

DEPARTMENT OF DEVELOPMENTAL SERVICES

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TO: REGIONAL CENTER EXECUTIVE DIRECTORS AND BOARD PRESIDENTS

SUBJECT: JULY 2021 TRAILER BILL LANGUAGE AFFECTING REGIONAL CENTERS

The purpose of this correspondence is to provide a summary of the recently enacted Developmental Services Budget Trailer Bill, AB 136 (Chapter 76, Statutes of 2021), which directly impacts regional centers, state operated services and the developmental disabilities services system. The following is a list of areas affected by, or new requirements resulting from, AB 136, and the bill sections where relevant statutory changes can be found:

- [Provisional Eligibility for Lanterman Act Services, Sections 20 and 30](#)
- [Early Start, Section 2](#)
- [Remote Services and Supports Meetings, Section 31](#)
- [Repeal of Suspended Services Statute, Section 32](#)
- [Out-of-State Services, Sections 21 and 22](#)
- [Group Homes for Children with Special Health Care Needs \(GHCSHN\) and Adult Residential Facilities for Persons with Special Health Care Needs \(ARFPSHN\), Sections 3-11, 13-15, 34-46 and 60-63](#)
- [State-Operated Facilities, Sections 1, 16, 54, 55, 56 and 59](#)
- [Caseload Ratios and Contract Requirements, Section 28](#)
- [Implicit Bias Training, Section 18](#)
- [Uniform Holiday Schedule, Section 51](#)
- [Repeal of Suspension of Rate Increases for Specified Services, Section 50](#)
- [Direct Service Professional Pay Differential, Section 19](#)
- [Direct Service Professional Training, Section 29](#)
- [Independent Evaluation of Equity and Disparities Efforts, Section 23](#)
- [Language Access and Cultural Competency Initiative, Section 26](#)
- [Community Navigator Program, Section 24](#)
- [Paid Internship Program \(PIP\) and Competitive Integrated Employment \(CIE\) Incentive Payments, Section 52](#)
- [Increase Pathways to CIE, Section 53](#)
- [Self-Determination Program \(SDP\), Section 47](#)
- [Office of the SDP Ombudsperson, Section 48](#)
- [Rate Reform and Quality Incentive Program, Section 25](#)
- [Performance Improvement Indicators, Section 27](#)
- [Quarterly Legislative Briefings, Section 17](#)

“Building Partnerships, Supporting Choices”

The changes made by AB 136 became effective with the passage of the bill on July 16, 2021, unless otherwise specified. While this correspondence provides a high-level summary of AB 136, a complete and thorough review of the bill is imperative for regional centers' statutory compliance. Regional centers should continue to educate their communities regarding these legislative changes.

Provisional Eligibility for Lanterman Act Services

TBL Sections 20 and 30: Welfare and Institutions Code¹ Section 4512 was amended to state, if a child who is three or four years of age is not otherwise eligible for regional center services pursuant to Section 4512(a)(1), the child may be provisionally eligible for regional center services if the child has a disability that is not solely physical in nature and has significant functional limitations in at least two of the following areas of major life activity, as determined by a regional center and as appropriate to the age of the child:

1. Self-care.
2. Receptive and expressive language.
3. Learning.
4. Mobility.
5. Self-direction.

To be provisionally eligible, a child is not required to have one of the developmental disabilities listed in Section 4512(a)(1).

An infant or toddler eligible for early intervention services from the regional center pursuant to Government Code Section 95014 must be assessed by the regional center at least 90 days prior to the date that they turn three years of age for purposes of determining their ongoing eligibility for regional center services. That assessment initially shall determine if the child has a developmental disability under Section 4512(a)(1). If the regional center determines that the child does not have a developmental disability as defined in Section 4512(a)(1), the regional center must determine if the child is provisionally eligible for regional center services. If the regional center determines the child is not provisionally eligible, the regional center must give adequate notice pursuant to Section 4701.

A child who is provisionally eligible must be reassessed at least 90 days before turning five years of age. The child must meet the definition set forth in Section 4512(a)(1) to continue to be eligible for regional center services at five years of age. Regional center services for a child who was provisionally eligible and who does not meet the definition

¹ All citations are to the Welfare and Institutions Code unless otherwise noted.

in Section 4512(a)(1) shall end when the child is five years of age unless an appeal was filed pursuant to Section 4715.

Section 4643.5 was amended to state that if a child has been determined to be provisionally eligible for services by a regional center, the child shall also be considered provisionally eligible by any other regional center if the child has moved to another location within the state. The child shall remain provisionally eligible unless a regional center, following a comprehensive reassessment, concludes that the original determination is clearly erroneous.

Implementation: The Department of Developmental Services (Department) sent guidance to regional centers on August 5, 2021, providing clarification on the amendments and use of status code "U" for children who are determined provisionally eligible. See Enclosure A.

Early Start

TBL Section 2: Government Code Section 95020 was amended to include the "legal guardian" as a person who may provide consent and participate in activities provided in this section.

Government Code Section 95020(c)(1) was amended to state, notwithstanding any other law, until June 30, 2022, and at the request of the parent or legal guardian, an individualized family service plan (IFSP) meeting must be held by remote electronic communications.

Government Code Section 95020(d)(5)(A) was amended to specify that early intervention services may be delivered by remote electronic communications.

Implementation: The Department will promulgate regulations to amend California Code of Regulations, Title 17, to state that an IFSP meeting may be conducted through remote electronic communications when requested by the parent or legal guardian.

Remote Services and Supports Meetings

TBL Section 31: Section 4646(f) was amended to state, notwithstanding any other law, until June 30, 2022, a meeting regarding the provision of services and supports by the regional center, including a meeting to develop or revise the individual program plan (IPP), must be held by remote electronic communications if requested by the consumer or, if appropriate, the consumer's parents, legal guardian, conservator, or authorized representative.

Implementation: This provision does not apply to regional center quality assurance and/or monitoring visits, including quarterly face-to-face visits for individuals residing in out-of-home settings.

Repeal of Suspended Services Statute

TBL Section 32: Section 4648.5 was amended to end on June 30, 2021, the suspension of regional centers' authority to purchase camping services and associated travel expenses; social recreation activities, except for those activities vendored as community-based day programs; educational services for children three to 17, inclusive, years of age; and nonmedical therapies, including, but not limited to, specialized recreation, art, dance, and music.

This section became inoperative on July 1, 2021, and as of January 1, 2022 is repealed.

Implementation: The Department sent correspondence to regional centers on October 7, 2021, requesting regional centers provide information to service coordinators and conduct outreach to consumers, families, providers and local community organizations to facilitate awareness about the availability of these services. Regional centers must submit an outreach plan and revise their purchase of service policies, as needed, and submit them to the Department by December 15, 2021. See Enclosure B.

Out-of-State Services

TBL Sections 21 and 22: Section 4519 was amended, authorizing the Director of the Department, until December 31, 2021, to approve an extension for longer than six months for consumers who were receiving out-of-state services as of July 1, 2021. Additionally, for consumers who were receiving out-of-state services as of July 1, 2021, the report required pursuant to Section 4519(c) may be reviewed and updated less frequently than every three months if the Director determines a longer period between the reviews and updates is appropriate. These amendments will remain in effect only until January 1, 2022.

Group Homes for Children with Special Health Care Needs (GHCSHN) & Adult Residential Facilities for Persons with Special Health Care Needs (ARFPSHN)

TBL Sections (see "Implementation"): Various sections of the Welfare and Institutions (W&I) Code and Health and Safety (H&S) Code were amended or added to establish GHCSHN as a new home model, similar to ARFPSHNs, for children with developmental disabilities. H&S Code Section 1502(a)(22) defines GHCSHN as a group home certified by the Department pursuant to W&I Code Article 3.5 (commencing with Section 4684.50), and licensed by the California Department of Social Services (CDSS) pursuant to H&S Code Article 9 (commencing with Section 1567.50), that provides 24-

hour health care and intensive support services to a maximum of five children with developmental disabilities, in a homelike setting.

H&S Code Section 1567.51(a) and W&I Code Section 4684.53(a) state that the Department and CDSS must jointly implement a licensing program to provide special health care and intensive support services to children in homelike community settings. The program shall be implemented through approved community placement plans.

Pursuant to H&S Code Section 1567.51(c), notwithstanding W&I Code Section 4684.53(c)(2), CDSS and the Department may adopt regulations, including emergency regulations, to implement this section.

W&I Code Section 4684.74 was amended to state that the Department shall only approve the development of ARFPSHNs or GHCSHNs that are directly associated with the identification of the need of regional center consumers residing in or at risk of placement in larger congregate settings. Prior to this amendment, the Department was only authorized to approve development of ARFPSHNs for the purpose of community placement of developmental center residents.

Implementation: The Department will issue in Fall 2021, the Fiscal Year 2021-22 Community Placement Plan/Community Resource Development Plan Guidelines with information on development of GHCSHNs and additional ARFPSHNs. The Department will host workshops for regional centers and potential providers of both the GHCSHN and ARFPSHN models to discuss applicable statute, regulation and program design components. The first workshop is scheduled for November 8, 2021. The Department recommends regional centers review the [June 28, 2021 "Amended Senate" version of AB 136](#) to gain a thorough understanding of GHCSHN requirements and related statutory amendments. Relevant sections of AB 136, H&S Code and W&I Code are as follows:

- *Sec. 3 amended H&S Code Section 1502*
- *Sec. 4 amended H&S Code Section 1507.2*
- *Sec. 5 added H&S Code Section 1507.35*
- *Sec. 6 amended H&S Code Section 1524*
- *Sec. 7 amended H&S Code Section 1534*
- *Sec. 8 amended H&S Code Section 1538*
- *Sec. 9 amended H&S Code Section 1538.55*
- *Sec. 10 amended H&S Code Section 1548*
- *Sec. 11 amended H&S Code Section 1566.45*
- *Sec. 13 added H&S Code Section 1567.51*
- *Sec. 14 amended W&I Code Section 361.2*

- *Sec. 15 amended W&I Code Section 727*
- *Sec. 34 amended W&I Code Section 4684.50*
- *Sec. 35 amended W&I Code Section 4684.53*
- *Sec. 36 amended W&I Code Section 4684.55*
- *Sec. 37 amended W&I Code Section 4684.58*
- *Sec. 38 amended W&I Code Section 4684.60*
- *Sec. 39 amended W&I Code Section 4684.63*
- *Sec. 40 amended W&I Code Section 4684.65*
- *Sec. 41 amended W&I Code Section 4684.68*
- *Sec. 42 amended W&I Code Section 4684.70*
- *Sec. 43 amended W&I Code Section 4684.73*
- *Sec. 44 amended W&I Code Section 4684.74*
- *Sec. 45 amended W&I Code Section 4684.76*
- *Sec. 46 amended W&I Code Section 4684.77*
- *Sec. 60 amended W&I Code Section 11402*
- *Sec. 61 amended W&I Code Section 17731*
- *Sec. 62 amended W&I Code Section 17732*
- *Sec. 63 amended W&I Code Section 17736*

State-Operated Facilities

TBL Sections 1, 16, 54, 55, 56 and 59: Section 6500 was amended to state that a person with a developmental disability may be committed to the Department for placement in a state developmental center or state-operated community facility as a result of an acute crisis. Additionally, Section 6509 specifies that a person committed to the Department for suitable treatment and habilitation services may be placed in a Stabilization, Training, Assistance and Reintegration (STAR) home.

Section 4418.7 was amended to specify that the term “acute crisis home operated by the department” means property used to provide STAR services. This section was also amended to require approval from the Director of the Department or their designee prior to the regional center pursuing obtainment of a court order for admission to a STAR home.

Section 6502 was amended to state that a petition for the commitment of a person with a developmental disability to the Department who is in acute crisis may be filed in the superior court of the county that determined the question of acute crisis or the county in which the acute crisis home is located.

Government Code Section 14669.22 was amended to state that the Department may lease, lease-purchase, or lease with the option to purchase five STAR homes.

Sections 7505(a)(4) and (5) were amended to extend the dates by when a person may be committed by a court to the Canyon Springs Community Facility, as specified in this section, to June 30, 2022.

Implementation: Sections 4418.7, 6500 and 6502 were amended for clarification. Pursuant to the change in Government Code, the Department will continue development of acute crisis homes.

Canyon Springs will continue to admit individuals committed by a court for acute crisis admission until June 30, 2022. The Desert STAR capacity is 10 beds. If the regional center determines the community placement of a consumer is at risk of failing, and the consumer meets the acute crisis criteria as stated in Section 4418.7, the regional center may submit a request to the state operated acute crisis services at

StarReferral@dds.ca.gov. The request must include the following information:

- *Cover letter with a description of the acute crisis situation, all alternatives that have been used to support the individual in the community including specific details on what resources have been attempted, other regional center resources that have been explored and the outcomes, the date the statewide specialized resource services database was accessed and the outcome, reflection that the regional center executive director has approved the referral for crisis admission, and which STAR home is to be considered (South STAR, Northern STAR, Central STAR or Desert STAR).*
- *Completed DS 2518*
- *Current psychological, psychiatric and/or behavioral assessment*
- *Current Client Development Evaluation Report*
- *Most recent IPP*
- *The date the individual became eligible for regional center services*
- *Any additional pertinent information that would assist in the assessment process*

The appropriate regional resource development project will complete an assessment prior to the consideration of an admission and the findings will be forwarded to the Director of the Department or the Director's designee. Prior to any admission, the Director of the Department or the Director's designee must certify that there are no community-based options that can meet the consumer's needs.

Caseload Ratios and Contract Requirements

TBL Section 28: Section 4640.6 was amended to state that each time new funds are appropriated in the annual Budget Act to the Department for allocation to regional centers with the stated purpose of reducing caseload ratios, both of the following must occur:

1. Each regional center must hold at least one public meeting during that year to receive stakeholder input to help inform the way the regional center allocates new positions funded through the allocation to that regional center. Stakeholders may include the state council, local organizations representing consumers, family members, community-based organizations that represent the ethnic and language diversity of the regional center catchment area, regional center employees, including recognized labor organizations and service providers, and other interested parties. The public meeting required by this paragraph fulfills a regional center's requirement under Section 4640.6(f) to gather input regarding its plan of correction if the plan of correction is discussed during the meeting.
2. On or before October 10 of the year of the appropriation of funds, and again by March 10 of that fiscal year, and in a format prescribed by the Department, each regional center must report, and the Department must post to its website, the following information:
 - a. The number of new service coordinator positions created with the funds allocated to reduce caseload ratios.
 - b. Data on current caseload ratios as of March 1 and October 1, respectively.
 - c. Any other information determined by the Department.

Additionally, Section 4640.6 was amended to state that the contract between the Department and a regional center shall require the regional center to have, or contract for, the following additional areas:

- Implicit bias training, pursuant to Section 4511.1, to increase service access and equity in the developmental services system.
- Language access and cultural competency services and support, pursuant to Section 4620.4, to allow consistent access to information and services and to advance person-centered health and human services equity outcomes toward the diminishment of racial, ethnic, and other disparities.

Implementation: New funds will be appropriated to the Department in Fiscal Year 2022-23 for allocation to regional centers with the stated purpose of reducing caseload ratios. The provisions of Section 4640.6(g) will be effective in FY 2022-23, and the Department will send related guidance to regional centers prior to the provisions taking effect. The Department will work with the Association of Regional Center Agencies' Contract

Negotiation Committee to include language in regional center contracts regarding implicit bias training and language access and cultural competency services and support.

Implicit Bias Training

TBL Section 18: Section 4511.1 was added to state that the Department must require regional centers to implement implicit bias training through its contracts pursuant to Section 4640.6 and establish course content and training frequency requirements for that training.

All regional center personnel must comply with the implicit bias training requirements of Section 4640.6(g)(9) and this section. This section shall additionally apply to regional center contractors involved in intake and assessment and eligibility determinations. The Department must specify the timelines by which training must be completed. Training must be prioritized for regional center employees and contractors who are involved in eligibility determination or directly assist individuals and their families, or both, during the regional center intake and assessment processes, service coordination, and regional center employees who are involved in developing and implementing purchase of service policies and other policies, guidelines, instructions, or training materials utilized by regional centers when determining the service needs of consumers.

The training described by this section may be procured either by the Department or by a regional center that has obtained prior approval by the Department. Each regional center and its contractors shall retain the training record of employees in their respective personnel files. Regional centers must annually inform the Department of the percentage of its contractors and regional center personnel, identified by job classification, who have successfully completed the training. A list and description of trainings procured by the Department, or a regional center with approval by the Department, must be posted on the Department's website.

The Department or regional center shall make reasonable efforts to procure training that considers all of the following:

1. Trainers who are representative of the diversity of persons served by regional centers.
2. Academic training in implicit bias or experience educating public benefit programs about implicit bias and its effects on people accessing and interacting with public benefit programs.
3. The impact of implicit bias, explicit bias, and systemic bias on public benefit programs and the effect this can have on individuals seeking eligibility for and services through public benefit programs.
4. Actionable steps trainees can take to recognize and address their own implicit biases.

Implementation: The Department has coordinated with the Association of Regional Center Agencies to consider stakeholder input received, course content, and key implementation elements. The Department met with the African American Focus Group and regional center Cultural Specialists to discuss the implicit bias initiative and to obtain stakeholder input. On September 17, 2021, the Department hosted a community-based organization meeting to gather additional stakeholder input. The Department will send regional centers a subsequent correspondence regarding the timelines by which training must be completed, course content, training frequency requirements, and annual reporting requirements.

Uniform Holiday Schedule

TBL Section 51: Section 4692 was repealed, deleting Uniform Holiday Schedule requirements.

Repeal of Suspension of Rate Increases for Specified Services

TBL Section 50: Section 4691.12 was amended, deleting language that would suspend on December 31, 2021, the rate increases for services specified in this section.

Implementation: The Department sent correspondence to regional centers on October 19, 2021, with information on applicable rate increases and the deletion of Section 4691.12(c)(1). See Enclosure C.

Direct Service Professional Pay Differential

TBL Section 29: Section 4641.1 was added, requiring the Department to establish and implement a system that promotes equity in access to services for regional center consumers by providing a pay differential to direct service professionals who can communicate in a language or medium other than English as part of their regular job duties.

Notwithstanding any other law, a direct service professional, as described above, is eligible for a bilingual or multilingual differential if both of the following conditions are met:

1. The duties currently assigned to the direct service professional require regular communication in a language or medium other than English with an individual who has a developmental disability, and when appropriate, their families.
2. The direct service professional passes an examination certifying their ability to communicate in the language or medium other than English.

For the purpose of this section, “medium other than English” includes, but is not limited to, American Sign Language and other sign languages and augmentative and alternative communication.

The Department may adopt emergency regulations to implement this section. Prior to implementation, the Department shall provide a report to the Legislature detailing its plan to implement a wage differential for bilingual and multilingual staff.

Implementation: The Department will meet with stakeholders during Fiscal Year 2021-22 to discuss the implementation of paying direct service professionals a differential for those staff who can provide bilingual services, including American Sign Language. A verification process for bilingual competency will be developed after discussions with stakeholders.

Direct Service Professional Training

TBL Section 19: Section 4511.5 was added, requiring the Department, with input from stakeholders, to develop or utilize existing curriculum to implement enhanced direct service professional training that promotes services that are person centered and culturally and linguistically sensitive, and that improve outcomes for individuals with intellectual and developmental disabilities. The training must include, but is not limited to, all of the following elements:

- Competency based
- Tiered training and certification
- Continuing education
- Outcome measures, as defined by the Department, with input from stakeholders

The Department must consult with stakeholders throughout the implementation of this section. This consultation must include facilitation of a process for providing input and comments on implementation. Stakeholders may include, but are not limited to, the following:

- Consumers and families across different geographic regions of the state and from diverse racial and ethnic backgrounds, diverse consumer age groups and disabilities
- Regional center representatives
- Service providers representing a diverse range of service types and models

Implementation of this section is subject to an appropriation of funds for this purpose in the annual Budget Act.

Implementation: The Department will work with stakeholders on the development of enhanced direct service professional training. Additional information is forthcoming.

Independent Evaluation of Equity and Disparities Efforts

TBL Section 23: Section 4519.5 was amended to require the Department, on or before December 31, 2021, to contract with an entity or entities with demonstrated experience

in quantitative and qualitative data evaluation to design and conduct an independent evaluation of the efforts to promote equity and reduce disparities pursuant to Section 4519.5(h).

Implementation: The Department issued a Request for Proposal on September 10, 2021, to design and conduct an independent evaluation of efforts to advance equity and reduce disparities in the developmental disabilities services system. The Notice of Intent to Award will be issued on November 8, 2021. As part of the evaluation process, Service Access and Equity grantees may be required to submit additional records from prior grants.

Language Access and Cultural Competency Initiative

TBL Section 26: Section 4620.4 was added, requiring the Department to administer an enhanced language access and cultural competency initiative for individuals with developmental disabilities, their caregivers, and their family members. The Department must require regional centers to implement this initiative through its contracts pursuant to Section 4640.6. The primary goal is to improve quality and facilitate more consistent access to information and services.

Allowable uses of the funds provided to regional centers include, but are not limited to, the following:

1. Identification of vital documents and website content for translation, as well as points of public contact in need of oral and sign language interpretation services.
2. Orientations and specialized group and family information sessions with ample and publicized question and answer periods, scheduled at times considered most convenient for working families and in consultation with community leaders.
3. Regular and periodic language needs assessments to determine threshold languages for document translation.
4. Coordination and streamlining of interpretation and translation services.
5. Implementation of quality control measures to ensure the availability, accuracy, readability, and cultural appropriateness of translations.

The use of these funds may not supplant any existing efforts or funds for similar purposes, but are intended to augment and provide maximum additional benefit to the greatest number of persons served, their caregivers, and their families.

The Department must report annually, beginning January 10, 2022, as part of the Governor's Budget and the May Revision, how these funds are being utilized and what remaining needs for language access and culturally competent services are identified by people served, the community, and regional centers as the initiative implements.

Regional centers will receive specialized funding allocations to facilitate applications for payments authorized to protect the health and safety of consumers, pursuant to Section 4681.6(a)(1), for non-English speaking individuals served. Funded activities must include specialized outreach and case management services toward identifying which individuals might have an unaddressed need for a health and safety waiver and assisting with guiding individuals through the application process to meet those needs. Regional centers must track the number of individuals served through this effort and provide this information to the Department on at least an annual basis.

Implementation: The Department will meet with stakeholders to obtain input on the development of the Language Access and Cultural Competency Initiative. The Department will send regional centers a subsequent correspondence outlining the process for submitting information related to the identification of health and safety waiver needs and facilitation of health and safety waiver requests for non-English speaking individuals served.

Community Navigator Program

TBL Section 24: Section 4519.9 was added, requiring the Department to establish a community navigator program to promote the utilization of generic and regional center services by using community leaders, family members, or self-advocates to provide information and guidance to consumers and their families who could benefit from added support to navigate available resources. The Department must engage stakeholders to obtain input on key elements for the community navigator program by August 31, 2021.

The program must be structured to utilize individuals and families who are receiving or have received regional center services to provide education to those individuals who are or may be eligible for regional center services regarding the developmental disabilities services system, agencies available to assist them, and other available resources. The program must focus on cultural and linguistic competency in supporting individuals and families to improve equitable access to regional center services.

The Department must allocate funding to family resource centers to administer community navigator programs. To the extent possible, each funded program must share a culture or ethnicity, or both, community, and language with the individuals and families they support when offering assistance and education to reduce barriers in accessing services. Each program funded pursuant to this subdivision must assist individuals and families in accessing and utilizing generic and regional center services in their communities, including, but not limited to, assistance in building trust with regional center staff, education on available services, guidance on how to request needed services, and support from peers in the community who have experience with the regional center system.

The Department must issue funding guidelines regarding the selection of community navigator programs and the conditions under which the funding shall be used consistent with the requirements of this section. The guidelines will be exempt from the rulemaking process of Government Code, Title 2, Division 3, Part 1, Chapter 3.5 (commencing with Section 11340).

A family resource center receiving funding for the purpose of the community navigator program must report to the Department in a manner and within a time period determined and outlined in guidance by the Department on how the funding allocations were used and shall include recommendations of priorities for activities that may be effective in addressing disparities, including removing barriers to accessing and utilizing generic and regional center services. The Department must post these reports on its website by November 1, 2022.

Implementation: The Department will continue to meet with stakeholders to obtain input on the development of funding guidelines for the community navigator programs. The funding guidelines will be issued in Fall 2021.

Paid Internship Program (PIP) and Competitive Integrated Employment (CIE) Incentive Payments

TBL Section 52: Section 4870 was amended to make the following changes to the PIP requirements:

- Deleted language that capped payments for internships at ten thousand four hundred dollars (\$10,400) and added language that states internships may not exceed 1,040 hours per year for each individual.
- Payments for internship hours under this program shall include all required employer-related costs.
- Individuals participating in an internship shall be paid at or above minimum wage and equal to the customary wage paid by the employer for the same or similar work performed by individuals who do not have disabilities.
- A payment of seven hundred fifty dollars (\$750) shall be made to the regional center service provider if both of the following apply:
 1. On or after July 1, 2021, the service provider places an individual in a paid internship opportunity.
 2. That individual remains in the paid internship after 30 consecutive days.
- An additional payment of one thousand dollars (\$1,000) shall be made to the service provider for an individual described above who remains in the paid internship for 60 consecutive days.

Section 4870 was amended to state, effective July 1, 2021, until June 30, 2025, the CIE incentive payments for each milestone shall be as follows:

- A payment of two thousand dollars (\$2,000) if the individual is still engaged in competitive employment after 30 consecutive days, as described in Section 4851(o) and Section 4868(d).
- An additional payment of two thousand five hundred dollars (\$2,500) if the individual remains in competitive integrated employment for six consecutive months.
- An additional payment of three thousand dollars (\$3,000), if the individual remains in competitive integrated employment for 12 consecutive months.

Implementation: The Department sent guidelines to regional centers on August 24, 2021, outlining the changes to the PIP and CIE incentive payments initiatives. See Enclosures D and E.

Increase Pathways to CIE

TBL Section 53: Section 4870.1 was added, requiring the Department to establish, by December 31, 2021, a program to increase pathways to CIE that shall meet both of the following requirements:

1. Be developed in consultation with stakeholders. Consultation with stakeholders must commence no later than September 30, 2021, and include individuals with disabilities, including those served by the program, family members, employers and provider association representatives, consumer advocates, disability provider representatives, including regional centers, members of the Developmental Services Task Force, and legislative staff.
2. Provide contracts or grants for entities to develop and implement innovative and replicable strategies and practices to increase paid work experiences and employment opportunities for regional center consumers.

The Department must include in its annual May Revision fiscal estimate a description of the implementation of the program including, but not limited to, all of the following:

1. A description of the stakeholder consultation.
2. Data about the number and start date of funded grants or contracts.
3. The number of enrolled participants.
4. The number of employed participants.
5. Any recommendations for program changes that may be necessary or desirable to maximize program effectiveness.

Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Government Code, Title 2, Division 3, Part 1, Chapter 3.5, commencing with Section

11340), the Department may implement, interpret, or make specific this section by means of written directives or similar instructions, without taking any regulatory action.

Implementation: The Department will work with stakeholders and the Department of Rehabilitation on the development of the program to increase pathways to CIE.

Self-Determination Program (SDP)

TBL Section 47: Section 4685.8(a) was amended to end the phase-in period and provide that as of July 1, 2021, the program will begin to be available, on a voluntary basis, to all regional center consumers who are eligible for the SDP.

Section 4685.8(b) was amended to require the Department to address the following:

1. Choice of independent facilitators who meet standards and certification requirements established by the Department, and who can assist with the functions specified in Section 4685.8(c)(2).
2. Choice of financial management services (FMS) providers who meet standards and certification requirements established by the Department, and who can carry out the functions specified in Section 4685.8(c)(1).
3. Long-term sustainability of the SDP by doing all of the following:
 1. Requiring IPP teams, when developing the individual budget, to determine the services, supports and goods necessary for each consumer based on the needs and preferences of the consumer, and when appropriate the consumer's family, and the effectiveness of each option in meeting the goals specified in the individual program plan, and the cost effectiveness of each option, as specified in Section 4648(a)(6)(D).
 2. The Department may review final individual budgets that are at or above a spending threshold determined by the Department of all individual budgets and use information from its review in the aggregate to develop additional program guidance and verify compliance with federal and state laws and other requirements.

Section 4685.8(c)(7) was added to define "Spending Plan" consistent with the Department's January 11, 2019 correspondence regarding individual budget development and spending plans (Enclosure F). It is defined as "the plan the participant develops to use their available individual budget funds to purchase goods, services, and supports necessary to implement their individual program plan (IPP). The spending plan shall identify the cost of each good, service, and support that will be purchased with regional center funds. The total amount of the spending plan cannot exceed the amount of the individual budget. A copy of the spending plan shall be attached to the participant's IPP."

Section 4685.8(f) was amended to reflect different requirements for use of the additional federal participation funds generated by the former participants in the self-determination pilot projects. The additional uses for the funds include increasing service access and equity, and reducing disparities, and to support the Statewide Self-Determination Advisory Committee.

Section 4685.8(d)(3)(G) added that a Medi-Cal eligible participant agrees, with regional center assistance, if needed, to timely apply for Medi-Cal in order to maximize federal funding. The participant may consider institutional deeming in order to qualify for Medi-Cal services.

Section 4685.8(m) was changed in the following ways:

1. Section 4685.8(m)(1)(A)(ii)(I) was amended to state that when an individual budget of a current regional center consumer who has 12 months of purchase of service expenditures is adjusted due to a change in circumstance, resources, needs, or due to prior unmet needs or resources, the IPP team must document the specific reason for the adjustment in the IPP.
2. Section 4685.8(m)(1)(B)(ii) was amended to state that for an individual budget of a newly eligible consumer or a consumer who does not have 12 months of purchase of service expenditures, the IPP team must document the specific reason for an adjustment in the IPP.
3. Section 4685.8(m)(3) was amended to specify that the spending plan rather than the individual budget shall be assigned to uniform budget categories developed by the Department in consultation with stakeholders.

Section 4685.8(r) was amended to require regional centers to do all of the following:

1. Meet the Self-Determination targets approved by the Department; meet benchmarks established by the Department in areas including timely enrollment, diversity of consumers served, and reduction of disparities in the individual budget of participants from racial and ethnic communities; and be eligible for incentives for exceeding these targets and benchmarks once the Department has established a performance incentives program.
2. Develop and implement an outreach and training plan about the SDP for the diverse communities served by the regional center, including in congregate settings. Information shall be provided in plain language, in alternative formats and alternative modes of communication and provide language access as required by state and federal law. Obtain input from stakeholders, including consumers and families that reflect the ethnic and language diversity of the

- regional center's consumers, about the effectiveness of this outreach and training and other activities that may be effective in reducing disparities in these programs.
3. Annually report the enrollment, individual budget data, and purchase of service expenditure data for the SDP consistent with the criteria in Section 4519.5(a) through (c).
 4. Assist eligible participants and their families in applying for Medi-Cal, in order to maximize federal funding and assist interested participants who wish to pursue institutional deeming in order to qualify for Medi-Cal services.
 5. At least annually, in addition to annual certification, conduct an additional review of all final individual budgets for participants at the regional center which are at or above a spending threshold that is specified by the Department through directive consistent with federal and state requirements. This information may be used in the aggregate to provide training, program guidance, and verify compliance with state and federal requirements.
 6. Review the spending plan to verify that goods and services are eligible for federal financial participation and are not used to fund goods or services available through generic agencies.
 7. Train all service coordinators and fair hearing specialists in the principles of self-determination, the mechanics of the SDP, and the rights of consumers and families. The training shall be conducted in collaboration with the local volunteer advisory committee (LVAC).
 8. Provide payment to the FMS provider for spending plan expenses through a not less than semi-monthly pay schedule.

Section 4685.8(v)(1) was amended to require:

1. Each regional center to identify a regional center liaison to the LVAC.
2. The LVAC include a representative from a Family Resource Center.
3. Each regional center to confirm, in writing, that the committee meets the requirements specified in this paragraph and provide the Department with the name of the staff liaison and the names of the committee members, the positions they fill on the committee, and which entity appointed them to the committee.

Implementation: The Department sent correspondence to regional centers on July 7, 2021, regarding the statewide availability of the SDP (Enclosure G) and will continue to work with regional centers to capture enrollment and other information needed for the required reporting to the Legislature. The following are additional actions that will be taken to implement some of the provisions in this section:

- *The Department will meet with stakeholders to obtain input on the development of standards and certification requirements for independent facilitators and FMS*

providers, and will issue correspondence to regional centers with these requirements. Additionally, the Department plans to promulgate regulations to implement the FMS requirements. Regional centers must establish schedules for which payments are made to FMS providers at least two times per month, between the 1st through the 15th of each month, and from the 16th through the end of the month.

- *The Department will provide regional centers with information regarding spending thresholds for individual budgets by December 31, 2021.*
- *With the funds remaining after the offset for criminal background checks, the Department plans to allocate a portion of these funds to the Statewide Self-Determination Advisory Committee and a portion will be allocated to regional centers for operations costs and to the regional centers and their LVACs to implement the program. The Department will issue separate information regarding the allocation and information about how regional centers and their LVACs may use the funds given the additional statutory priorities.*
- *The Department will meet with stakeholders to obtain input on the SDP targets and benchmarks and will issue a directive to regional centers when established.*
- *The Department will issue a directive to regional centers regarding the role and responsibilities of Participant Choice Specialists.*
- *The Department will provide information to regional centers on reporting the committee composition, and the name of the regional center staff liaison and will provide technical assistance upon request. Regional centers and the State Council on Developmental Disabilities should work with their local Family Resource Centers to identify an additional LVAC member. The addition of this representative shall increase the size of the LVAC by one member and shall not reduce the number of consumer and family members otherwise appointed to the advisory committee. Consumers and family members must continue to be a majority of the advisory committee.*
- *The Department will provide regional centers with additional information and guidance to implement the provisions of this section, as necessary.*

Office of the SDP Ombudsperson

TBL Section 48: Section 4685.9 was added, requiring the Department to establish an Office of the SDP Ombudsperson. The Office of the SDP Ombudsperson shall be headed by an individual, to be known as the SDP Ombudsperson. As soon as is practicable, the Director of the Department shall appoint an ombudsperson qualified by training and experience to perform the duties of the office for a term of four years. The Director may reappoint the ombudsperson for consecutive terms.

The Office shall be an independent and autonomous entity within the Department for the purpose of monitoring the implementation of Section 4685.8 and to assist regional center consumers who participate in the SDP, as well as consumers who do not, and their families to participate fully in the SDP. The Office shall have all of the following rights and duties:

1. Providing information and assisting regional center consumers and their families in understanding their rights under the SDP, including the process, goals, and objectives of the program and facilitating solutions to disagreements regarding eligibility and services.
2. Deciding whether to investigate complaints regarding the implementation of the SDP, and recommending to the Department strategies for change and improvement of the SDP. Disclosure of information shall occur only as necessary to carry out the mission of the Office and as permitted by law.
3. Annually compiling and reporting to the appropriate policy and fiscal committees of the Legislature relevant data collected over the course of the year, including, but not limited to, the number of contacts to the Office, the number of complaints made, including the type of those complaints, the number of investigations performed by the Office, the trends and issues that arose in the course of investigating complaints, the number of referrals made, and the number of pending complaints.
4. Recommending to the Department and the Legislature changes to, including, but not limited to, relevant laws, regulations, policies, and actions that it determines to be appropriate and provide and facilitate public comment on, including, but not limited to, relevant laws, regulations, policies, and actions.
5. Establishing a dedicated telephone number at which regional center consumers and other stakeholders may contact the Office.

The Department shall include, on the portion of its website dedicated to the SDP, a link to the website of the Office.

Implementation: The Department is in the process of setting up and staffing the Office of the SDP Ombudsperson. An Acting Ombudsperson was appointed on October 12, 2021, to address SDP questions and concerns. The website for the Office with information about its goals and responsibilities, contact information and a contact form can be found here: www.dds.ca.gov/initiatives/sdp/office-of-the-self-determination-ombudsperson.

Rate Reform and Quality Incentive Program

TBL Section 25: Section 4519.10 was added, specifying the timeline for implementation of rate increases beginning in Fiscal Year 2021-22, which will include a quality incentive program, create an enhanced person-centered, outcomes-based system, and be completed by July 1, 2025. Pursuant to Section 4519.10(c)(1)(A) through (D):

- Commencing April 1, 2022, the Department must implement a rate increase for service providers that equals one-quarter of the difference between current rates and the fully-funded rate model for each provider.
- Commencing in Fiscal Year 2022-23, additional funding shall be available for the quality incentive program described in Section 4519.10(e).
- Commencing July 1, 2023, and continuing through the Fiscal Year 2024-25, the Department must adjust rates to equal one-half of the difference between rates in effect March 31, 2022, and the fully-funded rate model for each provider, and additional funding shall be available for the quality incentive program described in Section 4519.10(e).
- Commencing July 1, 2025, the Department must implement the fully-funded rate models using two payment components, a base rate equaling 90 percent of the rate model, and a quality incentive payment, equaling up to 10 percent of the rate model, to be implemented through the quality incentive program described in Section 4519.10(e).

Effective July 1, 2025, it is the intent of the Legislature that rates be uniform within service categories and adjusted for geographic cost differentials, including differentials in wages, the cost of travel, and the cost of real estate. Providers who were not identified as requiring a rate increase in the rate study are not eligible for rate adjustments pursuant to 4519.10(c)(1).

Section 4519.10(d)(1) specifies that the Department must implement a hold harmless policy for providers whose rates exceed rate model recommendations. The policy will freeze a provider's existing rates until June 30, 2026, after which time the provider's rates shall be adjusted to equal the rates for other providers in the provider's service category and region. Notwithstanding Section 4519.10(d)(1), the Department may adjust rates as a result of reviews or audits.

Section 4519.10(e) requires the Department, in conjunction with implementing rate reform, to implement a quality incentive program in order to improve consumer outcomes, service provider performance, and the quality of services. The Department must, with input from stakeholders develop quality measures or benchmarks, or both, for consumer outcomes and regional center and service provider performance. Measures or benchmarks, or both, will initially include process- and performance-related

measures for service providers and, by the conclusion of Fiscal Year 2025-26, will also evolve to include outcome measures at the individual consumer level. In developing the proposed measures or benchmarks, or both, the Department must do the following:

1. Gather public input through regularly held public meetings that are accessible both virtually and by telephone. Public meeting agendas and meeting materials must be posted at least three days in advance of any meeting and shared by various means, including website updates, focus groups, and other communication.
2. Provide documents, which may include, but are not limited to, updates, concept papers, interim reports, proposals, and performance and quality measures and benchmarks, and revisions to these materials, to the Legislature and post these materials on a website for public comment at least 30 days, as required by the Centers for Medicare and Medicaid Services prior to submitting a request for federal funding.
3. Seek input from subject matter experts to understand options for outcomes-based system structures using person-centered planning and alternative payment models.

On or before April 1, 2022, proposed quality measures or benchmarks, or both, must be provided to the Legislature and posted for public comment, as described above. After the Department has considered public comments and modified the proposed quality measures or benchmarks, or both, as needed, the measures or benchmarks, or both, will be finalized and implemented in Fiscal Year 2022-23.

On or before April 1 of any subsequent year in which the Department proposes new or revised quality measures or benchmarks, or both, the proposed measures or benchmarks, or both, must be provided to the Legislature and posted for public comment, as described above. After the Department has considered public comments and modified the proposed quality measures or benchmarks, or both, as needed, the measures or benchmarks, or both, shall be finalized and implemented in the upcoming fiscal year.

The Department must develop a quality incentive payment structure for providers meeting the quality measures or benchmarks, or both. The Department must issue written directives to define the way quality incentive payments will be made to service providers based on quality measures or benchmarks, or both, developed and implemented under this subdivision.

On or before March 1, 2022, the Department must provide a status update to the Legislature regarding progress toward implementing rate reform and creating an

enhanced person-centered, outcomes-based system. The status update may include, but is not limited to, information about all of the following:

1. Additional changes that may be necessary to effectively implement rate reform, including adding and amending statutes, regulations, and other departmental policies.
2. Compliance with rules of the federal Medicaid program, including the home- and community-based services final rule effective on March 17, 2014, and state compliance consistent with the current federal guidance, including all of the following:
 - a. A definition of what it means to be compliant with the rules of the federal Medicaid program.
 - b. Whether there are certain service categories that are unlikely to achieve compliance due to the structure of the service, and, if so, which categories this includes.
 - c. Data about the total number of providers within each service category and the estimated number of providers that have not yet achieved compliance.
3. Program and system improvement efforts made as a result of the state's home- and community-based services additional federal funding, including the one-time investment implemented beginning in Fiscal Year 2021-22, including a description of how the Department will build on the investments.

For purposes of this section, "rate model" means a rate model included in the rate study submitted to the Legislature pursuant to Section 4519.8.

Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Government Code, Title 2, Division 3, Part 1, Chapter 3.5, commencing with Section 11340), the Department may implement, interpret, or make specific this section by means of written directives or similar instructions through July 1, 2025.

Implementation of Section 4519.10 is contingent upon the approval of federal funding.

Implementation: The trailer bill language added to Section 4519.10 is a result of the rate study the Department submitted to the Legislature in March 2019, as required by Section 4519.8. Information on the rate study is posted on the Department's website at www.dds.ca.gov/rc/vendor-provider/rate-study. To assist with implementation efforts, the Department will work closely with consultants to calculate the rate adjustments for applicable providers. Additionally, the Department plans to begin working with stakeholders in November 2021 to implement a quality incentive program, including the identification of quality measures and/or benchmarks. The Department will provide ongoing updates on its website and send regional centers correspondence regarding implementation, as needed.

Performance Improvement Indicators

TBL Section 27: Section 4620.5 was added to state that beginning as early as possible after July 1, 2021, but no later than September 1, 2021, the Department must convene a workgroup composed of the individuals described below, to make recommendations to the Department for the development of standard performance improvement indicators and benchmarks to incentivize high-quality regional center operations. The Director of the Department must appoint members to the stakeholder group and shall consider all of the following individuals to serve as members of that group:

1. Individuals or consultants with expertise in developing performance indicators and incentive programs within developmental disability systems or community-based long-term services and supports systems.
2. Consumers and families across different geographic regions of the state, who have diverse racial and ethnic backgrounds, diverse consumer age groups, and disabilities.
3. Regional center representatives.
4. Service providers.
5. Representatives of other state agencies or entities with whom the Department routinely collaborates for the coordination of services for people with developmental disabilities, and who additionally have expertise in setting or reporting indicators and benchmarks, including reporting to the federal Centers for Medicare and Medicaid Services.
6. Representatives of California's University Centers for Excellence in Developmental Disabilities, the State Council on Developmental Disabilities, the protection and advocacy agency specified in Division 4.7 (commencing with Section 4900), and consumer and family advocacy groups.

By January 10, 2022, as part of the Governor's Budget, the Department must provide a status update based on recommendations provided by the stakeholder workgroup, with an additional status update at the time of the Governor's May Revision. These recommendations may include all of the following:

1. Priority areas for performance indicators and benchmarks, including, but not limited to, all of the following:
 - a. Equity in service access and purchase of services
 - b. Consumer employment and associated metrics
 - c. Integration of consumers in the community
 - d. Person-centered planning
 - e. Compliance with federal home and community-based standards
 - f. Consumer and family experience and satisfaction
 - g. Innovation in service availability and delivery

2. Surveys or other measures to assess consumer and family experience, satisfaction, and recommendations, in addition the use of data available through the National Core Indicators.
3. Benchmarks, and a method for establishing benchmarks, to create meaningful comparisons and understanding of variation in performance within and between regional centers.
4. Measures under development or already implemented by federal funding agencies for long-term services and supports, home and community-based services, incentive payments, required reporting, and the efficient and effective implementation of performance improvement systems.
5. Additional criteria for demonstrating performance improvement, including improvement beyond benchmarks.
6. The methodology, structure, and types of incentives to be used, including, if appropriate, a payment schedule and implementation timeline, for incentive payments to regional centers to achieve or exceed performance benchmarks. This methodology and structure shall include how the Department shall take into consideration variations among regional centers, expectations for regional center community engagement activities, and any significant demographic, including economic or other differences, impacting a regional center's performance and how the Department might build the identified benchmarks into regional center performance contracts.
7. A process, based on the input from regional centers and other stakeholders, the Department shall use on at least an annual basis to evaluate the success of a quality improvement process, including any incentive payment program.

Implementation: The first workgroup meeting was held on September 22, 2021. The Department will continue to work with the workgroup through a public process of stakeholder engagement to identify performance improvement indicators and benchmarks in the identified priority areas. The Department will consult with and update regional centers throughout the process of developing the improvement indicators and benchmarks.

Quarterly Legislative Briefings

TBL Section 17: Section 4474.17(b) was amended to require the Department to provide in its quarterly briefings with legislative staff, information on the following additional topics:

- Status on the development of Group Homes for Children with Special Health Care Needs, including information on how the needs of regional center consumers are assessed when developing new homes.

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- Status on the implementation of the provisional eligibility requirement of Section 4512(a)(2).
- Information pursuant to the provisions of Section 7505(c).
- Status on the development of a training curriculum for direct service professionals, pursuant to Section 4511.5.
- Most recent data regarding average per capita purchase of service expenditures for all age groups, by ethnicity and other factors, in addition to any other data that will aid in the illustration of progress, toward the active closure of racial, ethnic, and other disparities.

Consumers, family members or providers should contact their local regional center with any questions. Regional center questions may be directed to me at (916) 654-1897 or brian.winfield@dds.ca.gov.

Sincerely,

Original Signed by:

BRIAN WINFIELD
Chief Deputy Director

Enclosures

cc: Regional Center Board Members via Board Presidents
Regional Center Administrators
Regional Center Community Services Directors
Regional Center Directors of Consumer Services
Association of Regional Center Agencies