved, and the name, street address, and telephone number of the facility.

On a monthly basis, these vendors must report to Disability Rights California all of the following:

- The number of incidents of seclusion and the duration of time spent per incident in seclusion.
- The number of incidents of the use of behavioral restraints and the duration of time spent per incident of restraint.
- The number of times an involuntary emergency medication is used to control behavior.

The monthly reports must include the name, street address, and telephone number of the facility.

Implementation: Regional centers shall notify their Community Crisis Home and Mental Health Rehabilitation Center vendors of these reporting requirements and the associated timelines.

Department-operated Facilities

TBL Section 2: Health and Safety Code Section 1180.2 was amended, stating that facilities operated by the Department that utilize seclusion or behavioral restraints must not place any individual with a developmental disability in seclusion. On a monthly basis, a Department-operated facility, as described in this section, must report to the protection and advocacy agency described in Section 4900(i) (i.e., Disability Rights California) all of the following:

- The number of incidents of the use of behavioral restraints and the duration of time spent per incident of restraint.
- The number of times an involuntary emergency medication is used to control behavior.

The reports must include the name, street address, and telephone number of the facility.

TBL Section 6: Section 4418.7 was amended to require regional centers to immediately notify the appropriate regional resource development project, the consumer, the consumer's parents, legal guardian, or conservator, and the regional center clients' rights advocate if the regional center determines that the community placement of a consumer is at risk of failing and admittance to a Department-operated facility is a likelihood. In these cases, regional centers and the regional resource development project must follow the same procedures that are in place for potential admission of a consumer to a developmental center, as outlined in this section.

TBL Section 7: Section 4427.5 was amended, requiring a Department-operated facility to follow the same reporting requirements as developmental centers when incidents of a certain nature occur, as described in this section. Specifically, a Department-operated facility must immediately, but no later than within two hours of observing, obtaining knowledge of, or suspecting abuse, report the following incidents involving a resident to the local law enforcement agency having jurisdiction over the city or county in which the facility is located, regardless of whether the Office of Protective Services has investigated the facts and circumstances relating to the incident:

- A death.
- A sexual assault, as defined in Section 15610.63.
- An assault with a deadly weapon, as described in Penal Code Section 245, by a nonresident of the Department-operated facility.
- An assault with force likely to produce great bodily injury, as described in Section Penal Code Section 245.
- An injury to the genitals when the cause of the injury is undetermined.
- A broken bone when the cause of the break is undetermined.

If the incident is reported to the law enforcement agency by telephone, a written report of the incident must also be submitted to the agency, within two working days. These reporting requirements are in addition to, and do not substitute for, the reporting requirements of mandated reporters, and any other reporting and investigative duties of the Department-operated facility and the Department as required by law. This section does not prevent the Department-operated facility from reporting any other criminal act constituting a danger to the health or safety of the residents of the facility to the local law enforcement agency.

The Department must report to the agency described in Section 4900(i) (i.e., Disability Rights California) any of the following incidents involving a resident of a Department-operated facility:

- Any unexpected or suspicious death, regardless of whether the cause is immediately known.
- Any allegation of sexual assault, as defined in Section 15610.63, in which the alleged perpetrator is an employee or contractor of a Department-operated facility.
- Any report made to the local law enforcement agency in the jurisdiction in which the facility is located that involves physical abuse, as defined in Section 15610.63, in which a staff member is implicated.

The report must be made no later than the close of the first business day following the discovery of the reportable incident, and must include the unique identifier of the person involved, and the name, street address, and telephone number of the facility.

The Department must annually provide to every employee of a Department-operated facility, written information regarding statutory and departmental requirements for mandatory reporting of suspected or known abuse, rights and protections afforded to individuals' reporting of suspected or known abuse, penalties for failure to report suspected or known abuse, and telephone numbers for reporting suspected or known abuse or neglect to designated investigators of the Department and to local law enforcement agencies.

Implementation: The Department will expand the reporting requirements that are currently in place at the developmental centers to any Department-operated facility. Regional centers must now notify the regional resource development project if the community placement of a consumer is at risk of failing and the admittance to a developmental center or Department-operated facility is a likelihood.

Porterville Developmental Center Secure Treatment and Transitional Treatment Programs

TBL Section 25: Section 6509 was amended to state, for persons residing in the secure treatment program at Porterville Developmental Center, at the person's annual individual program plan meeting the team must determine if the person should be considered for transition from the secure treatment program to an alternative placement.

If the team concludes that an alternative placement is appropriate, the regional center, in coordination with the developmental center, must conduct a comprehensive assessment and develop a proposed plan to transition the individual from the secure treatment program to the community. The transition plan must be based upon the individual's needs, developed through the individual program plan process, and must ensure that needed services and supports will be in place at the time the individual moves. Individual supports and services must include, when appropriate for the individual, wrap-around services through intensive

individualized support services. The clients' rights advocate for the regional center must be notified of the individual program plan meeting and may participate in the meeting unless the consumer objects on his or her own behalf. The individual's transition plan must be provided to the court as part of the notice required pursuant to Section 6509(e).

TBL Section 26: Section 7502.5 was amended to specify the transition process for individuals who are admitted to the transitional treatment program at Porterville Developmental Center. Specifically, the transition plan must be based upon the individual's needs, developed through the individual program plan process, and must ensure that needed services and supports will be in place at the time the individual moves. Individual supports and services must include, when appropriate for the individual, wrap-around services through intensive individualized support services. The transition must be to a community living arrangement that is in the least restrictive environment appropriate to the needs of the individual and most protective of the individual's rights to dignity, freedom, and choice as described in Section 4648(a).

This section was amended to require the Department to continue to provide annually by March 1 of each year, to the appropriate policy and fiscal committees of the Legislature:

- For each regional center, the number of transitional program residents who are placed in the program for more than one year.
- A description of reasons for placement in the program beyond one year.
- The steps undertaken to resolve the issue or issues prohibiting community placement.
- The additional steps necessary before community placement can be made.

Section 7502.5(f) was added, stating that prior to issuing a request for proposal for a contract to provide the intensive transitional services for individuals residing in the secure treatment program at Porterville Developmental Center, the Department must consult with:

- The appropriate professionals to develop the parameters for the services to be provided in the contract.
- The protection and advocacy agency described in Section 4900(i) (i.e., Disability Rights California) regarding appropriate safeguards for the protection of clients' rights.

The Department must ensure that the intensive transitional services are not punitive, are protective of the individual's rights to dignity, freedom, and choice, and are tailored to the needs of the individual and developed through a person-centered planning process and whether the transition and placement are adequate for the protection and safety of others from the dangers posed by the individual's known behaviors and for the welfare of the individual. The Department must further ensure that the regional center clients' rights advocate receives notice of each individual program plan meeting in which the intensive

transitional supports are discussed and a copy of any assessment regarding the individual's intensive support needs, and must ensure that if the individual disagrees with the proposed intensive transitional supports, he or she may request a fair hearing pursuant to Section 4710.5.

By December 31, 2018, the Department must promulgate emergency regulations regarding the intensive transitional services for individuals residing in the secure treatment program at Porterville Developmental Center. The adoption of these regulations are deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare.

Implementation: The Department is developing two Enhanced Behavioral Supports Homes that will provide intensive psychiatric supports, treatment programs, person centered transition planning and intensive transition services for individuals currently under Section 6500 commitments at Porterville Developmental Center. We will consult with professionals with expertise on program design and Disability Rights California on consumer safeguards before the request for proposal for a contract to provide intensive transitional services is issued. The Department will promulgate emergency regulations regarding these services by December 31, 2018.

Fairview Developmental Center Housing and Mark Lane

TBL Section 1: Government Code Section 14670.35 was amended to state that housing developed for employees of Fairview Developmental Center or transitional patient-clients of Fairview Developmental Center returning to the community must first be available for regional center consumers, and then to individuals in need of affordable housing as described in Section 14670.35(c).

Additionally, this section was amended to state that the Director of the Department of General Services, with the approval of the Department, must, no later than July 1, 2017, amend the existing lease established pursuant to Section 14670.35(a)—i.e., the Harbor Village ground lease, to include a portion of the Fairview Developmental Center property in the area of Mark Lane, for the purpose of developing additional housing units to serve individuals with developmental disabilities. The amendment must provide that the additional acreage is subject to the existing lease conditions and require that a management agreement between the lessee and the Department be established, including terms and conditions determined by the Director of the Department to be in the best interests of the state. The management agreement must allow the Department to determine the type of housing units to be developed and whether housing is developed by renovation of existing units or construction of new units suitable for providing services to individuals with developmental disabilities. The management agreement must also give the Department the right of first refusal for all housing established pursuant to this section on the subject acreage.

Implementation: The Department of General Services amended the existing lease to include a portion of the Fairview Developmental Center property in the area of Mark Lane for the purpose of developing State-operated community-based acute crisis services. This will include two acute crisis homes that will serve individuals with developmental disabilities who are determined to be in crisis and in need of stabilization.

Miscellaneous Department Items

TBL Section 4: Public Contract Code Section 10430(h) was amended in 2016 to create an exemption from state contracting law to allow Department employees, subject to the approval of the Director of the Department, to continue working for the state while under contract with a regional center to develop regional center services. Before the employee begins to provide regional center-funded services to consumers, the employee must terminate state employment to avoid a conflict of interest. The statute tied the point in time an employee must terminate state employment to vendorization. However, there were different interpretations of when vendorization occurs. Therefore, Section 10410 was amended by AB 107 to clarify that an employee can continue state employment during the initial start-up period, prior to providing state-funded services to one or more consumers.

Implementation: N/A

TBL Section 8: Section 4474.15 was amended, requiring the Department, beginning July 1, 2017, and until December 31, 2020, to provide quarterly updates to the appropriate policy and fiscal committees of the Legislature on the steps foreseen, planned, and completed in the development of services under the Department's *Plan for Crisis and Other Safety Net Services in the California Developmental Services System*. The Department's updates must include information on any planned services or residences intended to facilitate transitions or diversions from institutions for mental disease, or other restrictive settings in the community, or the secure treatment program at Porterville Developmental Center. These updates may be made in conjunction with the current quarterly briefings provided for legislative staff on closure activities for developmental centers.

TBL Section 27: The Department must annually report to the Legislature during the budget subcommittee hearing process of the Senate and the Assembly on the status of previously undertaken and ongoing research projects being conducted by the Department's Fiscal and Program Research Unit, research priorities for the upcoming fiscal year, and how the research is applied to inform departmental decision-making and service provision.

TBL Section 29: The sum of \$5,622,000 was appropriated from the General Fund to the Department for the purposes of carrying out the provisions of this act related to developing community resources. These funds will be available for encumbrance or expenditure until June 30, 2018, and available for liquidation until June 30, 2020.

Regional Center Executive Directors and Board Presidents
September 15, 2017
Page eighteen

TBL Section 30: Assembly Bill 107 provides appropriations related to the Budget Bill and takes effect immediately. Note, however, that the provision on removing restrictions on respite services takes effect on January 1, 2018, pursuant to AB 126.

If you have any questions regarding this correspondence, please contact me at brian.winfield@dds.ca.gov or Jim Knight, Assistant Deputy Director at jim.knight@dds.ca.gov, or call (916) 654-1954.

Sincerely,

Original signed by:

BRIAN WINFIELD
Deputy Director
Community Services Division

Enclosures

cc: Regional Center Chief Counselors
Regional Center Administrators
Regional Center Community Services Directors
Association of Regional Center Agencies

DEPARTMENT OF DEVELOPMENTAL SERVICES

1600 NINTH STREET, Room 320, MS 3-9
SACRAMENTO, CA 95814
TTY (916) 654-2054 (For the Hearing Impaired)
(916) 654-1958



August 3, 2017

TO: REGIONAL CENTER EXECUTIVE DIRECTORS

SUBJECT: PROGRAM DIRECTIVE TO REGIONAL CENTERS REGARDING THE
REPEAL OF THE RESPITE RESTRICTIONS PER WELFARE AND
INSTITUTIONS CODE SECTION 4686.5

The purpose of this correspondence is to ensure regional centers are aware of and will take proactive steps to inform their community of the repeal of Welfare and Institutions Code section 4686.5. Currently, regional centers are limited to purchasing no more than 90 hours per quarter of in-home respite and 21 days of out-of-home respite for a family, unless an exemption is granted. Effective January 1, 2018, these limits on the purchase of respite services will no longer apply.

The Department of Developmental Services (DDS) is requesting that regional centers conduct outreach and work with families, providers and local community organizations to facilitate awareness about the repeal of these restrictions on the purchase of respite. Regional centers' outreach and information sharing should extend to individuals and families who may not typically avail themselves of respite or other regional center purchased services, but who may benefit from these services.

Welfare and Institutions Code section 4646 (a), specifies the Legislature's intent that "...the individual program plan and provision of services and supports by the regional center system is centered on the individual and the family of the individual with developmental disabilities and takes into account the needs and preferences of the individual and the family, where appropriate, as well as promoting community integration, independent, productive, and normal lives, and stable and healthy environments."

In addition to conducting proactive outreach, regional centers should revise their Respite Services purchase of service policies, and submit them to DDS, no later than November 1, 2017, for review and approval to be effective January 1, 2018.

Regional Center Executive Directors
August 3, 2017
Page two

DDS will translate this correspondence into Spanish and both the English and Spanish versions will be posted on DDS' website.

If you have any questions regarding this correspondence, please contact the DDS' Regional Center Branch, at (916) 651-6309.

Sincerely,

Original signed by

BRIAN WINFIELD
Deputy Director
Community Services Division

cc: Regional Center Administrators
Regional Center Chief Counselors
Amy Westling, ARCA

DEPARTMENT OF DEVELOPMENTAL SERVICES

1600 NINTH STREET, Room 320, MS 3-8
SACRAMENTO, CA 95814
TTY (916) 654-2054 (For the Hearing Impaired)
(916) 654-1954



DATE: JUNE 24, 2016

TO: REGIONAL CENTER EXECUTIVE DIRECTORS

SUBJECT: NEW PROVIDER RATES EFFECTIVE JULY 1, 2016

The State budget for Fiscal Year 2016-17, and Assembly Bill (AB) X2-1 (Chapter 3, Statutes of 2016¹) provides for a number of rate changes and/or increases for some service providers. The rate increases, effective July 1, 2016, are only applicable for providers with rates set by the Department² (including rates set in statute or regulation), or providers with rates set through negotiation between regional centers and the provider. The rate increases do not apply for providers with usual and customary rates or rates that are set by other entities.

This correspondence addresses the following rate changes:

1. Five percent (5%) rate increases for supported living, independent living, respite and transportation.
2. Survey based rate increases:
 - a. For the purpose of enhancing wages and benefits for staff who spend a minimum of 75 percent of their time providing direct services to consumers; and
 - b. For provider administrative expenses.
3. New rate for supported employment.
4. Establishment of Alternative Residential Model (ARM) rates for community care facilities vendored to serve four or fewer consumers.

Five Percent (5%) Increase for Specified Services

Several sections of the Welfare and Institutions Code (WIC) were amended to authorize rate increases of 5%, to the rate in effect on June 30, 2016, for specified services. The applicable categories and service codes are detailed below.

- Supported Living (WIC section 4689.8)
 - 894-Supported Living Administration
 - 896-Supported Living Services
- Independent Living (WIC section 4691.6)
 - 520-Independent Living Program

¹ http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520162AB1

² "Department" means the Department of Developmental Services.

"Building Partnerships, Supporting Choices"

- Respite (WIC section 4690.5 and 4691.6)
 - Family Member-provided Respite*
 - 420-Respite Service-Family Member
 - 465-Participant Directed Respite Service-Family Member
 - In-home Respite*
 - 862 In-home Respite Services Agency
 - 864 In-home Respite Worker
 - Out-of-home Respite*
 - 868-Out-of-home Respite Services
 - 869-Respite Facility
- Transportation (WIC section 4691.9)
 - 875-Transportation Company
 - 880-Transportation-Additional Component
 - 882-Transportation-Assistant
 - 883-Transportation Broker

Increases for Wages and Benefits for Direct Service Staff and Administrative Expenses

Unlike the specific percentage rate increases described above, ABX2-1 provided a set amount of funds for rate increases, based on the rates in effect on June 30, 2016, for direct service (\$294.8M³) and administrative (\$17.3M⁴) expenses. As a result, the Department was required to conduct a survey of a sample of providers to determine the percentage rate increases. The survey was necessary because the percentage of provider costs for direct services and administrative costs varies by category. Therefore, to maintain the same level of increase for direct service and administrative costs for each service, the resulting overall provider rate increases vary by service category. An overview of how this calculation was done can be found at <http://www.dds.ca.gov/vendorsurvey/docs/ExampleCalculatingRateIncreases.pdf>. Note, the numbers in this example are for demonstration purposes only and are not from the actual results of the survey.

Enclosure A contains the percentage increases for each service category and the service codes within each category.

³ Includes federal reimbursement amounts in addition to the General Fund amounts appropriated in ABX2-1.

⁴ Includes federal reimbursement amounts in addition to the General Fund amounts appropriated in ABX2-1.

Future Survey Regarding Rate Increase for Direct Services: Providers granted a rate increase to increase wages and benefits for staff who provide direct services must maintain documentation, subject to audit by the Department or regional center, that the rate increase was used solely to increase wages, salaries and benefits of staff who spend a minimum of 75 percent of their time providing direct services to consumers.

Additionally, by October 1, 2017, the Department, with regional center participation, will conduct a survey of all providers that received this rate increase to determine how the increase was used. It is important to note that any provider that does not report the information requested by October 1, 2017, will forfeit the rate increase.

New Supported Employment Rate

WIC section 4860 was amended to increase the rate for supported employment to \$34.24 per hour. Additionally, as a result of the direct service and administrative cost increases, which also apply to supported employment rates, the hourly supported employment rate, effective July 1, 2016, will be \$36.57.

Calculating New Rates

When applicable, a provider may receive more than one of the percentage rate increases described above. To determine the new rate effective July 1, 2016, each percentage increase is calculated from the June 30, 2016, rate and then summed together. The following is an example of how this would work for a provider eligible for a 5% increase, as well as an increase for direct services and administrative expenses. The example below assumes a service rate of \$10.00 per hour in effect on June 30, 2016, and will receive a 5% increase, a 7% increase for wage and benefits for direct service staff, and a 1% rate increase for administrative expenses.

Step 1: Calculate separately the dollar amount for each increase (multiply the rate in effect on June 30, 2016, by the percentage increase).

- | | |
|--|-------------------------------|
| 1. Specified service: | $\$10.00 \times 5\% = \0.50 |
| 2. Wage and benefits for direct service staff: | $\$10.00 \times 7\% = \0.70 |
| 3. Administrative expenses: | $\$10.00 \times 1\% = \0.10 |

Step 2: Add the amounts to get the total increase.

$$\$0.50 + \$0.70 + \$0.10 = \$1.30 \text{ total increase}$$

Step 3: Add the total increase to the rate in effect on June 30, 2016, to get the new rate.

$$\$1.30 + \$10.00 = \$11.30 \text{ new rate. Adding the percentage increases also leads to the same result. In this example, } 5\% + 7\% + 1\% = 13\%. \text{ } 13\% \text{ of } \$10.00 \text{ is } \$1.30.$$

Regional Center Executive Directors
June 24, 2016
Page four

Enclosure A contains information on all service codes eligible for the various increases and the total percentage rates will increase effective July 1, 2016. Note, these increases do not apply to providers with usual and customary rates or rates set by another entity, even if the provider's service code is listed in the enclosure. Also enclosed are the following updated rate schedules, effective July 1, 2016, reflecting all applicable rate increases:

- Enclosure B – Work Activity and Supported Employment Rates
- Enclosure C – Community-Based Day Program and Respite Agency Rate Schedule
- Enclosure D – Community Care Facility Rates

Additionally, rates for the following services/codes, updated as applicable, effective July 1, 2016 are:

- Respite – Service codes 420, 465 and 864; rate is \$15.23 per hour
- Financial Management Services FE/A – Service Code 490; new maximum rates are \$45.88, \$71.37 or \$96.86 per month depending on the number of participant-directed services used.
- Financial Management Services Co-Employer – Service Code 491; new maximum rate is \$96.86 per month
- Participant-Directed Community-Based Training Services – Service code 475; rate is \$14.99 per hour

Notification to Providers: The Department will adjust rates and send new rate letters to all community-based day, in-home respite agency, and work activity providers. Regional centers will need to make applicable rate adjustments and notify all other providers of the new rates effective July 1, 2016.

4-Bed ARM Rates

The budget for Fiscal Year 2016-17 and accompanying trailer bill language, allow the Department to establish a rate schedule for community care facilities vendored to provide services to a maximum of four individuals. This schedule, effective July 1, 2016, can be found in Enclosure D.

If you have any questions regarding this correspondence, please contact Greg Nabong at (916) 653-3749, or greg.nabong@dds.ca.gov.

Sincerely,

Original signed by

JIM KNIGHT
Assistant Deputy Director
Community Services Division

Enclosures

cc: Regional Center Administrators
Regional Center Chief Counselors
Regional Center Community Services Directors
Association of Regional Center Agencies

ABX2 1 Service Provider Reimbursement Rate Increases Effective July 1, 2016

Enclosure A

(Each rate increase is applied to service provider rate amount as of June 30, 2016)

Service Provider Reimbursement Rate Increases				
Residential Services	Direct Services	Administrative	5% Rate Increase	Total Increase
905 - Residential Facility Serving Adults-Owner Operated	7.40%	0.35%	N/A	7.75%
910 - Residential Facility Serving Children - Owner Operated	7.40%	0.35%	N/A	7.75%
915 - Residential Facility Serving Adults - Staff Operated	7.40%	0.35%	N/A	7.75%
920 - Residential Facility Serving Children-Staff Operated	7.40%	0.35%	N/A	7.75%
090 - Crisis Intervention Facility/Bed	7.40%	0.35%	N/A	7.75%
096 - Geriatric Facility	7.40%	0.35%	N/A	7.75%
<i>Residential Services rate increases based on average % cost:</i>	<i>65.81%</i>	<i>18.05%</i>		
Family Home Agency	Direct Service	Administrative	5% Rate Increase	Total Increase
904 - Family Home Agency	1.84%	0.28%	N/A	2.12%
<i>Family Home Agency rate increases based on average % cost:</i>	<i>16.38%</i>	<i>14.32%</i>		
Specialized Rehabilitation Facilities	Direct Service	Administrative	5% Rate Increase	Total Increase
113 - DSS Licensed-Spec Residentl Facility--Habilitation	6.54%	0.41%	N/A	6.95%
114 - Specialized Residential Facility (Health)	6.54%	0.41%	N/A	6.95%
<i>Specialized Rehabilitation Facilities rate increases based on average % cost:</i>	<i>58.16%</i>	<i>20.70%</i>		
Day Services	Direct Service	Administrative	5% Rate Increase	Total Increase
028 - Socialization Training Program	6.66%	0.46%	N/A	7.12%
055 - Community Integration Training Program	6.66%	0.46%	N/A	7.12%
063 - Community Activities Support Services	6.66%	0.46%	N/A	7.12%
091 - In-Home/Mobile Day Program	6.66%	0.46%	N/A	7.12%
094 - Creative Arts Program	6.66%	0.46%	N/A	7.12%
505 - Activity Center	6.66%	0.46%	N/A	7.12%
510 - Adult Development Center	6.66%	0.46%	N/A	7.12%
515 - Behavior Management Program	6.66%	0.46%	N/A	7.12%
525 - Social Recreation Program	6.66%	0.46%	N/A	7.12%
805 - Infant Development Program	6.66%	0.46%	N/A	7.12%
810 - Infant Development Specialist	6.66%	0.46%	N/A	7.12%
<i>Day Services rate increases based on average % cost:</i>	<i>59.18%</i>	<i>23.72%</i>		
Supported Employment	Direct Service	Administrative	5% Rate Increase	Total Increase
950 - Supported Employment-Group	7.19%	0.37%	N/A	7.56%
952 - Supported Employment-Individual	7.19%	0.37%	N/A	7.56%
<i>Supported Employment rate increases based on average % cost:</i>	<i>63.94%</i>	<i>19.03%</i>		
Work Activity Programs	Direct Service	Administrative	N/A	Total Increase
954 - Rehab Work Activity Program	4.99%	0.66%	N/A	5.66%
<i>Work Activity Programs rate increases based on average % cost:</i>	<i>44.40%</i>	<i>33.90%</i>		
Behavioral Services	Direct Service	Administrative	5% Rate Increase	Total Increase
017 - Crisis Team - Evaluation & Behavior Modification	8.11%	0.38%	N/A	8.49%
048 - Client/Parent Support Behavior Intervention Trng	8.11%	0.38%	N/A	8.49%
077 - Parent-Coord Hme Base Beh Intven Prg for Autistic Children	8.11%	0.38%	N/A	8.49%
605 - Adaptive Skills Trainer	8.11%	0.38%	N/A	8.49%
612 - Behavior Analyst	8.11%	0.38%	N/A	8.49%
613 - Associate Behavior Analyst	8.11%	0.38%	N/A	8.49%
615 - Behavior Management Assistant	8.11%	0.38%	N/A	8.49%
616 - Behavior Technician - Paraprofessional	8.11%	0.38%	N/A	8.49%
620 - Behavior Management Consultant	8.11%	0.38%	N/A	8.49%
625 - Counseling Services (Family Counselor, Social Worker)	8.11%	0.38%	N/A	8.49%
670 - Developmental Specialist	8.11%	0.38%	N/A	8.49%
<i>Behavioral Services rate increases based on average % cost:</i>	<i>72.11%</i>	<i>19.31%</i>		
Personal Assistance, ILS, and Supported Living	Direct Service	Administrative	5% Rate Increase	Total Increase
062 - Personal Assistance	7.85%	0.49%	N/A	8.34%
073 - Parent Coordinator Supported Living Prog	7.85%	0.49%	N/A	8.34%
093 - Parent-Coordinated Personal Assist Service	7.85%	0.49%	N/A	8.34%
520 - Independent Living Program	7.85%	0.49%	5%	13.34%
635 - Independent Living Specialist	7.85%	0.49%	N/A	8.34%
858 - Homemaker	7.85%	0.49%	N/A	8.34%
896 - Supported Living Services	7.85%	0.49%	5%	13.34%
<i>Personal Assistance, ILS, and Supported Living rate increases based on average % cost:</i>	<i>69.80%</i>	<i>25.03%</i>		

ABX2 1 Service Provider Reimbursement Rate Increases Effective July 1, 2016
 (Each rate increase is applied to service provider rate amount as of June 30, 2016)

Enclosure A

Service Provider Reimbursement Rate Increases				
Individualized Professional or Support Services	Direct Service	Administrative	5% Rate Increase	Total Increase
025 - Tutor Services – Group	8.63%	0.34%	N/A	8.97%
102 - Individual or Family Training	8.63%	0.34%	N/A	8.97%
108 - Parenting Support Services	8.63%	0.34%	N/A	8.97%
109 - Program Support Group-Residential	8.63%	0.34%	N/A	8.97%
110 - Program Support Group-Day Service	8.63%	0.34%	N/A	8.97%
111 - Program Support Group-Other Services	8.63%	0.34%	N/A	8.97%
645 - Mobility Training Services Agency	8.63%	0.34%	N/A	8.97%
650 - Mobility Training Service Specialist	8.63%	0.34%	N/A	8.97%
680 - Tutor	8.63%	0.34%	N/A	8.97%
<i>Individualized Professional or Support Services rate increases based on average % cost:</i>	76.71%	17.53%		
Health and Therapeutic Services	Direct Service	Administrative	5% Rate Increase	Total Increase
103 - Specialized Health, Treatment & Training Svcs	8.36%	0.31%	N/A	8.67%
106 - Specialized Recreational Therapy	8.36%	0.31%	N/A	8.67%
056 - Interdisciplinary Assessment Services	8.36%	0.31%	N/A	8.67%
115 - Specialized Therapeutic Svcs – Consumers 3 to 20	8.36%	0.31%	N/A	8.67%
116 - Early Start Specialized Therapeutic Services	8.36%	0.31%	N/A	8.67%
117 - Specialized Therapeutic Svcs – Consumers 21 and Older	8.36%	0.31%	N/A	8.67%
<i>Health and Therapeutic Services rate increase is based on average % cost:</i>	74.35%	15.87%		
Respite	Direct Service	Administrative	5% Rate Increase	Total Increase
862 - In-Home Respite Services Agency	8.82%	0.37%	5%	14.19%
868 - Out-of-Home Respite	8.82%	0.37%	5%	14.19%
869 - Respite Facility	8.82%	0.37%	5%	14.19%
850 - Camping Services	8.82%	0.37%	N/A	9.19%
<i>Respite rate increase is based on average % cost:</i>	78.38%	18.95%		
Transportation	Direct Service	Administrative	5% Rate Increase	Total Increase
875 - Transportation Company	5.31%	0.42%	5%	10.72%
880 - Transportation-Additional Component	5.31%	0.42%	5%	10.72%
882 - Transportation-Assistant	5.31%	0.42%	5%	10.72%
883 - Transportation Broker	5.31%	0.42%	5%	10.72%
<i>Transportation rate increase is based on average % cost:</i>	47.19%	21.29%		
Day Care Individual Providers	Direct Service	Administrative	5% Rate Increase	Total Increase
405 - Day Care Voucher	11.25%	0.00%	N/A	11.25%
455 - Day Care	11.25%	0.00%	N/A	11.25%
<i>Day Care Individual Providers rate increase is based on average % cost:</i>	100.00%	0.00%		
Day Care Agency Providers	Direct Service	Administrative	5% Rate Increase	Total Increase
851 - Child Day Care	6.19%	0.64%	N/A	6.84%
855 - Adult Day Care	6.19%	0.64%	N/A	6.84%
<i>Day Care Agency Providers rate increase is based on average % cost:</i>	55.08%	32.89%		
100% Administrative Costs	Direct Service	Administrative	5% Rate Increase	Total Increase
490 - Financial Management Services - F/EA	0.00%	1.96%	N/A	1.96%
491 - Financial Management Services - Co-Employer	0.00%	1.96%	N/A	1.96%
894 - SLS – Vendor Administration	0.00%	1.96%	5%	6.96%
<i>100% Administrative Costs rate increase is based on average % cost:</i>	0.00%	100.00%		
100% Direct Services Costs	Direct Service	Administrative	5% Rate Increase	Total Increase
475 - Participant-Directed Community-Based Training Service for Adults	11.25%	0.00%	N/A	11.25%
420- Voucher Respite	11.25%	0.00%	5%	16.25%
465 - Participant-Directed Respite Services	11.25%	0.00%	5%	16.25%
864 - In-Home Respite Worker	11.25%	0.00%	5%	16.25%
<i>100% Direct Services Costs rate increase is based on average % cost:</i>	100.00%	0.00%		

Work Activity Program (WAP)
Service Code 954
Upper Limits for WAP
Effective 7/1/2016

Small vendors:	0 to 30 consumers	\$62.19 per consumer per day
Medium vendors:	31 to 100 consumers	\$44.69 per consumer per day
Large vendors:	101 or more consumers	\$33.28 per consumer per day
Statewide average:	Temporary Rate	\$37.29 per consumer per day

Supported Employment Programs (SEP)
Service Codes 950 & 952
Effective 7/1/2016

Pursuant to Welfare and Institutions Code 4691.10 and 4691.11 the hourly rate effective July 1, 2016 shall be \$36.57 .

COMMUNITY-BASED DAY PROGRAMS AND IH-HOME RESPITE AGENCIES

**ALLOWABLE RANGE OF RATES
and
TEMPORARY PAYMENT RATES**

FISCAL YEAR 2016-17
Effective July 1, 2016

Service Category	Staff Ratio	Lower Limit	Upper Limit	Temporary Payment Rate
Daily Rates				
Activity Center (505)	1:08	\$28.74	\$50.25	\$38.98
	1:07	\$30.55	\$49.49	\$39.14
	1:06	\$35.01	\$60.80	\$48.30
Adult Dev. Center (510)	1:04	\$38.71	\$71.71	\$57.69
	1:03	\$48.66	\$74.15	\$63.06
Behavior Management (515)	1:03	\$53.53	\$89.43	\$77.58
Hourly Rates				
Independent Living (520)	1:03	\$12.06	\$18.75	\$16.22
	1:02	\$19.78	\$25.71	\$23.42
	1:01	\$25.41	\$48.74	\$35.84
Social Recreation (525)	1:10	\$14.05	\$26.50	\$17.52
Infant Development (805)	1:03	\$30.70	\$51.78	\$41.48
	1:02	\$45.61	\$78.89	\$63.38
	1:01	\$64.35	\$115.74	\$83.86
In-Home Respite (862)	1:01	\$20.63	\$28.51	\$24.70

DEPARTMENT OF DEVELOPMENTAL SERVICES
COMMUNITY CARE FACILITY RATES
FIVE BEDS OR MORE PER FACILITY
EFFECTIVE JULY 1, 2016

Service Level	Monthly Payment Rate Per Consumer Effective 1/01/2016 ^[1]	Monthly Payment Rate Per Consumer Effective 7/01/2016 ^[2]
1	\$1,014	\$1,014
2-Owner	\$2,187	\$2,357
2-Staff	\$2,428	\$2,617
3-Owner	\$2,548	\$2,746
3-Staff	\$2,861	\$3,083
4A	\$3,317	\$3,575
4B	\$3,543	\$3,818
4C	\$3,767	\$4,059
4D	\$4,041	\$4,354
4E	\$4,332	\$4,668
4F	\$4,631	\$4,990
4G	\$4,978	\$5,364
4H	\$5,351	\$5,766
4I	\$5,878	\$6,334

The Personal and Incidental (P&I) expenses effective with the January 1, 2015, SSI/SSP payment standard increased from \$130.00 to \$131.00.

[\[1\] Includes the SSI/SSP pass through effective January 1, 2015.](#)

[\[2\] Includes the SSI/SSP pass through effective January 1, 2015.](#)

**DEPARTMENT OF DEVELOPMENTAL SERVICES
COMMUNITY CARE FACILITY RATES
FOUR BEDS OR LESS PER FACILITY
EFFECTIVE JULY 1, 2016**

Service Level	Monthly Payment Rate Per Consumer Effective 7/01/2016 ^[3]
1	\$1,014
2-Owner	\$3,281
2-Staff	\$3,642
3-Owner	\$3,322
3-Staff	\$3,792
4A	\$4,423
4B	\$4,683
4C	\$4,940
4D	\$5,272
4E	\$5,603
4F	\$5,945
4G	\$6,361
4H	\$6,788
4I	\$7,395

The Personal and Incidental (P&I) expenses effective with the January 1, 2015, SSI/SSP payment standard increased from \$130.00 to \$131.00.

[\[3\] Includes the SSI/SSP pass through effective January 1, 2015.](#)

DEPARTMENT OF DEVELOPMENTAL SERVICES

1600 NINTH STREET, Room 320, MS 3-9
SACRAMENTO, CA 95814
TTY (916) 654-2054 (For the Hearing Impaired)
(916) 654-1958



August 25, 2017

TO: REGIONAL CENTER EXECUTIVE DIRECTORS AND
BOARD PRESIDENTS

SUBJECT: CALENDAR YEAR 2018 PERFORMANCE CONTRACT GUIDELINES

INTRODUCTION

This document contains guidelines and specific timelines for submitting calendar year 2018 outcome-based performance plans. These guidelines are consistent with the legal requirements for developing and implementing performance contracts, as specified in Welfare and Institutions Code (WIC) section 4629, and support the quality management system framework.

GUIDELINES

Regional centers must adhere to the following instructions and specific requirements for development of the performance contract.

Community Involvement: Outcome-based performance plans must be developed through meaningful participation with each regional center's local community. The regional center shall conduct at least one public meeting, with ten-calendar days advance notice, where participants can provide input on the performance plan and shall use focus groups or surveys to collect information from the community. See Enclosure B, Statement of Assurances, for additional required components of the public process. Each regional center must provide a signed Statement of Assurances form to confirm adherence to the public process requirements, when submitting the year 2018 outcome-based performance plan to the Department of Developmental Services (Department) for review and approval. Regional centers should engage their local communities in the consideration and development of any local measures (see below).

Minimum Information Required: The following information must be submitted for review before the Department's approval of the regional center's performance plan:

- Activities developed with input from the local community that address each of the required public policy measures identified in Enclosure A.

Regional Center Executive Directors and Board Presidents
August 25, 2017
Page two

- Compliance Measures as indicated in the Department's guidelines identified in Enclosure A. The inclusion of activities is optional.
- Activities developed with input from the local community that address at least two measures related to reducing disparities and improving equity in purchase of service expenditures identified in Enclosure A.
- Signed Statement of Assurances, Enclosure B (includes required components of the public process, and confirms the Board of Directors' adoption of the year 2018 outcome-based performance plan).
- Any locally developed public policy outcomes (optional), accompanying baselines or description of how baseline information will be obtained and the plan for measuring progress in achieving outcomes.

Disparity Measures: Regional centers' performance plans must measure progress in reducing disparities and improving equity in purchase of service expenditures consistent with the requirements in WIC section 4519.5. In consultation with the Association of Regional Center Agencies, the Department revised the measures related to these efforts, as presented in prior years' guidelines, from which regional centers must select two (Enclosure A, page 4). Regional centers may also select from three additional optional measures related to disparity (Enclosure A, page 5). Regional centers are encouraged to choose the same disparity measures each year for multiyear data comparison.

The list of disparity measures from which regional centers can choose has changed from last year. If, prior to the date of this letter, a regional center has already chosen its 2018 disparity measures and conducted a public meeting with its local community, it may retain those measures for its 2018 plan. However, each regional center must choose at least two of the new disparity measures, and include them in their 2018 performance contracts.

Employment Measures: Developmental Services Trailer Bill, AB 107 (Chapter 18, Statutes of 2017), amended WIC section 4629, requiring regional center contracts to include annual performance objectives that measure progress and report outcomes in implementing the Employment First Policy pursuant to WIC section 4869, which may include, but are not limited to, measures addressing both of the following:

Regional Center Executive Directors and Board Presidents
August 25, 2017
Page three

- Establishment of local partnership agreements between regional centers, local educational agencies, and the Department of Rehabilitation districts.
- The provision of information to consumers regarding the Employment First Policy, opportunities for employment and available supports to achieve integrated competitive employment.

Measures related to employment are included in Enclosure A, pages 2 and 3.

Timelines: The timelines for submitting the outcome-based performance plan and the year-end reports are as follows:

December 1, 2017: Submit the performance contract plan to the Department for calendar year 2018.

January 31, 2018: Submit the calendar year 2017 Performance Contract Year-End Report to the Department (locally developed public policy outcomes only, if applicable).

Year-End Reports: Regional centers are responsible for providing any locally developed public policy outcomes and associated performance data by which progress can be measured. Please specify the source of the performance data.

The Department will provide performance contract year-end reports to each regional center, displaying baseline and year-end data for public policy measures and the regional center's status on compliance measures. Draft performance contract year-end reports will be provided to regional centers to facilitate input, prior to finalizing. For calendar year 2017, draft year-end reports will be transmitted by February 28, 2018. For calendar year 2018, draft year-end reports will be transmitted by February 28, 2019.

Regional centers must review draft data and insert applicable regional center information on the draft performance contract year-end reports, then return the reports to the Department for final review and approval. Regional centers should not alter the Department issued year-end reports beyond inserting information where indicated.

Regional Center Executive Directors and Board Presidents
August 25, 2017
Page four

Please email all performance contract correspondence to:

Rachel Long
Department of Developmental Services
rachel.long@dds.ca.gov

Revisions: Revisions to an approved performance plan must be submitted to the Department in writing.

Data Generation: Semiannually, the Department provides Client Master File (CMF), Client Development Evaluation Report (CDER), and Employment Development Department (EDD) data for relevant public policy and compliance measures. Mid-year (June) data will be provided by July 15th, and year-end (December) data will be provided by January 15th. Draft data will be provided one month prior to the dates above, to facilitate regional center input prior to finalizing. Data regarding the Paid Internship Program and competitive integrated employment incentive payments will be collected during an annual survey of regional centers in October, and provided each December. All other data is provided annually with the issuance of the draft year-end report by the end of February.

Dispute Resolution: Within ten-calendar days of receipt of the mid-year and/or year-end draft data, the regional center shall notify the Department of data issues or disagreements with the public policy or compliance measure data provided by the Department. The Department will review the information provided by the regional center and within 30 days, inform the regional center of the outcome of its review. If the regional center disagrees with the Department's determination, the regional center may take action as referenced in WIC section 4632.

Evaluation Criteria for Regional Center Performance: The Department will review baseline and year-end performance data for the statewide public policy and compliance measures, by regional center. There are two categories of measures that will be applicable to assessing performance: (1) statewide items applicable to all regional centers and (2) local items developed by a specific regional center that are unique to that regional center. A regional center would be considered to have successfully achieved an objective upon demonstrating the following:

Regional Center Executive Directors and Board Presidents
August 25, 2017
Page five

- **Statewide Indicator:** When any one of the following three criteria is met for the respective outcome:
 1. The outcome has improved over the prior year's baseline; or,
 2. The performance exceeds the statewide average; or,
 3. The performance equals a standard that has been defined by the Department.

- **Local Indicator:** When the outcome reflects progress over the prior year's performance (baseline), it must be related to a positive impact on consumers and/or families, and not be included in the above-mentioned statewide measures, e.g., increased presence of natural supports, persons with foster grandparents, etc.

If you have any questions regarding performance contracts and/or the performance contract process, please contact Rachel Long, Chief, Regional Center Operations Section, at (916) 654-1976.

Sincerely,

Original signed by:

BRIAN WINFIELD
Deputy Director
Community Services Division

Enclosures

cc: Regional Center Chief Counselors
Regional Center Administrators
Association of Regional Center Agencies
State Council on Developmental Disabilities

MEASUREMENT METHODOLOGY FOR PUBLIC POLICY AND COMPLIANCE MEASURES

Public Policy Performance Measures (Required)

<i>Measure</i>	<i>Measurement Methodology</i>
Number and percent of RC caseload in DC	CMF status code 8
Number and percent of minors residing with families	CMF residence code data for status 1 and 2 minors (< 18 years old) residing: <ul style="list-style-type: none"> • In own home • In foster home, or • With guardian
Number and percent of adults residing in independent living	CMF residence code data for status 2 adults (18 years old and above) residing in independent living
Number and percent of adults residing in supported living	CMF residence code data for status 2 adults (18 years old and above) residing in supported living
Number and percent of adults residing in Adult Family Home Agency homes	CMF residence code data for status 2 adults (18 years old and above) residing in Adult Family Home Agency homes
Number and percent of adults residing in family homes (home of parent or guardian)	CMF residence code data for status 2 adults (18 years old and above) residing in family homes (home of parent or guardian)
Number and percent of adults residing in home settings	CMF residence code data for status 2 adults (18 years old and above) residing in: <ul style="list-style-type: none"> • Independent living, • Supported living, • Adult Family Home Agency homes, and • Family homes
Number and percent of minors living in facilities serving > 6	CMF residence code data for status 1 and 2 minors residing in following facilities serving > 6: <ul style="list-style-type: none"> • ICF/DDs • ICF/DD-Hs • ICF/DD-Ns, • SNFs, and • CCFs
Number and percent of adults living in facilities serving > 6	CMF residence code data for status 2 adults residing in following facilities serving > 6: <ul style="list-style-type: none"> • ICF/DDs • ICF/DD-Hs • ICF/DD-Ns, • SNFs, and • CCFs (RCFE's not included)

<i>Measure</i>	<i>Measurement Methodology*</i>	<i>Frequency</i>
Number and percentage of consumers, ages 16-64 with earned income.	Employment Development Department (EDD) data--changes in number and percentage of consumers ages 16-64 with earned income as reported to EDD.	Annual
Average annual wages for consumers ages 16-64.	EDD data--average annual wages as reported to EDD for consumers ages 16-64.	Annual
Annual earnings of consumers ages 16-64 compared to people with all disabilities in CA.	EDD data--consumer wage data compared to people with all disabilities as reported to EDD.	Annual
Number of adults who were placed in competitive, integrated employment following participation in a Paid Internship Program.	Data collected manually from service providers by regional centers.	Annual
Percentage of adults who were placed in competitive, integrated employment following participation in a Paid Internship Program.	Data collected manually from service providers by regional centers.	Annual
Average hourly or salaried wages and hours worked per week for adults who participated in a Paid Internship Program during the prior fiscal year.	Data collected manually from service providers by regional centers.	Annual

Average wages and hours worked for adults engaged in competitive, integrated employment, on behalf of whom incentive payments have been made.	Data collected manually from service providers by regional centers.	Annual
Total number of \$1000, \$1250 and \$1500 incentive payments made for the fiscal year.	Data collected manually from service providers by regional centers.	Annual
Percentage of adults who reported having integrated employment as a goal in their IPP.	National Core Indicators (NCI) Survey - <i>Yes/No/Don't Know</i> Individual has community employment as a goal in his/her IPP.	Three-year cycle

*EDD data reflects wages reported to EDD for the purpose of unemployment insurance reporting. There is a limitation of the data, as some people have contract earnings that are unreported.

Measures Related to Reducing Disparities and Improving Equity in Purchase of Services Expenditures (Choose at Least Two)

<i>Measure</i>	<i>Measurement Methodology*</i>
Indicator showing the relationship between annual authorized services and expenditures by individual's residence type and ethnicity.	Prior fiscal year (FY) purchase of service data and Client Master File (CMF); Regional center generated data.
Percent of total annual purchase of service expenditures by individual's ethnicity and age: <ul style="list-style-type: none"> • Birth to age two, inclusive. • Age three to 21, inclusive. • Twenty-two and older. 	Prior FY purchase of service data and CMF.
Number and percent of individuals receiving only case management services by age and ethnicity: <ul style="list-style-type: none"> • Birth to age two, inclusive. • Age three to 21, inclusive. • Twenty-two and older. 	Prior FY purchase of service data and regional center caseload data.
Per capita purchase of service expenditures by individual's primary language (for primary languages chosen by 30 or more consumers only).	Prior FY purchase of service data and CMF.

Measures Related to Reducing Disparities and Improving Equity in Purchase of Services Expenditures (Optional)

Measure	Measurement Methodology*
Number and percent of individuals, by race/ethnicity, who are satisfied with the services and supports received by the family and family member.	NCI data: Child Family Survey FY 12/13, FY 15/16 and FY 18/19 Adult Family Survey FY 10/11, FY 13/14, FY 16/17 and FY 19/20 Family Guardian Survey FY 10/11, FY 13/14, FY 16/17 and FY 19/20
Number and percent of individuals, by race/ethnicity, whose IPP/IFSP includes all the services and supports needed.	NCI data: Child Family Survey FY 12/13, FY 15/16 and FY 18/19 Adult Family Survey FY 13/14, FY 16/17 and FY 19/20 Family Guardian Survey FY 10/11, FY 13/14, FY 16/17 and FY 19/20
Number and percent of families, by race/ethnicity, who report that services have made a difference in helping keep their family member at home.	NCI data: Adult Family Survey FY 10/11, FY 16/17 and FY 19/20 Child Family Survey FY 15/16, FY 18/19 and 21/22

* Measurement Methodology: NCI data is specific to the FYs in which the surveys are conducted. It may take up to two years after the survey year for NCI data to become available. All other data is available annually for the prior FY.

Compliance Measures

<i>Measure</i>	<i>Measurement Methodology</i>
Unqualified independent audit with no material finding(s).	Yes/No—based on regional center independent audit findings.
Substantial compliance with DDS fiscal audit.	Yes/No—based on DDS internal document criteria.
Accuracy percent of POS fiscal projections (based on February SOAR).	Yes/No—Actual expenditures plus late bills as of 1/03 do not exceed ten percent of the high end of the range or fall below ten percent of the low end of the range reported in 2/02, with stipulations and exceptions noted in July 17, 2001, ARCA Administrators' memo. Year two recommendations contained in July 17, 2001, ACRA Administrators' memo, agreement Number 8.
Operates within OPS budget.	Yes/No—actual expenditures plus late bills do not exceed OPS budget.
Certified to participate in Waiver.	Yes/No—based on most recent waiver monitoring report.
Compliance with Vendor Audit Requirements per contract, Article III, Section 10.	Yes/No—based on documentation regional center forwards to DDS.
CDER/ESR Currency	Status 1 and 2 on CMF with current CDER or ESR.
Intake/assessment and IFSP time lines (ages 0-2).	Early Start Report.
Intake/assessment time lines for consumers ages 3 and above.	CMF—calculated by subtracting the status date from the CMF date.
IPP Development (WIC requirements)	Biennial DDS review per WIC section 4646.5(c)(3).
IFSP Development (Title 17 requirements)	Early Start Report.

STATEMENT OF ASSURANCES

This is to assure that _____ Year 2018 Performance Contract was developed in accordance with the requirements specified in Welfare and Institutions Code (WIC) section 4629 and the Department of Developmental Services' (Department) Year 2018 Performance Contract Guidelines.

The performance contract was developed through a public process which included:

- Providing information, in an understandable form, to the community about regional center services and supports, including budget information and baseline data on services and supports and regional center operations [WIC 4629 (c)(B)(i)];
- Conducting a public meeting where participants can provide input on performance objectives and using focus groups or surveys to collect information from the community [WIC 4629 (c)(B)(ii)];
- Providing at least ten calendar days advance public notice of the date of the public meeting (guidelines); and,
- Circulating a draft of the performance objectives to the community for input prior to presentation at a regional center board meeting where additional public input will be taken and considered before adoption of the objectives [WIC 4629 (c)(B)(iii)].

Signature of RC Director: _____

Date: _____