

**DEPARTMENT OF DEVELOPMENTAL SERVICES**

1600 NINTH STREET, Room 340, MS 3-8  
SACRAMENTO, CA 95814  
TDD 654-2054 (For the Hearing Impaired)  
(916) 654-1954



**DATE: August 21, 2015**

**TO: REGIONAL CENTER DIRECTORS AND BOARD PRESIDENTS**

**SUBJECT: JUNE 2015 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, SB 82 (Chapter 23, Statutes of 2015), which directly impacts regional centers, developmental centers and the developmental services system. SB 82 effects the following changes:

- Requires the Department of Developmental Services (Department) to submit to the Legislature by October 1, 2015, a plan or plans to close one or more developmental center(s); and adds requirements concerning actions the Department must take and information it must provide when submitting plans to the Legislature for proposed closure of a developmental center.
- Authorizes the lease of up to 20 acres within Fairview Developmental Center (FDC) at a price that will permit the development of affordable housing for people with developmental disabilities.
- Establishes new statute concerning admissions to the secure treatment facility and transitional treatment program at Porterville Developmental Center (PDC).
- Deletes provisions that required specific intermediate care facilities (ICF/DD and ICF/DD-H), adult residential facilities, and group homes utilizing secured perimeters to be eligible for and serve clients eligible for federal Medicaid funding; amends statute to reduce the maximum number of residents in these facilities from 15 to six, except for the larger facilities provided for in sections 1267.75(k)(1) and 1531.15(k)(1) of the Health and Safety Code; and limits the number of beds statewide in these facilities to 150 (excluding enhanced behavioral supports homes).
- Requires the Department to include in the information it provides annually to the Legislature on efforts to serve consumers with challenging service needs, additional detail on utilization of mental health facilities ineligible for federal Medicaid funding and out-of-state placements; and requires the Department to provide Disability Rights California (DRC) with the information it provides to the Legislature.
- Requires an institution for mental disease (IMD) to inform the regional center when a consumer is placed in the IMD; requires the regional center to complete an assessment within 30 days of notification; and requires each IMD that admitted a consumer in the preceding year to report specific information to DRC.

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- Deletes the restriction on the number of enhanced behavioral supports homes the Department may approve as part of the pilot project.
- Requires regional center performance contracts to include a measure on progress in reducing disparities and improving equity in purchase of service expenditures.
- Requires regional centers to offer and provide a written copy of a consumer's individual program plan (IPP) in a threshold language within 45 days of the request.
- Requires the Department and regional centers to include, when compiling disparity data, the number of instances when a written copy of the IPP was provided at the request of the consumer in a language other than a threshold language, if that written copy was provided more than 60 days after the request.
- Requires the Department to consult with stakeholders to review disparity data and identify best practices to reduce disparity and promote equity, and report to the Legislature on its efforts to satisfy these requirements.
- Authorizes rate adjustments for certain service provider types if the adjustments are necessary to implement Labor Code concerning employee sick leave (Healthy Workplaces, Healthy Families Act of 2014).
- Authorizes the Department of Finance (DOF) to approve an increase to the number of consumers served by the Self-Determination Program (SDP).

While this correspondence provides a high level summary of SB 82, a complete and thorough review of the bill is imperative for regional centers' statutory compliance.<sup>1</sup> Clarifying information regarding implementation of SB 82 is included in several areas below. Regional centers should continue to educate their communities regarding these legislative changes.

### **Developmental Center Closures**

**TBL Section 6:** Section 4474.11 of the Welfare and Institutions Code<sup>2</sup> was added to require the Department to submit to the Legislature by October 1, 2015, a plan or plans to close one or more developmental center(s). The plan or plans shall meet the requirements of Sections 4474.1(c) to (g), and must be posted on the Department's website. The Department may develop community resources and otherwise engage in activities for transitioning developmental center residents into the community, and utilize funds allocated for that purpose as part of the annual Budget Act enacted by the 2015-16 Regular Session of the Legislature. Implementation of a closure plan following the 2015-16 fiscal year is contingent upon legislative approval of the plan as part of the legislative budget process for the 2016-17 fiscal year during the second year of the 2015-16 Regular Session of the Legislature.

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<sup>1</sup> Go to the June 16, 2015, amended version of the bill at <http://leginfo.legislature.ca.gov> to see the changes in statute made by SB 82.

<sup>2</sup> All citations are to the Welfare and Institutions Code unless otherwise stated.

A closure plan submitted to the Legislature pursuant to this section may subsequently be modified during the legislative review process. Modifications may include changes based on stakeholder and county-designated advisory group comments, as well as recommendations made by the county in which the developmental center is located.

TBL Section 5: Section 4474.1 was amended to provide additional requirements for the Department in submitting plans to the Legislature for proposed closure of a developmental center. In addition to pre-existing requirements, the Department shall take the following actions prior to the submission of the plan to the Legislature:

- Confer with the county in which the developmental center is located, the regional centers served by the developmental center, and other state departments using similar occupational classifications, to develop a program for the placement of staff of the developmental center planned for closure in other developmental centers, as positions become vacant, or in similar positions in programs operated by, or through contract with, the county, regional centers, or other state departments, *including, but not limited to, the community state staff program, use of state staff for mobile health and crisis teams in the community, and use of state staff in new state-operated models that may be developed as a component of the closure plan.*
- Confer with the county in which the developmental center is located, and consider recommendations for the use of the developmental center property.

Additional amendments to this section require the Department to include the following in its plan submitted to the Legislature:

- A description of the land and buildings *at the developmental center.*
- A description of resident characteristics, including, but not limited to, age, gender, ethnicity, family involvement, years of developmental center residency, developmental disability, and other factors that will determine service and support needs.
- A description of stakeholder input provided pursuant to Section 4474.1(c), (d) and (e), including a description of local issues, concerns, and recommendations regarding the proposed closure, and alternative uses of the developmental center property.
- A description of the unique and specialized services provided by the developmental center, including, but not limited to, crisis facilities, health and dental clinics, and adaptive technology services.
- A description of the assessment process and community placement decision process that will ensure necessary services and supports are in place prior to a resident transitioning into the community.

- A description of how the Department will transition the clients' rights advocacy contract provided at the developmental center pursuant to Section 4433 to the community.
- A description of how the well-being of the residents will be monitored during and following their transition into the community.
- A description of the potential job opportunities for developmental center employees, activities the Department will undertake to support employees through the closure process, and other efforts made to mitigate the effect of the closure on employees.

TBL Section 19: Following the approval of a closure plan submitted pursuant to Section 4474.11, and continuing until one year after the last developmental center consumer has transitioned into the community, the Department shall provide quarterly briefings on progress related to the plan's milestones and timelines to legislative staff, including staff to fiscal and policy committees, and staff for legislators who represent the area in which the developmental center is located.

TBL Section 20: The Department shall display annually in its January and May budget estimate documents, for any year in which it is applicable, all General Fund savings or gains reasonably associated with the downsizing or closure of a developmental center, and all community development funds reasonably associated with the downsizing or closure of a developmental center, including costs associated with the development and provision of services and supports for persons moving from a developmental center or at risk of institutionalization.

*Implementation: The Department has begun to collaborate with all entities required by these sections and is developing, with stakeholder input, a plan for the closure of Sonoma Developmental Center. Input on the closure plan will be accepted through September 1, 2015, and may be submitted to the following email or physical addresses:*

[Sonoma.Closure@dds.ca.gov](mailto:Sonoma.Closure@dds.ca.gov)

*Department of Developmental Services  
1600 Ninth Street, Room 340, MS 3-17  
Sacramento, CA 95814  
ATTN: Cindy Coppage*

*A draft closure plan will be presented at a second public hearing in September, prior to the Department submitting the closure plan to the Legislature by October 1, 2015.*

### **Use of Fairview Developmental Center Land**

TBL Section 1: Section 14670.36 of the Government Code was added, stating that the Director of the Department of General Services (DGS), with the consent of the Director of the Department, may, in the best interests of the state, let to any person or entity real property not exceeding 20 acres located within the grounds of FDC for a period not to exceed 55 years, at a price that will permit the development of affordable housing for people with developmental disabilities.

Notwithstanding any other law, the lease authorized by this section may be assignable subject to approval by the Director of DGS, with the consent of the Director of the Department. The lease shall do all of the following:

- Provide housing for individuals who qualify based upon criteria established by the Department. A minimum of 20 percent of the housing units developed shall be available and affordable to regional center consumers. When filling vacancies, priority for housing shall be given to individuals transitioning from a developmental center or at risk for admission to a developmental center.
- Allow for lease revenues or other proceeds received by the state under the leases for projects authorized by this section and Section 14670.35, to be utilized by the Department to support individuals with developmental disabilities, including subsidizing rents for those individuals.
- Include provisions authorizing the Department, or its designee, to provide management oversight and administration over the housing for individuals with developmental disabilities and the general operations of the project sufficient to assure the purposes of the lease are being carried out and to protect the financial interests of the state.

The Department may share in proceeds, if any, generated from the overall operation of the project developed pursuant to this section. All proceeds received from the project authorized by this section and the project authorized by Section 14670.35, in accordance with the terms of the lease, shall be deposited in the Department's Trust Fund. Moneys in the Department's Trust Fund shall be used, upon appropriation by the Legislature, for the purpose of providing housing and transitional services for people with developmental disabilities. Any funds not needed to support individuals with developmental disabilities shall be transferred to the General Fund upon the order of the Director of DOF.

The Director of DGS, with the consent of the Director of the Department, may enter into a lease pursuant to this section at less than market value, provided that the cost of administering the lease is recovered. The project and lease, including off-site improvements directly related to the housing project authorized by this section, shall not

be deemed a “public works contract” as defined by Section 1101 of the Public Contract Code. However, construction projects contemplated by the lease authorized by this section shall be considered “public works,” as defined by Section 1720(a)(1) of the Labor Code, for the purpose of prevailing wage requirements.

*Implementation: This project involves numerous steps and actions by a variety of entities including the Department, DGS, the City of Costa Mesa, and various agencies and districts. As part of the process, the Department may solicit input from the local regional center, service providers, consumer advocates, parents and conservators, and other stakeholders.*

*DGS will review and update the site analyses and studies that were previously completed, including evaluations of traffic impacts, utility capacity, any environmental issues, and other technical evaluations. While these evaluations are being conducted, the Department will develop a preliminary plan to include establishing the exact project boundaries, determining program and service requirements, and defining targeted consumer populations to create oversight and administrative procedures. This will also include an operational and financial analysis to gauge project feasibility.*

*It is anticipated that the development and construction of the project will take a number of years to complete.*

### **Porterville Developmental Center Secure Treatment Facility and Transitional Treatment Program**

TBL Section 16 and 17: Section 7502.5 was repealed and new language was added to state that an individual may be admitted to the secure treatment facility at PDC, as provided in Section 7505(a)(1) and (3), only when all of the following conditions are satisfied:

- The unit to which the individual will be admitted is approved for occupancy and licensed.
- The population of the secure treatment facility is no more than 211 persons.
- The individual is at least 18 years of age.

An individual may be admitted to the transitional treatment program at PDC when all of the following conditions are satisfied:

- The individual was admitted to PDC pursuant to Section 7505(a)(1) and (3).
- The individual remains eligible for commitment pursuant to Section 7505(a)(3).
- The unit to which the individual will be admitted is approved for occupancy and licensed.
- The population of the transitional treatment program is no more than 60 persons.

As soon as possible, but no later than 30 days following admission to the transitional treatment program, the regional center, in coordination with the developmental center, shall do both of the following:

- Complete a comprehensive assessment that includes the identification of services and supports needed to transition the individual to the community.
- Jointly convene an IPP meeting to discuss the comprehensive assessment and develop a plan to transition the individual to the community pursuant to Section 4418.3. The clients' rights advocate for the regional center shall be notified of the IPP meeting and may participate in the meeting unless the consumer objects on his or her own behalf.

An individual described in this section shall not be placed in the transitional treatment program for longer than necessary to procure a less restrictive placement. Each year, pursuant to Section 4418.25, an individual in the transitional treatment program at PDC shall receive an updated comprehensive assessment that shall include all of the following:

- The reason or reasons for placement in the program for longer than one year.
- A description of the issue or issues preventing community placement.
- The estimated timeframe for placement in the community and the plan for that placement.

On or before March 1, 2016, the Department shall provide the following information 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.

TBL Section 18: Section 7505 was amended to include language specific to the commitment of adults to the secure treatment program at PDC and eliminated previous statute authorizing the commitment of adolescents to the secure treatment program at PDC.

*Implementation:* PDC identified three residences in the secure treatment area with licensed beds in suspense, and worked with the California Department of Public Health to reactivate the residences for use. The use of these additional residences will establish PDC's total treatment capacity within the secure treatment area at 211. This number does not include transition beds. Individuals meeting the criteria for secure treatment, and who are on referral, will be admitted regularly as staffing and capacity permits.

*Secure treatment admissions are now limited to adults, i.e., individuals at least 18 years of age. Adolescents are no longer eligible for PDC secure treatment services. Under this change, regional centers are expected to identify and obtain secure/specialized community living services and supports for children and adolescents. Regional centers that currently have individuals under the age of 18 with existing court orders to the PDC secure treatment area should request a vacate order from the committing court and send a copy to PDC.*

*TBL clarifies that existing transitional beds—up to 60—at PDC are distinct from (and not included in) the secure treatment area capacity, and implements new requirements and limits for use. For individuals in the secure treatment area who are committed under Section 6500, and no longer require a secure treatment setting, but are in need of specialized transition supports to leave the secure treatment area and return to the community, the interdisciplinary team may refer the person for transitional treatment on specialized residences within the General Treatment Area.*

*When a referral is accepted and an individual transfers to a transitional treatment program bed, the regional center is required to update the comprehensive assessment and work with the interdisciplinary team to develop a specialized transition plan. TBL also requires additional documentation and justification for any person who remains in a transition bed over one year, and requires the Department to report this information, including regional center identification, to the Legislature.*

### **Intermediate Care Facilities, Adult Residential Facilities and Group Homes Utilizing Secured Perimeters**

**TBL Section 2 and 3:** Sections 1267.75 and 1531.15 of the Health and Safety Code were amended to delete the requirements that specific intermediate care facilities (ICF/DD and ICF/DD-H), adult residential facilities, and group homes utilizing secured perimeters be eligible for and serve clients eligible for federal Medicaid funding, and reduce the maximum number of residents in these facilities from 15 to six, except for the larger facilities provided for in Sections 1267.75(k)(1) and 1531.15(k)(1).

Additionally, the sections were amended to state that the clients' rights advocate for the regional center must be notified of the proposed admission to such facilities and of the IPP meeting. The individual program planning team must convene every 90 days after the admission to determine and document the continued appropriateness of the current placement and progress in implementing the transition plan.



Amendments to Sections 1267.75(f) and 1531.15(f) of the Health and Safety Code require the licensee to include the following in its plan of operation:

- A description of how the facility will manage residents' lack of hazard awareness and impulse control behavior, *which shall emphasize positive behavioral supports and techniques that are alternatives to physical, chemical, or mechanical restraints, or seclusion.*
- A description of how the facility will comply with applicable health and safety standards.

Except as provided in Section 4684.81(k), the state shall not authorize or fund more than a combined total of 150 beds statewide in facilities with secured perimeters under Sections 1267.75 and 1531.15 of the Health and Safety Code. The Department shall notify the appropriate fiscal and policy committees of the Legislature through the January and May budget estimates prior to authorizing an increase above a combined total of 100 beds statewide in facilities with secured perimeters under these sections.

- A minimum of 50 beds shall be available within programs designed for individuals who are designated as incompetent to stand trial pursuant to Section 1370.1 of the Penal Code. These beds shall be within facilities that are exclusively used to provide care for individuals who are placed and participating in forensic competency training pursuant to Section 1370.1 of the Penal Code, except as provided in Sections 1267.75(k)(2) and 1531.15(k)(2) of the Health and Safety Code (see paragraph below). No more than half of these facilities may have more than six beds and no facility may have more than 15 beds.
- When, in the joint determination of the regional center and the facility administrator, an individual would be most appropriately served in a specific program, regardless of whether the facility meets the criteria established in Sections 1267.75(k)(1) and 1531.15(k)(1) of the Health and Safety Code (see paragraph above), individuals who are not similarly designated may be placed in the same facility. That placement may occur only when the individual's planning team determines that the placement and the facility plan of operation meet the individual's needs and that placement is not incompatible with the needs and safety of other facility residents.

*Implementation: Pursuant to Title 17 regulations, prior to opening a home with a secured perimeter, the regional center is required to submit the home's plan of operation to the Department for approval prior to licensure. The Department will issue a certificate of approval to the service provider and copy the regional center and Community Care Licensing when the plan of operation is approved.*

*Prior to admission, regional centers are required to conduct a comprehensive assessment and convene a planning team meeting to determine whether the consumer requires the level of supervision afforded by a home utilizing secured perimeters. The planning team's determination shall be documented in the client record and reviewed quarterly. Upon admission, the regional center is required to notify the clients' rights advocate of the consumer's admission and of all planning team meetings. Within 30 days of admission, the planning team shall convene and document in the consumer's IPP the services and supports needed for the consumer to move from the facility to a less restrictive community setting. The IPP shall include a transition plan and the planning team shall convene quarterly to determine the continued appropriateness of the current placement and the transition plan.*

**Information on Efforts to Serve Consumers with Challenging Service Needs, Placements in Institutions for Mental Disease, and Approval of Enhanced Behavioral Supports Homes**

TBL Section 4: Section 4418.25(f) was amended to require the Department to provide annually to the contractor for regional center clients' rights advocacy services under Section 4433, the information it provides to the Legislature on efforts to serve consumers with challenging service needs. Section 4418.25(f)(5) was revised to add specific information the Department must provide on utilization of mental health facilities ineligible for federal Medicaid funding and out-of-state placements, including:

- The total number and age range of consumers placed in those facilities.
- The number of admissions.
- The reasons for admissions by category, including, but not limited to, incompetent-to-stand-trial commitment, Section 6500 commitment, crisis stabilization, and lack of appropriate community placement.
- The lengths of stay of consumers.
- The type of facility.

Section 4418.25(h) was added, requiring each IMD that admitted a consumer in the preceding year to report on February 1, 2016, and on February 1 annually thereafter, to the contractor for regional center clients' rights advocacy services under Section 4433, all of the following:

- The total number and age of consumers placed in that facility.
- The number of admissions.
- The reasons for admissions by category.
- The lengths of stay of consumers.
- The funding source.

TBL Section 10: Section 4648(a)(9)(C) was amended to require an IMD to inform the regional center within five days of the date a consumer is admitted to the IMD. If an individual's records indicate that he or she is a consumer, the IMD shall 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 an IMD due to an emergency, or within 30 days of notification of admission to an IMD by an entity other than a regional center, an assessment shall be completed by the regional center.

*Implementation:* The vendoring regional center should notify each IMD of the requirements contained in Section 4418.25(h). The Department will generate the data required to be reported to the Legislature and verify the data with each applicable regional center.

TBL Section 12: Section 4684.81 was amended to delete the restriction on the number of enhanced behavioral supports homes the Department may approve as part of the pilot project. Previous statute limited the number of enhanced behavioral supports homes the Department may approve to no more than six each fiscal year.

*Implementation:* Through the Fiscal Years 2014-15 and 2015-16 Community Placement Plans, the Department has approved a total of nine enhanced behavioral supports homes for development, for a combined total of 36 beds, as follows:

- For Fiscal Year 2014-15, six homes with a combined total of 24 beds.
- For Fiscal Year 2015-16, three homes with a combined total of 12 beds.

### **Efforts to Reduce Purchase of Service Disparities**

TBL Section 8: Section 4629 was amended, adding a provision that the annual performance objectives included in the Department's contract with each regional center measure progress in reducing disparities and improving equity in purchase of service expenditures.

TBL Section 9: Section 4646.5 was amended, requiring regional centers to offer, and upon request provide, a written copy of the IPP to the consumer and, when appropriate, his or her parents, legal guardian or conservator, or authorized representative within 45 days of their request in a threshold language, as defined by paragraph (3) of subdivision (a) of Section 1810.410 of Title 9 of the California Code of Regulations.

TBL Section 7: Section 4519.5 was amended to require the Department and regional centers to include, when compiling data relating to purchase of service authorization, utilization, and expenditure by each regional center, the number of instances when a

written copy of the IPP was provided at the request of the consumer and, when appropriate, his or her parents, legal guardian or conservator, or authorized representative, in a language other than a threshold language, as defined by Section 1810.410 of Title 9 of the California Code of Regulations, if that written copy was provided more than 60 days after the request.

Section 4519.5(g) was added, requiring the Department to consult with stakeholders, including consumers and families that reflect the ethnic and language diversity of regional center consumers, regional centers, advocates, providers, the protection and advocacy agency described in Section 4901, and those entities designated as University Centers for Excellence in Developmental Disabilities Education, Research, and Service pursuant to Section 15061 of Title 42 of the United States Code, to achieve the following objectives:

- Review the data compiled pursuant to Section 4519.5(a).
- Identify barriers to equitable access to services and supports among consumers and develop recommendations to help reduce disparities in purchase of service expenditures.
- Encourage the development and expansion of culturally appropriate services, service delivery, and service coordination.
- Identify best practices to reduce disparity and promote equity.

The Department shall report the status of its efforts to satisfy the requirements of Section 4519.5(g) during the 2016-17 legislative budget subcommittee hearing process.

*Implementation: The Department has begun to collaborate with regional centers on the inclusion of outcomes related to disparity in the annual performance contract. Because the Department previously issued the 2016 Performance Contract Guidelines, an addendum will be issued to regional centers regarding the inclusion of outcomes related to disparity.*

*Regional centers must track the number of IPPs it provides upon request in a language other than a threshold language more than 60 days after the request, and the Department will survey regional centers for this information. Since Section 4519 references the definition of threshold language in Title 9, for purposes of this section, that definition applies. A threshold language is defined as one that has been identified as the primary language, as indicated on the Medi-Cal Enrollment Data System (MEDS) of 3,000 beneficiaries or five percent of the beneficiary population, whichever is lower, in an identified geographic area. The Department of Health Care Services provides this*

*data by county in its Statistical Brief, Frequency of Threshold Language Speakers in the Medi-Cal Population by County for December 2013, which can be found at:*

[http://www.dhcs.ca.gov/dataandstats/statistics/Pages/RASD\\_Statistical\\_Briefs.aspx](http://www.dhcs.ca.gov/dataandstats/statistics/Pages/RASD_Statistical_Briefs.aspx).

*The threshold languages for each regional center catchment area are defined by the county/counties served by that regional center.*

**Rate Adjustments to Implement Labor Code Concerning Employee Sick Leave (Healthy Workplaces, Healthy Families Act of 2014)**

The following sections were amended to authorize, commencing July 1, 2015, rate adjustments for certain service provider types if the adjustments are necessary to implement Article 1.5 (commencing with Section 245) of Chapter 1 of Part 1 of Division 2 of the Labor Code, as added by Chapter 317 of the Statutes of 2014.

TBL Section 11: Section 4681.6 was amended to authorize regional centers to negotiate a rate adjustment with residential service providers regarding rates that are otherwise restricted pursuant to Section 4681.6(a).

TBL Section 15: Section 4691.9 was amended to authorize regional centers to negotiate a rate adjustment with existing service providers for services for which rates are determined through negotiation between the regional center and the provider.

TBL Section 14: Section 4691.6 was amended to authorize the Department to approve rate adjustments for a work activity program that demonstrates to the Department that the rate adjustment is necessary to implement the aforementioned section of Labor Code. Community-based day program and in-home respite services agency providers with temporary payment rates set by the Department may seek unanticipated rate adjustments from the Department.

Rate adjustments pursuant to these sections may be applied only if a minimum of 24 hours or three days of paid sick leave per year was not a benefit provided to employees as of June 30, 2015, and shall be specific to payroll costs associated with any increase necessary to compensate an employee up to a maximum of 24 hours or three days of paid sick leave in each year of employment.

*Implementation: For the above sections covering rate adjustments due to the implementation of sick leave change, the Department provided guidance regarding how the rates would be adjusted for the various types of providers and their corresponding rate methodologies in its correspondence to regional centers dated June 29, 2015 (see Enclosure). Compliance with these sections of TBL related to adjusting rates will be monitored through the Department's fiscal audits of vendors and regional centers.*

**Impact of Changes in Federal Regulations Implementing the Fair Labor Standards Act of 1938 Concerning Overtime Compensation**

TBL Section 21: Upon the implementation, pursuant to Section 12300.4 of the Welfare and Institutions Code, of federal regulations regarding payment of overtime compensation adopted pursuant to the federal Fair Labor Standards Act of 1938 (29 U.S.C. Sec. 201 et seq.), the Department shall consult with the Association of Regional Center Agencies, legislative staff, consumers, providers, and advocacy organizations to evaluate the impact of those regulations on consumers and providers of supported living services, in-home respite services, and personal assistants to persons with developmental disabilities.

The Department must report on the progress of the following to the Legislature during the 2016-17 legislative budget subcommittee hearing process:

- Results of the initial evaluation performed pursuant to the paragraph above.
- Steps taken to minimize a negative impact on consumers and providers.
- Recommendations to address future negative impacts on consumers and providers.

*Implementation: Upon implementation of the new federal regulations, the Department will consult with stakeholders to evaluate the impact of the regulations on consumers and service providers required to pay overtime compensation. The Department will report on the progress of this initial evaluation as well as the other areas identified above during the 2016-17 legislative budget subcommittee hearing process.*

**Self-Determination Program**

TBL Section 13: Section 4685.8 was amended to specify that following the phase-in period, the SDP shall be available on a voluntary basis to all regional center consumers, *including residents in developmental centers who are moving to the community*, who are eligible for the program.

Additional amendments to this section authorize DOF to approve, upon a request from the Department and no sooner than 30 days following notification to the Joint Legislative Budget Committee, an increase to the number of consumers served by the SDP before the end of the three-year phase-in period, and requires the Department to include in the information it provides to the Legislature, commencing January 10, 2017, the number of participants who entered the program upon movement from a developmental center.

*Implementation: The Department will ensure outreach and information regarding the SDP is provided for developmental center residents and their families. In addition, the Department will request DOF approval to increase the number of consumers served by the SDP before the end of the three-year phase-in period provided there is a need and*

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*additional consumers are identified as eligible and interested. Additionally, the Department will include in the information it provides to the Legislature beginning January 10, 2017, the number of individuals who enrolled in the SDP upon movement from a developmental center.*

If you have any questions regarding this correspondence, please contact me at (916) 654-1569, or Jim Knight at (916) 654-2759.

Sincerely,

*Original signed by*

BRIAN WINFIELD  
Assistant Deputy Director  
Community Services Division

Enclosure

cc: Association of Regional Center Agencies  
John Doyle, DDS  
Jean Johnson, DDS  
Dwayne Lafon, DDS  
Bev Humphrey, DDS  
Hiren Patel, DDS  
Jim Knight, DDS  
Tiffani Andrade, DDS  
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**DEPARTMENT OF DEVELOPMENTAL SERVICES**

1600 NINTH STREET, Room 320, MS 3-9  
SACRAMENTO, CA 95814  
TDD 654-2054 (For the Hearing Impaired)  
(916) 654-1954



June 29, 2015

TO: REGIONAL CENTER EXECUTIVE DIRECTORS

SUBJECT: VENDOR RATE ADJUSTMENTS FOR EMPLOYEE SICK LEAVE

Assembly Bill (AB) 1522, enacting the Healthy Workplaces, Healthy Families act of 2014, entitles employees who work on or after July 1, 2015, and who work 30 or more days within a year, to accrue sick leave at a rate of one hour for every 30 hours worked. The budget for fiscal year 2015-2016 and accompanying trailer bill language assumes many vendors will either receive, or be eligible to request, a rate increase, if necessary, in order to comply with the new sick leave requirements. This letter contains information on the types of vendors that are affected and what process will be used to make necessary rate adjustments.

**Vendors with Rates Set by the Department of Developmental Services (Department):**

The budget trailer bill, combined with current Title 17 regulations, allows Community-Based Day Programs (CBDP), In-Home Respite Agencies (IHRA) and Work Activity Programs (WAP) to submit rate adjustment requests, if they are not providing a minimum of 24 hours or three paid sick days annually, as of June 30, 2015. Vendors can begin submitting requests to the Department, with a copy to the vendoring regional center, at any time. However, all rate adjustment requests must be received by the Department no later than September 1, 2015.

To request a rate adjustment, applicable vendors must submit to the Department the units of service billed to the regional center and only include costs necessary to fund a maximum of 24 hours or three paid sick days to applicable employees. Vendors may submit a rate adjustment request online via the Department's website using the following link: [www.dds.ca.gov/SickLeave](http://www.dds.ca.gov/SickLeave).

The Department will provide regional centers a copy of all letters sent to vendors in response to the rate adjustment requests. Rate adjustments will be effective July 1, 2015.

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**Vendors with Rates Set through Negotiation with Regional Centers:**

The budget trailer bill allows regional centers to negotiate rate adjustments with vendors in order to implement the requirements of AB 1522 if vendors are not providing a minimum of 24 hours or three paid sick days annually, effective July 1, 2015. The rate adjustment must be specific to the unit of service that is affected and shall only include costs necessary to fund a maximum of 24 hours or three paid sick days.

Regional centers may use a worksheet similar to the one developed by the Department for CBDPs/IHRAs/WAPs, and must maintain documentation on the process to determine, and rationale for granting, any rate adjustment associated with the implementation of AB 1522. Rate adjustments will be effective July 1, 2015.

By September 30, 2015, regional centers must provide the Department information on all rate adjustments negotiated with vendors. The Department will follow up with regional centers on the process for reporting the needed information.

**Community Care Facilities with Alternative Residential Model (ARM) Rates:** The revised ARM rates, effective July 1, 2015, for community care facilities, are enclosed. These rates also affect respite facilities vendored under service code 869.

If you have any questions regarding this letter, please contact Jeffrey Greer, Chief, Rates and Fiscal Support Section, at (916) 654-2300.

Sincerely,

*Original signed by:*

JIM KNIGHT  
Assistant Deputy Director  
Community Services Division

Enclosure

cc: Regional Center Administrators  
Regional Center Chief Counselors  
Association of Regional Center Agencies

DEPARTMENT OF DEVELOPMENTAL SERVICES  
COMMUNITY CARE FACILITY RATES  
**EFFECTIVE JULY 1, 2015**

Service Level	Monthly Payment Rate Per Consumer Effective <b>1/01/2015</b> <sup>1</sup>	Monthly Payment Rate Per Consumer Effective <b>7/01/2015</b> <sup>2</sup>
1	\$1,014	\$1,014
2-Owner	\$2,035	\$2,057
2-Staff	\$2,271	\$2,298
3-Owner	\$2,355	\$2,381
3-Staff	\$2,663	\$2,694
4A	\$3,108	\$3,140
4B	\$3,316	\$3,350
4C	\$3,523	\$3,558
4D	\$3,779	\$3,816
4E	\$4,047	\$4,086
4F	\$4,323	\$4,364
4G	\$4,647	\$4,690
4H	\$4,991	\$5,037
4I	\$5,477	\$5,527

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

<sup>1</sup> Includes the SSI/SSP pass through effective January 1, 2015.

<sup>2</sup> Includes the SSI/SSP pass through effective January 1, 2015.