

Assembly Bill No. 564

CHAPTER 500

An act to amend Section 4677, to amend, repeal, and add Section 4784 of, and to repeal Section 4782 of, the Welfare and Institutions Code, relating to developmental services.

[Approved by Governor October 5, 2015. Filed with
Secretary of State October 5, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

AB 564, Eggman. Regional centers: parental fees.

Under existing law, the Lanterman Developmental Disabilities Services Act, the State Department of Developmental Services is required to contract with regional centers to provide services and supports to individuals with developmental disabilities and their families. Existing law requires the Director of Developmental Services to establish, annually review, and adjust as needed, a schedule of parental fees to be paid by parents of children under 18 years of age who are receiving 24-hour out-of-home care services through a regional center or who are residents of a state hospital or on leave from the state hospital.

Existing law provides that all parental fees collected by or for regional centers are remitted to the State Treasury to be deposited in the Program Development Fund, a continuously appropriated fund.

This bill would, effective July 1, 2016, revise and recast those provisions by, among other things, calculating monthly parental fees based on a percentage of the parents' annual income and authorizing a credit of the equivalent of one day of the monthly parental fee for each day a child spends 6 or more consecutive hours in a 24-hour period on a home visit. The bill would prohibit a monthly parental fee from exceeding the maximum monthly cost of caring for a child or the cost of services provided, whichever is less. The bill would require, for parents of children placed in 24-hour out-of-home care prior to July 1, 2016, the monthly parental fee to be calculated at the time of the parents' annual fee recalculation, or within 60 days of a parental request for review by the department and receipt of the family's completed family financial statement. The bill would provide that the Program Development Fund is available upon appropriation by the Legislature and make other related and conforming changes.

The people of the State of California do enact as follows:

SECTION 1. Section 4677 of the Welfare and Institutions Code is amended to read:

4677. (a) (1) All parental fees collected by or for regional centers shall be remitted to the State Treasury to be deposited in the Developmental Disabilities Program Development Fund, which is hereby created in the State Treasury and hereinafter called the Program Development Fund. The purpose of the Program Development Fund shall be to provide resources needed to initiate new programs, and to expand or convert existing programs. Within the context of, and consistent with, approved priorities for program development in the state plan, program development funds shall promote integrated residential, work, instructional, social, civic, volunteer, and recreational services and supports that increase opportunities for self-determination and maximum independence of persons with developmental disabilities. Notwithstanding any other law or regulation, commencing July 1, 2009, parental fees remitted to the State Treasury shall be deposited in accordance with Section 4784.

(2) In no event shall an allocation from the Program Development Fund be granted for more than 24 months.

(b) (1) The State Council on Developmental Disabilities shall, at least once every five years, request from all regional centers information on the types and amounts of services and supports needed, but currently unavailable.

(2) The state council shall work collaboratively with the department and the Association of Regional Center Agencies to develop standardized forms and protocols that shall be used by all regional centers and the state council in collecting and reporting this information. In addition to identifying services and supports that are needed, but currently unavailable, the forms and protocols shall also solicit input and suggestions on alternative and innovative service delivery models that would address consumer needs.

(3) In addition to the information provided pursuant to paragraph (2), the state council may utilize information from other sources, including, but not limited to, public hearings, quality assurance assessments conducted pursuant to Section 4571, regional center reports on alternative service delivery submitted to the department pursuant to Section 4669.2, and the annual report on self-directed services produced pursuant to Section 4685.7.

(4) The department shall provide additional information, as requested by the state council.

(5) Based on the information provided by the regional centers and other agencies, the state council shall develop an assessment of the need for new, expanded, or converted community services and support, and make that assessment available to the public. The assessment shall include a discussion of the type and amount of services and supports necessary but currently unavailable including the impact on consumers with common characteristics, including, but not limited to, disability, specified geographic regions, age, and ethnicity, face distinct challenges. The assessment shall highlight alternative and innovative service delivery models identified through their assessment process.

(6) This needs assessment shall be conducted at least once every five years and updated annually. The assessment shall be included in the state plan and shall be provided to the department and to the appropriate

committees of the Legislature. The assessment and annual updates shall be made available to the public. The State Council on Developmental Disabilities, in consultation with the department, shall make a recommendation to the Department of Finance as to the level of funding for program development to be included in the Governor's Budget, based upon this needs assessment.

(c) In addition to parental fees and General Fund appropriations, the Program Development Fund may be augmented by federal funds available to the state for program development purposes, when these funds are allotted to the Program Development Fund in the state plan. The Program Development Fund is available, upon appropriation by the Legislature, to the department, and subject to any allocations that may be made in the annual Budget Act. In no event shall any of these funds revert to the General Fund.

(d) The department may allocate funds from the Program Development Fund for any legal purpose, provided that requests for proposals and allocations are approved by the state council in consultation with the department, and are consistent with the priorities for program development in the state plan. Allocations from the Program Development Fund shall take into consideration the following factors:

(1) The future fiscal impact of the allocations on other state supported services and supports for persons with developmental disabilities.

(2) (A) The information on priority services and supports needed, but currently unavailable, submitted by the regional centers.

(B) Consistent with the level of need as determined in the state plan, excess parental fees may be used for purposes other than programs specified in subdivision (a) only when specifically appropriated to the State Department of Developmental Services for those purposes.

(e) Under no circumstances shall the deposit of federal moneys into the Program Development Fund be construed as requiring the State Department of Developmental Services to comply with a definition of "developmental disabilities" and "services for persons with developmental disabilities" other than as specified in subdivisions (a) and (b) of Section 4512 for the purposes of determining eligibility for developmental services or for allocating parental fees and state general funds deposited in the Program Development Fund.

SEC. 2. Section 4782 of the Welfare and Institutions Code is repealed.

SEC. 3. Section 4784 of the Welfare and Institutions Code is amended to read:

4784. (a) The Director of Developmental Services shall establish, annually review, and adjust as needed, a schedule of parental fees for services received through the regional centers. Effective July 1, 2009, this schedule shall be revised to reflect changes in economic conditions that affect parents' ability to pay the fee, but not to exceed an inflationary factor as determined by the department.

(b) The parental fee schedule established pursuant to this section shall be exempt from Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) In establishing the amount parents shall pay, the director shall take into account all of the following factors:

(1) The current cost of caring for a child at home, as determined by the most recent data available from the United States Department of Agriculture's survey on the cost of raising a child in California, adjusted for the Consumer Price Index (CPI) from the survey date to the date of payment adjustment.

(2) Medical expenses incurred prior to regional center care.

(3) Whether the child is living at home.

(4) Parental payments for medical expenses, clothing, incidentals, and other items considered necessary for the normal rearing of a child.

(5) Transportation expenses incurred in visiting a child.

(d) The parental fee schedule shall exempt families with an income below the federal poverty level from assessment and payment of the parental fee.

(e) (1) The adjusted fee shall be assessed in full for children when the out-of-home placement commences on or after July 1, 2009.

(2) For children placed out-of-home prior to July 1, 2009, the department shall determine the increase in the parental fee above the amount assessed using the fee schedule in effect on June 30, 2009. This fee increase shall be implemented over three years, with one-third of the increase added to the fee on July 1, 2009, one-third of the increase added to the fee on July 1, 2010, and the final third added to the fee on July 1, 2011.

(f) Notwithstanding any other law, commencing July 1, 2009, all fees collected shall be remitted to the State Treasury to be deposited as follows:

(1) Fees collected up to the amount that would be assessed using the fee schedule in effect on June 30, 2009, shall be deposited into the Program Development Fund established in Chapter 6 (commencing with Section 4670) to provide resources needed to initiate new programs, consistent with approved priorities for program development in the state plan.

(2) Fees collected using the July 1, 2009, schedule that are greater than the amount that would have been assessed using the fee schedule in effect on June 30, 2009, shall be deposited into the Program Development Fund and shall be available for expenditure by the department to offset General Fund costs.

(g) This section shall become inoperative on July 1, 2016, and, as of January 1, 2017, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2017, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 4. Section 4784 is added to the Welfare and Institutions Code, to read:

4784. (a) The department shall assess a monthly fee to parents of children under 18 years of age who are receiving 24-hour out-of-home care services through a regional center or as a resident of a state hospital when the family's gross income is above 200 percent of the federal poverty level.

(b) The monthly parental fees and credits established pursuant to this section shall be exempt from Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) A monthly parental fee described in this section shall be assessed beginning 60 days from the date of the child's placement in 24-hour out-of-home care.

(d) For the purpose of assessing the fee, parents shall provide income documentation to the department within 30 days of the date the department requested the documentation. Income documentation shall include a copy of a parent's most recent federal tax return or a copy of each parent's most recent paystub or employer-provided earnings statement, issued within 60 days of the date the department requested the documentation. A self-employed parent shall document his or her income by providing a copy of his or her most recent federal tax return. A parent without income documentation shall report and certify his or her income on a form provided by the department.

(e) (1) The monthly parental fee for parents who timely submit income documentation or from whom the department does not request income documentation shall be as follows:

(A) Parents who have a family income of 201 percent to 300 percent, inclusive, of the current federal poverty level shall be assessed a monthly fee of 3 percent of their annual gross income, divided by 12.

(B) Parents who have a family income of 301 percent to 400 percent, inclusive, of the current federal poverty level shall be assessed a monthly fee of 4 percent of their annual gross income, divided by 12.

(C) Parents who have a family income of 401 percent to 500 percent, inclusive, of the current federal poverty level shall be assessed a monthly fee of 5 percent of their annual gross income, divided by 12.

(D) Parents who have a family income of 501 percent or more of the current federal poverty level shall be assessed a monthly fee of 6 percent of their annual gross income, divided by 12.

(2) The monthly parental fee for parents who fail to provide income documentation to the department within 30 days of the date the department requested the documentation shall be equivalent to the maximum monthly cost of caring for a child, as determined by the most recent data available from the United States Department of Agriculture's survey on the cost of raising a child in the west region. However, if parents whose monthly parental fee is calculated pursuant to this paragraph later provide the required income documentation, their monthly parental fee shall be recalculated pursuant to paragraph (1) and retroactively adjusted based on the income information provided.

(3) A monthly parental fee assessed pursuant to this section shall not exceed the maximum monthly cost of caring for a child, as determined by the most recent data available from the United States Department of Agriculture's survey on the cost of raising a child in the west region, or the cost of the services provided, whichever is less.

(4) A monthly parental fee assessed pursuant to this section shall be recalculated every 12 months, on the date of the original fee assessment, and within 60 days of the date a parent notifies the department of a change in family income or family size and provides updated income documentation, as described in subdivision (d).

(5) Parents of children placed in 24-hour out-of-home care prior to July 1, 2016, shall have their initial monthly parental fee calculated, pursuant to the provisions of this section, at the time of their annual fee recalculation, or within 60 days of a parental request for review by the department and receipt of the family's completed family financial statement.

(6) The department may grant a temporary waiver from paying the monthly parental fee for parents who substantiate, with receipts, an unavoidable and uninsured catastrophic loss with direct economic impact on the family or significant unreimbursed medical costs associated with care for a child who is a regional center consumer.

(f) Parents who remove their child from 24-hour out-of-home care for a home visit for six or more consecutive hours during a 24-hour period shall be entitled to a credit equal to one day of the monthly parental fee. A credit shall be calculated by multiplying the parents' monthly parental fee by 12 and dividing that number by the number of days in the year. In order to receive a credit pursuant to this subdivision, parents shall submit a request to the department that is postmarked no later than 60 days after the day for which the credit was earned. Failure to comply with this requirement will result in a denial of the credit by the department.

(g) All fees collected shall be remitted to the State Treasury to be deposited into the Program Development Fund established in Chapter 6 (commencing with Section 4670) to provide resources needed to initiate new programs, consistent with approved priorities for the program development in the state plan, or to be used by the department to offset General Fund costs.

(h) Parents may appeal a determination of the amount of a monthly parental fee or the denial or amount of a credit requested pursuant to subdivision (f) by submitting a written appeal request to the director within 30 days of the date of the monthly parental fee confirmation letter or credit confirmation or denial letter. An appeal pursuant to this subdivision may consider only disputes concerning the family income used to set the monthly parental fee and the denial or amount of credit. The director, or his or her designee shall, within 30 days after receipt of the appeal, review the assessed monthly parental fee or credit denial or amount for accuracy and provide written notice of the decision to the appellant. The director or his or her designee shall, when deciding an appeal of a monthly parental fee, consider the income documentation and the calculation of the monthly parental fee described in subdivision (e). All decisions regarding monthly parental fee appeals shall be retroactive to the date the appealed monthly parental fee was assessed.

(i) This section shall become operative on July 1, 2016.